

1 BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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9 PROCEEDINGS

10 before Ms. Greta See and Ms. Sarah Parrot, Attorney
11 Examiners, and Commissioner Andre Porter, at the
12 Public Utilities Commission of Ohio, 180 East Broad
13 Street, Room 11-A, Columbus, Ohio, called at 9:00
14 a.m. on Thursday, April 19, 2012.

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16 VOLUME III

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1 Thursday Morning Session

2 April 19, 2012.

3 - - -

4 EXAMINER PARROT: Let's go back on the
5 record.

6 Let's take brief appearances again, your
7 names, I don't need your addresses, I know where to
8 find you all.

9 Let's begin with the company.

10 MR. NOURSE: Thank you, your Honor. On
11 behalf of the Ohio Power Company, Steven T. Nourse,
12 Matthew J. Satterwhite, Dan Conway, Yazen Alami, and
13 Christen Moore.

14 MR. PETRICOFF: Thank you, your Honor.
15 On behalf of the Exelon, Constellation NewEnergy,
16 Constellation Energy Commodities, the Retail Energy
17 Supply Association, M. Howard Petricoff and Lija
18 Kaleps-Clark.

19 MR. HAYDEN: Good morning, your Honor.
20 On behalf of FES, Mark Hayden, Jim Lang, and David
21 Kutik.

22 MS. KINGERY: Thank you, your Honors. On
23 behalf of Duke Energy Retail and Duke Energy
24 Commercial Asset Management, Amy B. Spiller and
25 Jeanne W. Kingery.

1 MR. DARR: On behalf Industrial Energy
2 Users of Ohio, Sam Randazzo and Frank Darr.

3 MS. KYLER: On behalf of the Ohio Energy
4 Group, Jody Kyler and Mike Kurtz.

5 MS. McALISTER: On behalf of the Ohio
6 Manufacturers Group, Lisa McAlister.

7 MR. YURICK: Your Honor, on behalf of the
8 Kroger Companies, Mark Yurick.

9 MR. SUGARMAN: Roger Sugarman on behalf
10 of NFIB Ohio.

11 MS. THOMPSON: On behalf of Interstate
12 Gas Supply, Mark Whitt, Andrew Campbell, and Melissa
13 Thompson.

14 MS. KERN: On behalf of the Office of the
15 Consumers' Counsel, Kyle Kern and Melissa Yost.

16 MR. JONES: On behalf of the staff,
17 Assistant Attorneys General Steve Beeler and John
18 Jones.

19 MR. ROYER: On behalf of the Dominion
20 Retail, Barth Royer.

21 EXAMINER PARROT: Thank you.

22 We have a number of outstanding
23 discovery-related motions. The Bench will do its
24 best to address those at some point today, preferably
25 this afternoon.

1 Mr. Petricoff, I know it was your intent
2 to file within a few days a response. Are you
3 prepared to do that?

4 MR. PETRICOFF: We were served with a
5 motion, Exelon and Constellation on Tuesday. The
6 five-day expedited rule would have been -- five
7 business days would have been the 24th. We
8 indicated we would file in two days, that we have, we
9 filed this morning. I do have copies I can give the
10 Bench now.

11 One other matter while we're on this,
12 yesterday Mr. Nourse indicated they would prefer an
13 extra day for Teresa Ringenbach on cross because of
14 rulings on this. I will note that the motions to
15 compel were not against either RESA or Direct Energy
16 for whom Ms. Ringenbach is the witness.

17 However, I would also like to note for
18 the record that AEP has been very accommodating in
19 discovery, working with us, and that being the case
20 we would -- we would be willing to accommodate them
21 as well and bring Ms. Ringenbach tomorrow rather than
22 today if -- if that suits the Bench.

23 MR. NOURSE: Your Honor, just to speak to
24 that, what I believe I said was we wanted to address
25 the discovery issues before we commence

1 cross-examination of intervener witnesses. There
2 are -- there are general requests that we've made
3 that didn't tie to specific testimony or CRES
4 contracts, for example, that -- and Ms. Ringenbach
5 addresses contractual issues in her testimony.

6 And as well as our motion to compel I
7 think we filed on Monday, and Mr. Satterwhite can
8 address this in more detail, but we had an
9 alternative request that if we're not going to get
10 information about this testimony, not be permitted to
11 get discovery responses, then the testimony should be
12 stricken so there -- as a related matter,
13 Ms. Ringenbach is part of our motion to strike, so
14 all we're saying, your Honor, is the motions to
15 strike the testimony request should be addressed
16 before cross-examination, and depending on the
17 rulings there may be the need to reschedule the
18 tentative schedule we had of the intervening
19 witnesses.

20 EXAMINER PARROT: All right. Well, as I
21 said, we are planning to do our best to rule on those
22 today. I think we're all maybe getting a little
23 ahead of ourselves anyway in that I think we will
24 probably need to take up a good part of the morning
25 at least with Mr. Allen, I'm guessing.

1 Is that a fair assessment, I think, based
2 on how things have gone so far? So perhaps after the
3 lunch break, at that point the Bench will be prepared
4 to address the motions. And I'm doubtful that we'll
5 be concluded with Mr. Allen at that point.

6 MR. NOURSE: Then we will just revisit
7 the schedule, I guess.

8 EXAMINER PARROT: Exactly. Yes.

9 All right. Mr. Nourse, you may call your
10 next witness.

11 MR. NOURSE: Your Honor, the company
12 calls William Allen.

13 EXAMINER PARROT: I'm sorry, Mr. Allen.

14 Did you give copies to the Bench,
15 Mr. Petricoff?

16 MR. PETRICOFF: Yes, we have copies. I
17 will bring those up now, and we have copies for
18 everyone. We will pass them down for the parties as
19 well.

20 (Witness sworn.)

21 EXAMINER PARROT: Please be seated.

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1 WILLIAM A. ALLEN

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

4 DIRECT EXAMINATION

5 By Mr. Nourse:

6 Q. Mr. Allen, could you state and spell your
7 name for the record.

8 A. William A. Allen, A-L-L-E-N.

9 Q. By whom are you employed and in what
10 capacity?

11 A. I'm employed by American Electric Service
12 Corporation as Director of Regulatory Case
13 Management.

14 Q. Did you file testimony in this case?

15 A. Yes, I did.

16 Q. Do you have that testimony before you?

17 A. Yes, I do.

18 MR. NOURSE: Okay. Your Honor, I would
19 like to mark as AEP Exhibit 104 the direct testimony
20 of William Allen.

21 EXAMINER PARROT: So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 Q. Mr. Allen, do you have the document I
24 just marked Exhibit 104?

25 A. Yes, I do.

1 Q. Was this your testimony prepared by you
2 or under your direction?

3 A. Yes, it is.

4 Q. Do you have any changes, additions, or
5 corrections you would like to make this morning to
6 this testimony?

7 A. No, I do not.

8 Q. If I were to ask you the same questions
9 this morning under oath, would your answers be the
10 same?

11 A. Yes, they would.

12 MR. NOURSE: Thank you. Your Honor, I
13 would move for admission of AEP Exhibit 104, subject
14 to cross-examination.

15 EXAMINER PARROT: Thank you, Mr. Nourse.
16 Mr. Kutik.

17 MR. KUTIK: Thank you, your Honor.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Kutik:

21 Q. Good morning.

22 A. Good morning, Mr. Kutik. Good to see you
23 again.

24 Q. Same here.

25 Do you consider yourself an expert on

1 competitive retail electric service?

2 A. In my role in the American Electric
3 Service Corporation, one role I do serve is to work
4 with competitive retail electric suppliers that are
5 operating in our service territory.

6 Q. Do you consider yourself an expert, sir?

7 A. An expert in which specific area of
8 competitive supply?

9 Q. Well, do you consider yourself an expert
10 on shopping behavior?

11 A. From the perspective of customer shopping
12 as viewed from the utility perspective, I would say
13 I'm one of the company's experts in that regard, yes.

14 Q. How about from the CRES provider's
15 perspective? Are you an expert in shopping behavior?

16 A. I'm knowledgeable about the market
17 elements of pricing that would go into serving a
18 retail customer, be it through a -- that a CRES would
19 offer. The exact interworkings of how a CRES
20 operates is not something I'm directly familiar with,
21 but I am familiar with the marketing inputs that
22 would go into those kinds of contracts.

23 Q. The marketing what?

24 A. The market inputs.

25 Q. You made a study, have you not, sir, of

1 various statistics on shopping in the state of Ohio,
2 correct?

3 A. I've looked at the shopping in various
4 EDU service territories within the state of Ohio as
5 well as the shopping behaviors within the AEP Ohio
6 service territories.

7 Q. So you've reviewed statistics with
8 respect to shopping, correct?

9 A. Yes, I have.

10 Q. And you've done an investigation with
11 respect to why there are certain levels of shopping
12 in various states -- various parts of the state of
13 Ohio; is that correct?

14 A. I wouldn't say that I've evaluated why
15 levels are different in the different EDUs. I've
16 looked at the results and where shopping has ended up
17 through a variety of reasons that would drive that.
18 I'm aware what those reasons typically would be, but
19 I haven't done a study why different levels exist
20 within different EDU territories.

21 HEARING OFFICER: So you've made some
22 investigation as to why shopping was -- certain
23 levels of shopping were obtained in various levels of
24 the state -- various parts of the state, correct?

25 A. I wouldn't say I've done a study, but

1 I've looked at and made some -- I have some opinions
2 as to why that may be the case.

3 Q. Okay. Well, so you really haven't done
4 an investigation; is that correct in terms of why
5 certain shopping levels were reached in certain parts
6 of the state?

7 A. I would agree I haven't done an
8 investigation, but I have looked at those levels and
9 have some opinions as to why that may occur.

10 Q. Now, prior to the ESP II case would it be
11 fair to say that you really didn't have any regular
12 involvement with CRES providers?

13 A. I would agree over the last eight to ten
14 months my involvement with CRES providers in the
15 state of Ohio has increased significantly.

16 Q. Right. Because you were part of the team
17 that was negotiating the stipulation in the ESP, that
18 stipulation included the detailed implementation
19 plan, correct?

20 A. It did include the detailed
21 implementation plan. My work with regard to shopping
22 behaviors within our service territory goes beyond
23 that though. I've done analysis in that regard.

24 Q. My question is with respect to what you
25 did with respect to the ESP case, one of the things

1 you did was be part of the team that negotiated the
2 stipulation which included the detailed
3 implementation plan, correct?

4 A. Yes. That was one of my roles in the
5 ESP II case and we had a lot of testimony on that and
6 I sponsored that implementation plan in the case.

7 Q. Correct. And with respect to the
8 detailed implementation plan, you are one of the
9 people within AEP that's in charge of policy issues
10 relating to the detailed implementation plan.

11 A. Yes, I would say so.

12 Q. Now, would it be fair to say that no CRES
13 provider has discussed with you their marketing
14 strategies with respect to the competitive retail
15 electric market in Ohio?

16 A. That's correct, and I wouldn't expect
17 them to.

18 Q. Right. Nor have they given you any
19 information with respect to headroom that may or may
20 not exist.

21 A. If I recall the discovery that the
22 company has requested of the various CRES providers
23 in Ohio, we have asked that question and the CRES
24 providers have been unwilling, as far as I've seen,
25 to provide that information. But I have done an

1 analysis looking at --

2 Q. That's not my question.

3 A. -- the market to determine if there is
4 headroom available.

5 Q. My question is did any CRES provider talk
6 with you about the headroom they may or may not have?

7 A. No, and I wouldn't expect them to.

8 Q. All right. Nor did they talk to you or
9 provide you any information about strategies with
10 respect to pricing that they may have?

11 A. I would expect that's information that
12 the CRES providers would prefer to hold confidential,
13 so I would expect they wouldn't want to have those
14 discussions with me.

15 Q. You've done no mathematical analysis of
16 any correlation between capacity prices and levels of
17 shopping, correct?

18 A. I have looked at the levels of shopping
19 that have occurred as capacity prices have changed,
20 but I haven't done a correlation related to those
21 capacity prices.

22 Q. Nor have you done you done any elastic
23 studies with respect to quantifying the shift with
24 respect to customers switching that you project
25 versus capacity prices?

1 A. That's correct.

2 Q. Now, I want to talk to you a little bit
3 about your observations with respect to the amount of
4 shopping that you have observed at the price level --
5 the capacity price level of \$255 per megawatt day.

6 Would it be fair to say that you don't
7 know how much of that level of shopping that you
8 report would have qualified for RPM-based pricing if
9 the stipulation had been accepted and the -- and
10 customers had moved into 2013 and 2014? Do you
11 understand my question?

12 A. I do. Let me refer to my testimony. One
13 second.

14 Based upon the stipulation, if you were
15 to look at Exhibit WAA-2, you'll see for the
16 commercial class that the total of switched load and
17 pending is approximately 44 percent. The exact value
18 would be 43.7 percent.

19 The highest level of RPM-priced capacity
20 that was included in the stipulation was 41 percent
21 for the commercial class in the final year of the --
22 in the final year of the stipulation.

23 Therefore, based upon this data, there
24 would have been some level of commercial customers
25 over 3 percent that would not have received

1 RPM-priced capacity within any period of the
2 stipulation, and you'll also notice that in the --
3 that there is a notice class there as well, customers
4 have -- that have submitted an affidavit or had one
5 submitted by their CRES provider or submitted a
6 90-day notice of their intent to switch.

7 Those additional customers would not have
8 received RPM-priced capacity within the time period
9 of the stipulation. Additionally if you look at the
10 industrial class, you can see that the total of the
11 switched pending and noticed approached 50 percent,
12 well above the 41 percent, so there are customers
13 that have indicated that they had contracts with CRES
14 or a 90-day notice that never would have received
15 RPM-priced capacity under the stipulation.

16 Q. That wasn't my question, sir. My
17 question wasn't how many wouldn't get RPM pricing,
18 but I asked you if you knew how many would, how many
19 in the amount you report would indeed qualify for RPM
20 pricing if the stipulation had been accepted in 2013
21 and 2014. Do you know that value?

22 A. Based upon the stipulation in the final
23 year of the stipulation, 41 percent of the commercial
24 and industrial class would have received RPM-priced
25 capacity. It's important to note though that in that

1 final year the RPM priced capacity is not free as it
2 is in the first two years. The RPM-priced capacity
3 goes up to approximately \$125 per megawatt day period
4 so those customers would not have been expecting the
5 near free capacity in those first two years of the
6 stipulation.

7 Q. Sir, I will ask you the question again.
8 Of the 6.8 percent of the load that you report that
9 would -- that are shopping now at the price of \$255
10 per megawatt day, isn't it true you don't know how
11 many of that 6.8 percent load or how much of that
12 load would qualify for RPM-based pricing if the
13 stipulation had been accepted in 2013 and 2014?

14 A. Without looking at the individual
15 customers I can't give you that answer today, but as
16 I indicated, there would be some level of that
17 6.8 percent that would not receive RPM-priced
18 capacity.

19 Q. And there would be some level that would,
20 correct?

21 A. Over the three-year period, yes.

22 Q. And you don't know that, correct?

23 A. A portion of the 6.8 percent, I can't
24 give you an exact figure as we sit here today.

25 Q. Now, CRES providers would have had

1 sufficient information to come up with projections as
2 to when a particular customer or portion of the
3 customer -- a portion of their load would switch
4 tiers under the stipulation, correct?

5 A. There's information that's been made
6 available to CRES providers through our website and
7 through different requests of CRES providers that
8 provides them some indication of when those customers
9 would change tiers so I would say, yes, they've seen
10 some information. They could make some conclusions.

11 Q. And that information would have been
12 available to CRES providers before they offered
13 contracts, correct?

14 A. It would depend on when those suppliers
15 offered those contracts. If they offered those
16 contracts before the stipulation was signed, I would
17 say they wouldn't have that information available to
18 them.

19 Q. But it may have been available to them
20 afterwards, correct?

21 A. Yes. At different points in time the
22 company maintained information on its website
23 indicating different levels of customers that had
24 received RPM-priced capacity.

25 Q. Thank you. Now, I want to talk to you

1 now about your Exhibit WAA-1 which displays your
2 analysis of the effect of RPM-based pricing; would
3 that be fair to say?

4 A. What Exhibit WAA-1 reflects is the
5 financial harm, financial impact, to AEP Ohio of
6 providing the company's capacity by CRES providers to
7 serve their customers at RPM prices with no
8 limitations.

9 Q. And would it be fair to say that you
10 basically analyzed two cases, one would be the case
11 where capacity is provided on an RPM -- capacity is
12 priced based upon RPM-based prices, correct? That's
13 one case.

14 A. One case that I analyzed and that's the
15 case that I show here is the -- the earnings
16 projections of the company if they were to receive
17 RPM-priced capacity, RPM pricing for all capacity
18 provided to CRES providers in AEP Ohio for 2012 and
19 '13.

20 Q. And we call that the RPM case?

21 A. You can call it the RPM case, if you
22 would like.

23 Q. For purposes of our conversation if I
24 call it the "RPM case," you know what I'm referring
25 to?

1 A. I know what you're referring to. We may
2 need to clarify as we discuss.

3 Q. Sure. And the other case that you --
4 that you portray in your analysis is a case where you
5 have two-tiered pricing for -- for capacity such as
6 it is today, correct?

7 A. No, I wouldn't agree with that. The
8 analysis that I've done, and it's the top line if you
9 look at Exhibit WAA-1, it's the projected earnings
10 two-tiered capacity price. What that reflects is
11 the -- the stipulation provisions for capacity
12 pricing at 255 for levels above the RPM set-asides
13 and RPM pricing for the levels below that.

14 The current mechanism we have in place
15 today is slightly different than that but it's fairly
16 similar. It's only a 21 percent through June of this
17 year.

18 Q. Okay.

19 A. Or through the end of May of this year.

20 Q. Okay. So would you accept if I called
21 that the two-tiered case?

22 A. We can refer to it as the "two-tiered
23 case," if you would like.

24 Q. Thank you. And as you mentioned, the
25 two-tiered case is a case that's based upon the

1 capacity pricing provisions in the Commission's order
2 of December 14 as implemented or as proposed to be
3 implemented by the detailed implementation plan that
4 was filed on December 28, correct?

5 A. Yes, I would agree with that.

6 Q. Now, you show with respect to the RPM
7 case a return on equity of 2.4 percent, correct?

8 A. In 2013, yes, that's correct.

9 Q. And you would believe or you would have
10 the opinion that 2.4 percent return on equity would
11 be unacceptable, correct?

12 A. Yes, most definitely.

13 Q. And, in fact, you believe that would be
14 confiscatory, correct?

15 A. I think "confiscatory" is a legal term.
16 But it would not be compensatory, so at the -- as a
17 layperson, I would object to confiscatory, but that's
18 really a legal definition in the regulatory space.

19 Q. Well, you believe it is confiscatory with
20 your familiarity with regulatory matters, do you not?

21 A. As a layperson, yes, I would.

22 Q. Okay. Would you have the same opinion if
23 the ROE was 5 percent?

24 A. That's really a hard one to -- to define
25 and it kind of reminds me of kind of the old

1 definition how do you define pornography? You know
2 when you see it.

3 Q. Do you know 5 percent to be confiscatory,
4 sir?

5 A. I don't know as we sit here today, but I
6 do know that 2.4 percent would be confiscatory.

7 Q. So you can't say with respect to
8 5 percent.

9 A. I would generally view if that was the
10 only -- that's an earnings I wouldn't be willing to
11 accept. I think we would move to improve that.
12 Whether it's confiscatory, I couldn't say.

13 Q. But 5 percent would be unacceptable?

14 A. That's not an earnings level that the
15 company would -- would want to see for the highly
16 capital intensive business that we have, that's
17 correct.

18 Q. So the answer to my question is yes, it
19 would be unacceptable?

20 A. That would be my view. I'm not the CEO
21 of the company but under my role.

22 Q. Understood. Okay. Would 7 percent
23 return on equity be unacceptable?

24 A. I don't know. What I would say though is
25 that the company should have an opportunity to earn a

1 reasonable return on equity. Typically a reasonable
2 return on equity in today's environment is in the 10
3 to 12 percent range. Those are the kind of ROEs that
4 are being presented by experts in what is the
5 appropriate return on equity for a utility.

6 Q. So 7 percent would be unacceptable?

7 A. That would be below what the company
8 would believe is a reasonable rate of return for a
9 utility.

10 Q. So it would be unreasonable.

11 A. I don't know that I would say it's
12 unreasonable but what I would say, a reasonable rate
13 of return the company would like to have an
14 opportunity to return but that's kind of the
15 regulatory parlance is the company should be afforded
16 a reasonable opportunity to earn a fair return on its
17 equity and on its investments, and a fair return is
18 usually in the 10 to 12 percent range.

19 Q. So 7 percent would be unfair and
20 unacceptable, correct?

21 A. I think you are mischaracterizing what I
22 stated.

23 Q. That's why -- I can't understand what
24 you're saying, sir, so I am trying to ask a straight
25 question hoping to get a straight answer. Is

1 7 percent unacceptable?

2 A. I can't answer whether it's unacceptable
3 or not as we sit here today.

4 Q. You don't know?

5 A. There's a difference between what I've
6 described as a reasonable opportunity to earn a
7 return and an actual earned return. Those are
8 different concepts.

9 Q. Well, if the company -- if it was
10 proposed that the company, as a result of this case,
11 was going to earn a 7 percent return on equity, would
12 that be unacceptable?

13 A. In the context of being required to
14 provide the company's capacity below its cost and
15 earn 7 percent so that those assets of the company
16 would be used by CRES providers to -- used to earn
17 profits, yes, I would say that's definitely
18 unacceptable.

19 Q. Okay. In this case would it be fair to
20 say that there have been a range of capacity prices
21 proposed, correct, among the various parties?

22 A. I think various parties have provided
23 testimony indicating capacity prices that they think
24 the company should be required to charge them for
25 providing the company's capacity for their use, yes.

1 Q. So if we look at all the various
2 proposals, we can see a range of prices, correct?

3 A. Yes, there's various prices, I would
4 agree.

5 Q. And on one end of the range is the
6 RPM-based price, correct?

7 A. Yes, the essentially zero price.

8 Q. It's not zero, is it, sir?

9 A. It's pretty close to zero.

10 Q. It's not zero, so let's stop that. It's
11 not zero?

12 A. It's \$17 a megawatt day.

13 Q. That doesn't equal zero; is that correct?

14 A. That's correct, it doesn't equal zero,
15 but it approaches it.

16 Q. All right. And the other side is the
17 company's proposal in the 355 -- 56-dollar per
18 megawatt day range, correct?

19 A. That's correct. That's the company's
20 proposal based upon the costs that the company incurs
21 to provide that capacity, yes.

22 Q. Now, on WAA-1, we don't see a case where
23 the company is getting \$356 per megawatt day for its
24 capacity, do we?

25 A. No, we don't.

1 Q. Now, if we are going to look at the
2 effects of adopting as the state compensation
3 mechanism RPM-based pricing like you attempted to do
4 in your exhibit, would another way of looking at it
5 be to look at the difference between those two cases?

6 THE WITNESS: I'm sorry, can you repeat
7 the question?

8 (Record read.)

9 A. I don't think that would show you the
10 effect of using RPM pricing. What that would show is
11 the difference between allowing the company to charge
12 its cost-based capacity rate and RPM pricing. It's
13 not the impact of RPM. The impact of RPM is that the
14 company would earn a 2.4 percent return on equity.

15 Q. Well, it would earn two different levels
16 of earnings, correct?

17 A. Yes, that's correct.

18 Q. And we could look at the difference
19 between those levels of earnings as one way to look
20 at the impact, correct?

21 A. The impact to the financial health of the
22 company, yes, you could.

23 Q. Yes, okay. Now, with respect to that
24 difference would it be fair to say that the way
25 you -- the way you did your analysis that if we used

1 a higher level of shopping in the two-tiered case,
2 the difference between the two cases would be less
3 than you show?

4 A. The difference would be less but the
5 final result would still be the 2.4 percent I've
6 shown, yes.

7 Q. And if we used a projected amount of
8 shopping in your RPM case that was less than you
9 used, the difference would be less than you showed,
10 correct?

11 A. It would be less, but I don't think
12 that's a reasonable assumption based upon the
13 shopping characteristics we've seen in Ohio.

14 Q. I didn't ask you whether it's reasonable.
15 I just said it would be less, correct?

16 A. Based upon your hypothetical that I don't
17 agree with, yes.

18 Q. Okay. Now, in your projections with
19 respect to the two-tiered case, you assume 23 percent
20 of the load shops in 2012 and 36 percent of the load
21 shops in 2013, correct?

22 A. That's correct.

23 Q. Now, looking at your Exhibit WAA-2, that
24 shows, does it not, that 30 percent -- 36 percent of
25 the load is already shopping or has noticed an intent

1 to shop, correct?

2 A. That's correct.

3 Q. You didn't use those numbers in your
4 two-tiered case, correct?

5 A. Correct. And would you like me to
6 explain why?

7 Q. Your lawyer can ask you that.

8 Now, in your two-tiered case we said you
9 modeled it after the rules that you would have
10 obtained per the Commission's December 4 order as
11 proposed to be implemented by the December 28 -- 28
12 filed detailed implementation plan, correct?

13 A. That's correct.

14 Q. And the Commission issued a clarifying
15 order on January 23, correct?

16 A. Yes, I recall a clarifying order, yes.

17 Q. And you didn't model your two-tiered case
18 based upon that clarifying order, correct?

19 A. That's correct, but the company did file
20 with the Commission an analysis that showed the
21 impact of that clarifying order.

22 Q. Well, you read my mind.

23 MR. KUTIK: Your Honor, may I approach,
24 please?

25 EXAMINER PARROT: You may.

1 MR. KUTIK: Your Honor, I would like to
2 have marked as FES Exhibit 112 a document comprising
3 of eight pages with the title "Supporting
4 Workpapers."

5 EXAMINER PARROT: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 EXAMINER PARROT: Copy for the court
8 reporter, please. Thank you.

9 MR. KUTIK: Thank you.

10 Q. (By Mr. Kutik) Mr. Allen, you mentioned
11 that the company prepared an analysis of the January
12 23 clarifying order, correct?

13 A. That's correct.

14 Q. And you participated in preparing that
15 analysis, did you not?

16 A. Yes, that's correct.

17 Q. And the company filed an application for
18 rehearing of that order, correct?

19 A. That's my recollection, yes.

20 Q. And attached to that application for
21 rehearing were supporting workpapers, correct?

22 A. Yes, that's correct.

23 Q. And what's been marked for identification
24 as FES Exhibit 112 are those workpapers, correct?

25 A. Yes, they are.

1 Q. Now, you worked in the forecasting area
2 within the AEP network of companies, correct?

3 A. Yes; I was actually the Director of
4 Financial Forecasting for a period.

5 Q. And with respect to forecast, you would
6 be familiar with the various forecasts that the
7 company would have prepared, correct?

8 A. Yes, I would.

9 Q. And one of the forecasts that the company
10 files is with their long-term forecast report,
11 correct?

12 A. Yes.

13 Q. You are aware that the company filed such
14 a report in March of this year.

15 A. Well, let me clarify. When you say the
16 "financial forecast," I don't know --

17 Q. Long-term forecast.

18 A. I don't think that a financial
19 forecast -- if you let will me finish.

20 Q. Well, I was clarifying my question.
21 Long-term forecast.

22 A. My -- I think that forecast just includes
23 load. I don't know whether it includes financials.

24 Q. Have you seen those forecasts, sir?

25 A. No, I have not.

1 Q. Okay. So you don't know what the
2 company's forecast shows with respect to shopping
3 that it filed with the Commission.

4 A. Not in that long-term forecast, no, I
5 don't.

6 Q. And you've never seen it.

7 A. No, I have not.

8 Q. You didn't consult it with respect to
9 doing your analysis in this case, fair to say?

10 A. No, I wouldn't have.

11 Q. Now, you assumed for your RPM case that
12 there would be 65 percent of the residential load
13 shopping, correct?

14 A. By the end of this year, yes.

15 Q. And that assumption is based upon a
16 review of the switching statistics from other
17 electric distribution utilities, correct?

18 A. Yes. I reviewed the switching statistics
19 that are publicly available on the PUCO's website and
20 those indicate that a level of 65 percent is a
21 reasonable expectation of where shopping levels tend
22 to end up in the residential class. It's kind of the
23 maximum level that you see. There's a few customers
24 that choose not to shop for one reason or another.

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

1 EXAMINER PARROT: You may.

2 MR. KUTIK: Your Honor, I would like to
3 have marked as company exhibit -- or FES Exhibit 113
4 a document which is entitled "Summary of Switch Rates
5 from EDUs to CRES Providers in Terms of Sales for the
6 Month Ending December 31, 2011," and there are
7 subsequent pages with different dates.

8 EXAMINER PARROT: So marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 MR. KUTIK: Your Honor, I would also like
11 to have marked as exhibit -- Exhibit 114, FES Exhibit
12 114, a one-page document entitled "PUCO Summary of
13 Electric Choice in Terms of Sales December of 2011."

14 EXAMINER PARROT: The exhibit shall be so
15 marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. (By Mr. Kutik) With the exhibit that's
18 been marked as FES 113, those are the shopping
19 statistics that are available on the PUCO website, or
20 at least some of them?

21 A. Which one is 113; is that the large set
22 of documents?

23 Q. Yes.

24 A. Yes. Yes, that appears to be the
25 information that's available on the PUCO's website.

1 Q. And, sir, would you accept, subject to
2 check, that Exhibit 114 is a summary of the -- of
3 some of the numbers that appear on Exhibit 113?

4 A. I would have to check. I've actually
5 prepared my own summary that actually summarizes all
6 of the data in your large set of documents that may
7 be easier to work from. But you can -- if you would
8 like to compare my summary to your summary, I can do
9 that.

10 Q. I asked if you accept it, subject to
11 check, sir.

12 A. No, I don't. I would like to check it.
13 I've reviewed the shopping percentages.
14 I think I agree with those. I haven't reviewed the
15 underlying data that you show there for the loads,
16 but the percentages look to be accurate.

17 Q. And would it be fair to say that as of
18 December of 2011, only one utility had shopping
19 levels greater than 65 percent for residential load?

20 A. For the fourth quarter of 2011, it
21 indicates that one utility, CEI, had a shopping level
22 of 76.34 percent. The data also indicates that the
23 shopping levels for Toledo Edison have been, as
24 recently as the third quarter of 2011, 69 percent,
25 and they are currently 62.61 percent, very close to

1 65. Ohio Edison 62.3 percent. So there's several
2 that's right there in that 65-percent range.

3 Q. My question was as of December, 2011,
4 only one utility had more than 65 percent residential
5 load shopping, correct?

6 A. That's correct. And it was 76 percent,
7 well above the 65.

8 Q. Thank you. And if we averaged all of the
9 utilities in terms of the residential shopping load
10 in December, 2011, it would have been around 33
11 percent shopping, correct?

12 A. That's -- if that's what your data
13 indicates as of December, 2011. My projection is as
14 of December, 2012, so I would expect very different
15 results.

16 Q. I am just asking you as of December,
17 2011, the average shopping in Ohio for residential
18 load was about 33 percent, correct?

19 A. That's what the data that you provided to
20 me indicates.

21 Q. And the average for non-AEP companies was
22 less than 50 percent, correct?

23 A. That's what's listed on your exhibit,
24 yes.

25 Q. Okay. Now, you believe that your

1 65 percent projection for residential shopping within
2 AEP is justified because you assume that AEP Ohio
3 would see a significant level of shopping consistent
4 with higher levels seen in other EDUs due to the
5 significant number of CRES providers that are
6 currently operating in the AEP service territory,
7 correct?

8 A. I would agree that AEP -- could I expect
9 AEP to see a significant increase in shopping due to
10 the fact we do have a large number of CRES providers
11 actively operating within our service territory?

12 Yes.

13 Q. Now, isn't it true, sir, that the number
14 of CRES providers operating within AEP is the
15 smallest in the state compared to other EDUs?

16 A. I don't know that. What I do know is
17 there are 14 CRES providers currently operating in
18 the AEP service territory and a variety of them have
19 market shares that are significant.

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

21 EXAMINER PARROT: You may.

22 MR. KUTIK: Your Honor, I would like to
23 have marked as Exhibit 115 a multi-page document
24 which begins with page labeled "List of Certified
25 Suppliers-Ohio Customer Choice-Duke Energy."

1 EXAMINER PARROT: So marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. (By Mr. Kutik) Now, you are aware, are
4 you not, sir, that there are PUCO regulations that
5 require EDUs to provide a list of CRES providers to
6 customers, correct?

7 A. I'm not aware of that regulation, no.
8 But I do know that information is typically on the
9 Commission's website.

10 Q. Okay. And the information also appears
11 on the various companies' websites, do they not?

12 A. That's my recollection, yes.

13 Q. Okay. And would you recognize the
14 document that's been marked as Exhibit 115 as some
15 websites from various EDUs or some pages from those
16 websites?

17 A. Let me take a look at the document for a
18 second.

19 Q. Sure. Let's walk through it together.

20 A. Let me take a look at the full document,
21 as you asked me to do, first.

22 I see the document you've provided me.

23 Q. All right. The first two pages of this
24 document appear to be some pages from the Duke Energy
25 Ohio website, correct?

1 A. What this document provides is a list of
2 certified suppliers of business and large business
3 customers. And I would like to distinguish this from
4 what we've been talking about though.

5 Q. Sir, I just asked you whether this
6 appears to come from the pages of Duke Energy Ohio's
7 website? Can you answer that question?

8 A. This is a list of certified suppliers,
9 not a list of active market participants, yes.

10 Q. And that goes on for four pages, correct?

11 A. Yeah. It looks like the fourth page is
12 just kind of the bottom of the page, yes.

13 Q. Okay. And the next page in the exhibit
14 appears to be a page from the Dayton Power & Light
15 website, correct?

16 A. The top of the page is identified as
17 registered electric generation suppliers Dayton Power
18 and Light, page 1 of 1. That's a document that shows
19 the registered electric generation suppliers, once
20 again, not those active in the market but those that
21 are registered.

22 Q. Okay. And the next page appears to be
23 licensed electric generation suppliers provided by
24 FirstEnergy, correct?

25 A. It doesn't appear to reference

1 FirstEnergy. It appears to be a reference to the
2 FirstEnergy EDUs, CEI, Toledo Edison, Ohio Edison
3 Company, and once again, it's a list of licensed
4 suppliers, not active suppliers.

5 Q. Okay. And finally we see two pages which
6 appear to be from a list of certified electric
7 suppliers currently registered in AEP Ohio's
8 territory, correct?

9 A. Yes. Once again, these are the certified
10 suppliers, not the active market participants, yes.

11 Q. You have to be a certified supplier, do
12 you not, to be an active participant?

13 A. You do.

14 Q. Thank you.

15 A. But you don't have to participate in the
16 market and serve customers if you are a certified
17 supplier. And what I've talked about in my
18 testimony, just so that we are clear, there are 14
19 participants that are actively serving customers in
20 AEP Ohio's service territories, not that they have
21 just submitted a registration that may be years old
22 and they are not actively marketing in our territory.

23 Q. Right. But in terms of the number of
24 customers -- number of CRES providers that are
25 registered to do business in AEP Ohio, that's the

1 fewest of the EDUs, correct?

2 A. You didn't ask me to do a count. I
3 haven't done that.

4 Q. All right. Well, isn't it true that if
5 we look at the data for AEP Ohio, we would see 16?

6 A. Yes, so there's two of them that aren't
7 even participating, yes.

8 Q. My question is there would be 16,
9 correct?

10 A. Let me count those then.

11 There are 16 listed here, yes.

12 Q. Right. And if we look at the list for
13 Dayton Power and Light, we would see 16.

14 A. There would be 16 there, yes.

15 Q. And if we look at the list for Duke, we
16 would see 22.

17 A. Yes, there's 22 on that list.

18 Q. And if we look at the list of FirstEnergy
19 operating companies, if we just looked at the starred
20 CRES providers' names with an asterisk, there would
21 be 27, correct?

22 A. This one is pretty small type so give me
23 just a second.

24 Q. Sure.

25 A. There would be 27, but I don't have an

1 indication of how many are actually active.

2 Q. I just asked you, sir, there are 27
3 starred on that list, correct?

4 A. There are 27 stars on that list, yes.

5 Q. Thank you. Now, you didn't look at how
6 many other companies shopping for residential
7 customers were government aggregation load, correct?

8 A. That's correct.

9 Q. Now, there are statistics, are there not,
10 on the PUCO website relating to government
11 aggregation activity in Ohio?

12 A. Yes, there is.

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

14 EXAMINER PARROT: Yes, you may.

15 MR. KUTIK: Your Honor, I would like to
16 have marked for identification as FES Exhibit 116 a
17 multi-page document which has a title on the first
18 page "Aggregation Activity in Ohio."

19 EXAMINER PARROT: So marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. (By Mr. Kutik) Sir, do you recognize
22 Exhibit 116?

23 A. I do not.

24 Q. You don't recognize these as statistics
25 from the PUCO's website?

1 A. The document just says "Aggregation
2 Activity in Ohio." It has no note that indicates
3 it's from the PUCO. It just says "Source: MM1-3,
4 MM1-2B, and Form 1-4."

5 Q. So you recognize it as being from the
6 PUCO website.

7 A. I don't know that to be true. I haven't
8 looked at this information.

9 Q. All right. Well, sir, would it be the
10 case, sir, that the PUCO's website shows that
11 aggregation activity in Ohio for residential
12 customers in 2011 was over 90 percent of the
13 residential load?

14 A. Can you repeat the question? I was
15 trying to look at the document.

16 MR. KUTIK: Sure. Could you read it,
17 please.

18 (Record read.)

19 MR. NOURSE: I'm sorry, your Honor. I
20 thought Mr. Allen said he didn't recognize this being
21 from the PUCO website and the question is asking what
22 the website shows.

23 MR. KUTIK: I'm asking if he knows. I'm
24 asking if he knows.

25 MR. NOURSE: Okay.

1 EXAMINER PARROT: The objection is
2 overruled.

3 A. Based on the data in front of me, I have
4 some questions about the accuracy of the data, to be
5 honest. When I look at September, 2011, it shows
6 that 100 percent of the residential customers were
7 switched through aggregation and I know that in AEP
8 Ohio's service territory we have had residential
9 switching not through aggregation and I know
10 personally as a customer that is served by a CRES
11 provider in the FirstEnergy service territory that
12 I'm not switched through aggregation.

13 So there's some questions about the
14 accuracy of the data here, but what I will tell you
15 though is that in AEP's service territory, and it's
16 one of the documents you just laid in front of me
17 that I prepared, about 20 percent of the residential
18 load in AEP's service territory for residential does
19 participate in -- or is served in communities that
20 have passed governmental aggregation programs.

21 Q. That is not my question. My question is
22 do you know that the PUCO's website shows that
23 government aggregation accounted for 90 percent of
24 the residential shopping load in 2011?

25 A. I don't know that to be true. And as I

1 indicated, the data appears to have some flaws in it,
2 and I would assume that the PUCO website would
3 probably have accurate data. This doesn't appear to
4 be.

5 Q. Well, sir, if you -- well, my question is
6 so you don't know that fact, correct? You don't know
7 whether the PUCO's website shows that over 90 percent
8 of the load shopped for residential customers was
9 government aggregation in 2011, correct?

10 MR. NOURSE: Your Honor, I do object.

11 A. I don't know.

12 MR. KUTIK: I believe he said "I don't
13 know," your Honor.

14 EXAMINER PARROT: Let's move on.

15 Q. Now, you just mentioned that 20 percent
16 of the ag -- the shopping load -- well, let me back
17 up.

18 You mention a 20-percent figure, correct?

19 A. Yes, I did.

20 Q. And is that 20 percent of the shopping
21 load currently in AEP is affiliated with government
22 aggregation?

23 A. No, that's not what I indicated. What I
24 was indicating was that approximately 20 percent of
25 the residential load in the AEP service territory is

1 in communities that have passed governmental
2 aggregation programs in the past, so they have --
3 they have gone through the ballot initiative process,
4 and I would also offer that other communities could
5 do aggregation. It's called opt-in aggregation. It
6 doesn't require a ballot initiative.

7 So that's another opportunity that allows
8 residential customers to shop through aggregation, so
9 this is just those communities that have passed
10 ballot initiatives for what's referred to as opt-out
11 aggregation.

12 Q. Sir, let me refer you to Exhibit 112
13 which was the -- which is the supporting papers --
14 workpapers that we mentioned earlier.

15 Are you there, sir?

16 A. Yes.

17 Q. And we can look at page 5 of those to see
18 some calculations relating to aggregation load,
19 correct?

20 A. That's correct. And what that indicates
21 is that total load in the AEP service territory that
22 is served by aggregation or that is -- where that
23 load used in communities that have passed aggregation
24 initiatives. That was about 11,000 GWh.

25 Q. And we are talking about residential

1 customers, correct?

2 A. That's total.

3 Q. My question so far, and frankly, you
4 answered a question I didn't ask so let me ask you a
5 question, hopefully you can answer that one, and the
6 question is doesn't this show that the expected
7 aggregation load for residential customers is 2,200
8 gigawatt hours?

9 A. The -- just so everybody understands
10 what's on the page --

11 Q. Well, can you answer my question first?

12 A. I want to make sure I'm understanding
13 what I am answering.

14 Q. Can you answer my question?

15 EXAMINER PARROT: Mr. Kutik, would you
16 please allow the witness to answer the question.

17 A. We've been talking about two numbers, and
18 I wanted to make sure everybody's clear. The top of
19 the page shows the total potential aggregation load
20 in the AEP service territory.

21 What's on the bottom of the page is the
22 expected aggregation load by year-end 2012 and there
23 is a set of assumptions that go in between there.
24 For instance, PIPP load isn't eligible to be served
25 under aggregation and so there is a set of

1 assumptions about opt-out rates and the like, but
2 what I've presented here is the expected aggregation
3 load at the end of 2012 is 2,200 GWh --

4 Q. Okay.

5 A. -- based on opt-out aggregation only. I
6 want to make sure that's clear.

7 Q. Fine. Now, you've prepared an estimate,
8 have you not, of the total shopping load for 2012,
9 correct, for residential customers?

10 A. Yes.

11 Q. Okay. And would it be correct to say
12 that proposed or projected load for 2012 residential
13 shopping is in the neighborhood of 4,600 gigawatt
14 hours?

15 A. I don't have the data in front of me for
16 calendar year 2012. I have it monthly, but I can add
17 it up.

18 Q. Well, I am looking at your workpapers
19 from the ESP case. Is that what you're looking at?

20 A. Yes, I have my workpapers from the ESP
21 case.

22 Q. Would you accept, subject to check, if
23 you add up all those residential shopping load and
24 monthly numbers, you get 4,605 for 2012?

25 A. Yes, I agree that sounds reasonable.

1 Q. And for 2013, the residential shopping
2 load that you project is 9,504 gigawatt hours.

3 A. I am not going to look at the data but it
4 looks reasonable and I can add it up, if you would
5 like me to, but that's reasonable.

6 Q. Would you accept that, subject to check?

7 A. I will agree it appears reasonable.

8 Q. Okay. The Commission -- that would be a
9 reasonable number for the Commission to use as your
10 projection for residential load shopping in 2013?

11 A. And the way I summarize --

12 Q. Is that your -- is that true, sir?

13 A. I'm sorry?

14 Q. Is that true, sir, my question?

15 A. Can you repeat the question, please?

16 MR. KUTIK: Sure. Karen, can you read
17 it, please?

18 (Record read.)

19 A. I think what the Commission should
20 recognize is that the expectation is that shopping
21 load would be approximately 65 percent of the total
22 residential load, which is approximately 9,500 GWh.

23 Q. Thank you. Now, you've also made some
24 projection not only about the amount of shopping but
25 the speed at which shopping will occur, correct?

1 A. Yes, that's correct.

2 Q. And you project, for example, that
3 residential shopping will go from about 9-1/2 percent
4 to 65 percent by year end, correct?

5 A. Yes, that's correct.

6 Q. And for commercial shopping it would go
7 from 48 to 80 percent by year end?

8 A. Yes, that's correct.

9 Q. And industrial shopping would go from a
10 little less than 40 percent to 90 percent by year
11 end?

12 A. Yes, that's correct, and it's consistent
13 with data I have reviewed.

14 Q. And I was going to ask you about that
15 data. And that's the data with respect to the
16 shopping that the PUCO -- that's on the PUCO's
17 website, correct?

18 A. It's based partly on that information
19 that shows the speed of customers switching as well
20 as some of the pricing provisions that CRES providers
21 could provide to shopping customers if they were able
22 to utilize the company's capacity at RPM prices.

23 Q. Well, you looked first, sir, at the
24 statistics that the PUCO puts out with respect to
25 shopping to determine a reasonable rate of increase

1 of shopping, correct?

2 A. No, I wouldn't agree that's where I
3 looked first. That was one of the pieces of
4 information I looked at, but I also looked at the
5 point in time when the RPM price would change from
6 the current level of approximately \$146 per megawatt
7 day to when it dropped down to approximately \$17 a
8 megawatt day, and based upon that significant
9 reduction in pricing that the company would be
10 charging to CRES providers and an assumption that
11 those CRES providers would be actively marketing to
12 customers to take advantage of those significant
13 margins, that starting in June of 2012, the level of
14 customer shopping would increase pretty rapidly,
15 especially in the commercial and industrial classes
16 where those customers are much more knowledgeable
17 about what's going on in the markets and have been
18 actively participating in these cases.

19 Q. Isn't it true, sir, that one of the bases
20 you looked at was the speed that other utilities
21 achieved certain levels of shopping?

22 A. Yes, I think that's consistent with what
23 I just said, that's one of the areas I looked at but
24 not the only.

25 Q. Right. In fact, you noted that there

1 were certain utilities that achieved a 35 point
2 increase in shopping in a single quarter, correct?

3 A. Yes, that's correct. That would be
4 Toledo Edison Q3 2009 to Q4 2009 went from under 20
5 percent to 55 percent in a single quarter. The
6 residential went from 5.4 percent to 50 percent in a
7 three-month period. That's a 45 percent increase,
8 pretty consistent with the 65 percent I have
9 discussed here.

10 Q. Okay. Now, that happened when, sir?

11 A. It happened in 2009.

12 Q. Okay.

13 A. Not that long ago.

14 Q. Can you cite -- and you're familiar with
15 other rapid increases, too, correct, such as what
16 occurred in CEI's territory?

17 A. In -- between Q3 and Q4 of 2009, CEI saw
18 an increase from 31 percent to 52 percent. And on
19 the residential class they went from 36 to 54 which
20 would be an 18 percent increase.

21 What we also saw for CEI Q1 2010 to Q2
22 2010 the increase was approximately 9 percent
23 overall, so about a 12 percent in the residential
24 class. At that point the commercial shopping was at
25 81 percent, pretty consistent with the numbers we

1 have been talking about here today.

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

3 EXAMINER PARROT: You may.

4 MR. KUTIK: Your Honor, I would like at
5 this time to mark Exhibit 117, a document entitled
6 "PUCO Switching Statistics 2008 to 2011 in Terms of
7 Sales."

8 EXAMINER PARROT: So marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 Q. (By Mr. Kutik) Mr. Allen, do you
11 recognize Exhibit 117 as a summary of the data that
12 appears in Exhibit 113?

13 A. It appears to be a summary. I can't
14 vouch for the accuracy of the data presented here.

15 Q. Now, if we look at the summary in terms
16 of the significant jumps, we see one significant jump
17 in Toledo Edison, as you noted earlier, correct?

18 A. Yes. There was a significant jump in
19 Toledo Edison at that point and we just talked about
20 a couple of them in CEI. We can also talk about Duke
21 Energy had significant increases --

22 Q. All I asked you right now is about Toledo
23 Edison.

24 A. I thought you just asked me about
25 significant increases.

1 Q. And I pointed you to Toledo Edison,
2 correct?

3 A. We did discuss Toledo Edison's, yes.

4 Q. All right. And there's another
5 significant jump you mentioned with respect to CEI,
6 correct? And that's shown on this document as well.

7 A. There is one for CEI and I --

8 Q. Thank you.

9 A. -- note that your data -- I just want to
10 make sure we talk about the accuracy of this data
11 before we make too many conclusions about it. It
12 appears in your data that CEI for March and June of
13 2009 shows zero switching, going from, you know,
14 approximately 12 percent to zero, see similar
15 characteristics in Ohio Edison going from 18 percent
16 to 2009 0.01 percent, Toledo Edison going from
17 13.46 percent down to zero, so not sure if your data
18 is accurate here.

19 Q. This isn't my data, sir. It's the PUCO's
20 data.

21 A. We haven't confirmed it's the PUCO's
22 data.

23 Q. But it's not my data.

24 A. It's the data you presented to me.

25 Q. So don't call it my data --

1 MR. NOURSE: Your Honor, I object.

2 Mr. Kutik is the one who handed him the data and

3 let's not get argumentative here.

4 MR. KUTIK: Well, he shouldn't say what
5 he says.

6 Q. (By Mr. Kutik) Now, with respect to this
7 exhibit and the jump we see at Toledo Edison, do
8 you --

9 A. Which jump are you referring to,
10 Mr. Kutik?

11 Q. I am talking about the one you mentioned
12 going from 19.6 percent to 55 percent.

13 A. That's the point right after the
14 incorrect data that was on your exhibit that we were
15 talking about.

16 Q. You believe it's incorrect?

17 A. The FES exhibit.

18 Q. You believe it's incorrect, right?

19 A. It causes me some pause.

20 Q. All right. You don't know what was
21 happening within Ohio Edison or CEI or Toledo Edison
22 at that time, correct?

23 A. I don't.

24 Q. You don't know what was happening with
25 respect to their ESP and how they were going to

1 provide any kind of service to customers under their
2 SSO, correct?

3 A. That's correct. So if we --

4 Q. Sir, is that correct?

5 MR. NOURSE: Your Honor, I object to
6 Mr. Kutik's testimony. He's -- the witness has
7 already stated he's not familiar with this document,
8 and he hasn't been able to authenticate it.

9 MR. KUTIK: I didn't ask him about the
10 document.

11 MR. NOURSE: He's trying to explain the
12 data anomalies Mr. Allen pointed out.

13 EXAMINER PARROT: And the witness already
14 indicate it was correct, so let's keep it moving,
15 please.

16 MR. KUTIK: Thank you, your Honor.

17 Q. (By Mr. Kutik) Do you know of an entity
18 called Northwest Ohio Aggregation Coalition, NOAC?

19 A. The only reference that I have to them is
20 I think they recently intervened in the FirstEnergy
21 ESP case. That's the only reference I have
22 currently.

23 Q. So you don't know what NOAC is?

24 A. I don't have any knowledge of them. They
25 don't participate in the AEP service territory as far

1 as I recall. They may, I just don't know.

2 Q. You don't know whether NOAC includes a
3 series of communities including the City of Toledo.

4 A. That's correct. I don't know that.

5 Q. And you don't know whether in the third
6 and fourth quarter of 2009 NOAC signed a contract to
7 allow customers in the communities represented by
8 NOAC to shop.

9 MR. NOURSE: Your Honor, I object.
10 There's no foundation to these questions and
11 Mr. Kutik is testifying here.

12 MR. KUTIK: I'm asking if he knows.

13 MR. NOURSE: You can do that all day
14 long. There is no demonstration any of this is
15 relevant.

16 MR. KUTIK: We will make it relevant,
17 your Honor, later in the hearing.

18 EXAMINER PARROT: Mr. Allen, you may
19 answer the question if you know.

20 THE WITNESS: Can you repeat the
21 question, please?

22 (Record read.)

23 A. I don't know that I can answer that
24 question. I think those customers were always
25 allowed to shop.

1 Q. Well, but they -- but that a contract for
2 shopping -- for -- a contract with a CRES provider
3 was signed with NOAC effective during this period of
4 time, the latter part of 2009. Do you know that?

5 A. I don't know whether a contract was
6 signed or not, that's correct. It would have been
7 signed by FirstEnergy or somebody else. It wouldn't
8 have been signed by myself.

9 Q. And you are not aware of any press
10 releases with respect to that, correct?

11 A. That's correct.

12 Q. Are you aware of an entity called the
13 Northeast Ohio Public Energy Council, or NOPEC?

14 A. I've heard the acronym. I have not dealt
15 with them.

16 Q. Okay. You understand that NOPEC is an
17 aggregation of municipalities that have attempted to
18 contract with CRES providers. Are you aware of that?

19 A. No, I'm not.

20 Q. So you are not aware of whether NOPEC --
21 back up.

22 Are you aware that NOPEC represents
23 between 125 and 150 communities in the CEI/Ohio
24 Edison territory?

25 A. No, I am not aware of that.

1 Q. And so you wouldn't be aware of whether
2 NOPEC signed a contract with a CRES provider in the
3 latter part of 2009, correct?

4 A. That's correct. And my testimony is
5 really around AEP's service territory and the
6 shopping we expect to see.

7 Q. Sir --

8 EXAMINER PARROT: Mr. Kutik, let him
9 answer.

10 Q. I just asked you don't know whether NOPEC
11 signed a contract during that period of time,
12 correct?

13 A. That's correct.

14 EXAMINER PARROT: Mr. Allen, were you
15 finished with your answer?

16 THE WITNESS: Yes. Thank you.

17 Q. Now, you mentioned that NOAC isn't
18 currently active in the AEP Ohio service territory;
19 is that correct?

20 A. No. I don't know.

21 Q. Okay. Would your answer be the same for
22 NOPEC?

23 A. Yes, that's correct.

24 MR. KUTIK: I have no further questions.
25 Thank you.

1 EXAMINER PARROT: Thank you.

2 Mr. Petricoff or Ms. Kaleps-Clark.

3 MR. PETRICOFF: Thank you, your Honor,
4 yes.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Petricoff:

8 Q. Good morning, Mr. Allen.

9 A. Good morning.

10 Q. Mr. Allen, is it true that AEP Ohio, that
11 is, Ohio Power and Columbus Southern Power now
12 merged, has been charging capacity charges since
13 2007?

14 A. Been charging capacity charges to CRES
15 providers serving load within our service territory,
16 to the extent they used our capacity resources, we
17 have been charging, yes, that's correct.

18 Q. And you're familiar on how those capacity
19 charges have been assessed since this commenced in
20 2007?

21 A. I have not reviewed the data all the way
22 back to 2007, but I'm generally aware of how we have
23 assessed those charges.

24 Q. Are you in charge of the program for
25 assessing and collecting the capacity charges?

1 A. No, I'm not.

2 Q. But you are familiar with how that's
3 done.

4 A. Yes. I see the data before it goes out
5 usually.

6 Q. And the part -- and your testimony here
7 today is to cover how AEP Ohio assesses those
8 charges, collects those charges, and the financial
9 impact of those -- of the capacity charge rate.

10 A. I don't think my testimony here today is
11 about how we assess those charges. My testimony is
12 primarily around the expected level of customer
13 switching that we would expect to see in our service
14 territory as well as the financial harm that would
15 occur if AEP's forced to provide that capacity at RPM
16 pricing.

17 Q. Besides you is there any other AEP
18 witness who is going to testify on how the capacity
19 charges are assessed?

20 A. Not that I'm aware, but I am aware of how
21 those charges are assessed. That's just not a piece
22 of my testimony here today.

23 Q. Well, let's explore that then. You will
24 agree with me that the capacity charges that the
25 company is seeking here is based upon a

1 dollars-per-megawatt-day assessment?

2 A. Yes, that's correct. And it's charged to
3 the -- based upon the PLCs of the customers, the peak
4 load contribution, which are the five peaks set in
5 the -- in the summer on the five peak days and those
6 are assigned each customer.

7 They're summed up for each CRES provider
8 and then the rate we proposed here would be 355.72.
9 We would multiply the sum of those PLCs for each day
10 in the month times that 355.72 and that would be the
11 bill to the CRES for the use of the company's
12 capacity.

13 Q. That's exactly where I was going. Now,
14 the five PLC dates that you are talking about,
15 explain what those are, for the record.

16 A. The five PLCs, those are the peak load
17 contributions of each customer, so that's their
18 contribution to the peak of the PJM system at the
19 time that PJM sets their five peaks in the summer.

20 So there's five separate days that they
21 identify as the peaks and we identify the
22 contribution of each customer within the AEP service
23 territory for each one of those days, and that's the
24 PLC for those customers.

25 Q. So it's fair to say then that in terms of

1 the capacity charge, AEP computes that on a
2 per-customer basis every month?

3 A. The company doesn't calculate the PLCs on
4 a monthly basis. The PLCs are set once a year and
5 those PLCs for each customer are provided to the CRES
6 providers and those PLCs stay in place for a 12-month
7 period throughout -- for an entire PJM planning year.

8 So it would be from June -- in this case
9 June of 2012 through May of 2013, those PLCs would
10 remain constant so the CRES provider knows the totals
11 of the PLC, for each customer that they would be
12 serving.

13 Q. The PLCs are determined on an annual
14 basis but isn't the capacity charge determined on a
15 monthly basis?

16 A. What the company does for each CRES
17 provider is they sum up the PLCs for all the
18 customers that that CRES provider is serving for each
19 day of the month and that number changes every day of
20 the month because the CRES provider is either serving
21 an additional customer or a customer may return to
22 SSO service or be served by another CRES provider.

23 So we keep track on a daily basis of each
24 customer that's served by its CRES provider, we sum
25 up the PLCs for that customer and that's -- we sum up

1 the PLCs for the entire month, and then we multiply
2 that by the dollar-per-megawatt-day rate, you know,
3 in this case, this proposal, it would be 355.72.

4 Q. So it's fair to say the calculations are
5 made discretely on a customer basis?

6 A. Yes. The one caveat I would like to make
7 clear so everybody understands how the process
8 works --

9 MR. PETRICOFF: Your Honor, he's answered
10 the question. He's now answering another question.

11 EXAMINER PARROT: Mr. Allen, please
12 complete your answer.

13 A. The PLCs for each customer based on known
14 peaks for that customer in the case where we actually
15 have hourly meters at that customer's premise.

16 For customers like a residential customer
17 that doesn't have an hourly load meter, we don't know
18 exactly what their load is at that point of the peak
19 so we use load shapes, and that's pretty consistent
20 across the industry for those types of customers, use
21 a load shape to identify what the peak of that
22 customer would have been. But we do calculate that
23 on an individual customer basis.

24 Q. All right. And basically the only reason
25 that you use the shape is because you don't have

1 metered data.

2 A. That's correct.

3 Q. And, in fact, if SmartGrid comes and you
4 do have metered data, you would use the metered data.

5 A. To the extent we have metered data,
6 that's what we would use, yes.

7 Q. Mechanically, I'm not asking a policy
8 question but just mechanically. Mechanically could
9 Ohio Power just bill the customer as well as summing
10 up monthly and billing the CRES for capacity charges?

11 A. Yeah, and that's what I would view as a
12 retail capacity mechanism. And that's kind of how I
13 always viewed what the provision in the RAA was when
14 they talk about state compensation mechanism, that
15 would be a retail mechanism where the company charged
16 the customer based on the cost of capacity.

17 So to the extent that a customer left the
18 SSO service and was served by another CRES provider,
19 since they are still using the capacity of the
20 company, they wouldn't be able to avoid the capacity
21 price that's associated with the capacity they're
22 receiving so you would basically break the SSO rates
23 into two components, one being a capacity component
24 and one being a non-capacity component.

25 And that would be a retail mechanism and

1 so it would stay -- basically be the company's base
2 generation. We have the nonfuel rate is essentially
3 the capacity component.

4 The vast majority of that cost would
5 cover the cost of capacity, so a customer that left
6 our service would be really shopping for energy while
7 we are an FRR entity and providing that capacity.

8 So that's how I would envision that we
9 would continue to charge customers that capacity rate
10 or base generation rate which, you know, is going to
11 be in the -- for a residential customer it would be
12 in the range of \$24 a megawatt hour would be the --
13 generally be the capacity rate if we were to charge
14 it on a retail basis.

15 Q. This is if the -- when the RPM rates go
16 in?

17 A. No. That's our -- the base generation
18 rates, the SSO generation rates are approximately \$24
19 a megawatt hour. If I said "megawatt day," I
20 apologize, but that's the -- the equivalent rate.

21 Q. I want to go back -- I want to go back to
22 the -- to the megawatt hours.

23 Well, first of all, the number you just
24 gave me you've just converted from megawatt day --
25 megawatt days into -- into megawatt hours for

1 residential customers. That was the purpose of this
2 last answer?

3 A. Residential customers pay per kilowatt
4 hour anyway.

5 Q. And we'll get there, but first, I want to
6 make sure that we've gotten the record clear here
7 on -- on the megawatt day charge for capacity because
8 you'll agree with me that's the way it is charged
9 today, capacity?

10 A. For shopping customers the company
11 charges per megawatt day to the CRES provider, that's
12 correct.

13 Q. And under the company's application in
14 this proceeding that would continue to be the case.

15 A. Yes, that's correct.

16 Q. And the only thing that we're really
17 discussing here is what -- what that proper
18 dollar-per-megawatt charge should be.

19 A. Yes.

20 Q. So at the moment mechanically then the
21 individual accounts are summed up, a bill is prepared
22 for the competitive retail electric supplier who is
23 making these -- these payments, and the competitive
24 electric supplier is -- is billed. To whom does the
25 competitive electric supplier make those capacity

1 payments?

2 A. Those capacity payments are made to PJM
3 who then remits those payments to AEP.

4 Q. All right. And then AEP -- what -- you
5 say AEP. Is there a particular company or subsidiary
6 of AEP that gets those funds?

7 A. The initial step I'm not sure exactly who
8 gets them officially but they ultimately show up on
9 the books of CSP and Ohio Power, and today it would
10 just be Ohio Power, now that the companies have
11 merged.

12 Q. And to the best of your knowledge,
13 100 percent of what the CRES serving Ohio paid for
14 capacity charges flows through to Ohio Power?

15 A. Most definitely, because it's the
16 capacity of AEP Ohio that's being used by those CRES
17 providers, so it's appropriate that those payments
18 are retained by AEP Ohio.

19 Q. And in your revenue studies that are on
20 pages 3 and 4 of your testimony, you assume that
21 every capacity dollar was ultimately credited to Ohio
22 Power.

23 A. Yes, that's correct.

24 Q. Now, we talked earlier about mechanically
25 this could be billed directly to the -- to the

1 customer. If you know, are there other PJM charges
2 that are billed directly to the customer by other
3 electric distribution utilities in Ohio?

4 A. Not with certainty.

5 Q. Not with certainty.

6 Are you familiar with network integrated
7 charges, NITs?

8 A. Yes.

9 Q. How are NITs handled for Ohio Power?

10 A. For nonshopping customers those charges
11 go through the transmission cost recovery rider,
12 typically referred to as the TCRR, and for shopping
13 customers it's my understanding that's the
14 responsibility of the CRES provider.

15 Q. And do you know how -- how that -- how
16 the NITs are paid in the Duke service territory?

17 A. I don't know for the Duke service
18 territory. I do know -- my recollection is that in
19 at least one of the service territories those NITs
20 charges are charged to all customers independent of
21 whether they are served by a CRES or not.

22 Q. Let's move on now and let's talk about
23 the current capacity charge, and you will agree with
24 me we have two tiers, two different capacity charges,
25 that get assessed, currently?

1 A. Yes, there are two tiers of capacity
2 pricing currently, per the Commission's order.

3 Q. All right. And the two-tier, one is
4 currently RPM price of \$146 a megawatt day, roughly?

5 A. Yes, that's correct.

6 Q. And that's one that's going to change in
7 June when the RPM price changes.

8 A. That's correct.

9 Q. And the second tier is \$255 a megawatt
10 day?

11 A. That's the current rate that the company
12 is charging, that's correct.

13 Q. And what is the basis of the \$255 a
14 megawatt day?

15 A. It's based upon the Commission order.

16 Q. And that was a request by the company to
17 set that temporarily?

18 A. In rehearing the company did -- or the
19 company did file a request. I don't recall what the
20 title of the request was, but the company did request
21 some type of protection in the interim while we wait
22 to resolve the issue of the appropriate pricing for
23 capacity.

24 Q. And what happens to the tier 1 price for
25 the June billing?

1 MR. NOURSE: Your Honor, I think it's
2 calling for speculation. I mean, I think the
3 procedural schedule in this case was set up so we
4 have a decision by June 1 and I'm not sure how that's
5 relevant here.

6 MR. PETRICOFF: Your Honor, we are
7 discussing pricing -- first of all, your Honor, we
8 are here under the Commission's order initially
9 issued on December 8, 2010, that said we were
10 supposed to establish a state compensation mechanism
11 and the -- and as I read the order, it's fairly
12 broad, we are looking to see what that should --
13 should be.

14 The Commission has given us orders to
15 tell us what the default modes are, and since we are
16 talking about pricing, I think it's important, if the
17 witness knows, to tell us what those prices are.

18 EXAMINER PARROT: The objection is
19 overruled.

20 A. Starting June 1, the RPM-priced capacity
21 would result in a capacity price -- and I think it's
22 a lot easier if we talk about this in dollars per
23 megawatt, \$1.68 a megawatt hour, and that's in
24 comparison to the base generation rates that the
25 company would lose when a customer switched, which

1 are in the neighborhood of \$23.82 a megawatt hour.

2 So for shopping customers that shop after
3 June, if the Commission implements an RPM-based
4 pricing structure, the company is going to use about
5 \$20 a megawatt in revenues.

6 If we go down to the RPM price that's
7 \$1.06 per megawatt hour, which is the \$17 a megawatt
8 day that I think you're looking for.

9 Q. Let's step back here because if we are
10 going to use these numbers, we have to have a record
11 that tells us what we are -- what we are doing here.

12 We start off and our conversations have
13 all been concerning megawatt -- I'm sorry, megawatt
14 day rates and you've described what a megawatt day
15 rate is. Can you describe for us if we are going to
16 talk about prices per megawatt how one would go about
17 converting from a megawatt day to a megawatt hour?

18 A. Sure. To convert from megawatt day to
19 megawatt hour, you would -- in the case of the \$355
20 per megawatt day price you would take that \$355 a
21 megawatt day, multiple it by the PLCs for all the
22 loads served in each individual class, and then you
23 would divide it by the kilowatt hours of usage in
24 that class and that would convert it from a
25 dollar-per-megawatt-day to dollar-per-megawatt-hour

1 basis.

2 Q. Let's go back. We've established that
3 each individual customer has their own PLC.

4 A. That's correct.

5 Q. And so when we're converting -- we are
6 looking on the impact for an individual customer,
7 wouldn't we have to look to the individual customer's
8 PLC to decide how we would calculate what the impact
9 was of a change in a megawatt-day price?

10 A. On an individual customer basis, you
11 could do that exercise. The exercise that we've done
12 as a company is look at it by a class-by-class basis.
13 There is definitely a difference if it's PLCs and the
14 relationship to energy rates on a
15 customer-by-customer basis and that's why it's
16 important when you look at things that we've talked
17 about previously, you know, headroom for customers
18 shopping, even if you look at it on an aggregate
19 customer basis, if you identified that there's no
20 headroom for a class, that doesn't mean that there is
21 no headroom for individual customers within that
22 class because they have different characteristics so
23 some customers based upon the company's tariffs may
24 have a significant amount of headroom to shop as
25 compared to the class average.

1 Q. Let's funnel that down and see if we
2 can -- if you and I can agree on two things. The
3 first in terms of calculating the financial impact on
4 the company, we can certainly talk about switching
5 from megawatt day to megawatt hour and really not
6 affect a calculation in terms of the financial impact
7 on the company because at the end of the day the
8 usage is what the usage is.

9 A. Yeah. With larger numbers the statistics
10 allow you to use class averages and it produces
11 reasonable results but what I think we've seen in
12 shopping behavior that we've seen, that's why we saw
13 the commercial class shopping in such large numbers
14 early on in the process, based upon the company's
15 tariff structure there was a significant amount of
16 headroom for those customers to shopping, and based
17 on the data that I've looked at even when we go to
18 the 355 a megawatt day later, there's still a
19 significant amount of headroom for commercial
20 customers to shop on an aggregate basis and that
21 would indicate that on individual customer basis
22 there's even more opportunities.

23 Q. Okay. So basically we get -- using the
24 aggregate numbers we can get a fairly good financial
25 impact on the company. Using a class basis, we can

1 get some predictions on class. But when we get to a
2 customer basis, for all the reasons you've just
3 given, then it really depends on what the load factor
4 is of that customer, correct?

5 A. That's one factor for the customer that
6 would definitely have a significant impact.

7 Q. So you will agree with me it's irrelevant
8 to look at individual contracts for customers for
9 purposes of setting this rate.

10 MR. NOURSE: Your Honor, I just object.
11 He is asking for relevancy which is a legal concept.
12 Request he rephrase that.

13 MR. PETRICOFF: I think this witness is
14 plenty capable of answering this question.

15 EXAMINER PARROT: With the understanding
16 that --

17 MR. NOURSE: That's beside the point.

18 EXAMINER PARROT: -- Mr. Allen is
19 offering a layperson's opinions you may answer the
20 question.

21 A. No. I think it's important to look at
22 individual customer contracts and understand the
23 provisions of those. As we sit here today, you know,
24 I think as was indicated in the testimony of FES
25 Witness Banks, if the company were to charge \$355 a

1 megawatt day, FES would be forced to terminate some
2 of those contracts, change the pricing structure of
3 those contracts, and without actually understanding
4 what's in those contracts, we don't know if that's
5 true.

6 One of the other important factors as we
7 sit here today is, you know, generally what we've
8 talked about and it's discussed in Witness Banks'
9 testimony that customers, say, average 4 percent,
10 maybe 5 percent, so a 4 or 5 percent discount for a
11 customer is about a \$3 a megawatt discount.

12 What the company is being asked to do in
13 this case is to discount its capacity when using the
14 residential classes as an example to discount our
15 capacity \$28 a megawatt hour in order to provide a \$3
16 a megawatt hour savings to customers.

17 So it's really important to look at those
18 contracts to understand are the benefits being
19 retained by the CRES providers or are these benefits
20 everybody is talking about being passed on to the
21 customers so it's directly important.

22 MR. PETRICOFF: I move to strike
23 everything after "Mr. Banks" because it's irrelevant
24 to the question.

25 MR. NOURSE: Well, your Honor, this is

1 what we get. He asked him to address how -- how
2 these matters are relevant, how individual contracts
3 are relevant to the case, wide open question.
4 Mr. Petricoff said this witness was capable and so he
5 teed it up.

6 MR. PETRICOFF: Your Honor, I withdraw --
7 I withdraw the objection.

8 Q. Is it your testimony then that we -- I'm
9 sorry. Foundation question first.

10 Isn't it true that AEP Ohio has 1,500,000
11 customers?

12 A. I know it's over a million. I don't know
13 the total number.

14 Q. Is it your testimony that the only way we
15 can set this rate is to look at the individual
16 impacts of all 1 -- 1 million customers?

17 A. No. That wasn't my testimony. I think
18 what we need to be able to do to understand whether
19 or not the benefits that the CRES providers are
20 purporting to offer are real or is this whole process
21 about determining how much profit the CRES providers
22 can earn on the backs of AEP's shareholders?

23 That's the real question here and that's
24 why those contracts are important. That's what we
25 are debating is who earns the profits. Are the

1 profits related to AEP's capacity?

2 Are those profits to be awarded to AEP
3 shareholders who invested those dollars? Are those
4 profits to go to those CRES providers that didn't
5 provide any investments dollars? That's the real
6 question.

7 Q. Earlier you told me on an aggregate basis
8 we can set a price for the company -- we could set a
9 charge per megawatt hour for capacity that would take
10 care of the -- of the company's financial needs.

11 Is it also your testimony that in order
12 to do that you must know the profitability for the
13 CRES and that the Commission should set rates for
14 profitability for the CRES as part of this
15 proceeding?

16 A. Absolutely not. CRES providers have the
17 option to participate in this market. They decide if
18 they can find profitability opportunities to serve
19 customers. They have been serving customers in our
20 territory at RPM prices of over \$200 a megawatt day,
21 back in 2010 when we started this process I think
22 \$220 a megawatt day.

23 They continued to serve them in the 170s,
24 in the 140 so that 355 to CRES providers that are
25 serving customers at a variety of prices and as we

1 just talked about it here on the commercial class,
2 there's a lot of headroom, okay. At 355 a CRES
3 provider has a gross margin of 13.7 percent on an
4 average class basis. That's a pretty significant
5 margin. That's about \$8 a megawatt hour.

6 I think there's plenty of opportunity for
7 different prices. We're not debating whether or not
8 CRES providers can earn large profits or small
9 profits. What we need to look at is AEP being fairly
10 compensated for the use of its capacity. We
11 shouldn't just transfer profits from AEP to CRES
12 providers.

13 Q. But aren't those two distinct questions;
14 what is the financial -- what is the revenue that --
15 the amount of revenue that AEP needs to receive from
16 its capacity charge in order to be financially whole
17 or at least not to have its profit confiscated and
18 then the economic relative equity of what each
19 customer should pay?

20 A. So to answer your first question on the
21 level of revenues that AEP should receive, you know,
22 we've talked about the \$355 a megawatt day price and
23 questions have come out through the hearing to talk
24 about what -- about the SSO rates.

25 If you do a comparison of our SSO rates

1 to the capacity rates, we've talked about are they
2 close. There has been a lot of discussion about that
3 with various witnesses and, in fact, you know, that's
4 been kind of passed off to me to answer what we -- is
5 that our base G revenue to serve all of our load
6 would be \$1 billion 102 million dollars.

7 If we were to price all of our capacity
8 at \$355.72, price that out for all of our load, the
9 revenues of the company would be 1 billion
10 101 million dollars, a \$1 million difference. If
11 you -- and that's based upon my analysis.

12 If you do the same analysis looking at
13 the testimony of FES Witness Lesser, Table 1, he
14 presents a comparison of the prices that AEP charges
15 SSO customers and the capacity rates.

16 He's got a few errors in his table, but
17 if you just take for granted that his table is
18 accurate, it shows there is a \$48 million difference
19 in those revenues. The point at which the capacity
20 rate would equal the SSO rate from a revenue
21 perspective based on his analysis shows it \$340 a
22 megawatt day.

23 So the revenue the company should be
24 receiving is in line with the \$355 a megawatt day
25 price that the company has presented, so that's the

1 answer to your first question about revenues.

2 And what we've seen is that level of
3 revenue produced a return for the company on a
4 per-books basis in 2011 of about 10-1/2 percent, on
5 an ongoing basis 12 percent. Those are very
6 reasonable returns.

7 And your second question was about how
8 much margin should CRES providers receive.

9 Q. That was not my question.

10 A. I'm sorry, what was the second part of
11 your question?

12 Q. Was -- I was asking you should we be
13 setting the -- should we be considering equity for
14 the individual charge of that rate besides the
15 company's financial?

16 But let me withdraw that part of the
17 question now because I want to focus down so we have
18 a record here that's fairly clear and fairly concise
19 on what is the fair revenue requirement for the
20 company.

21 And with that look at your testimony
22 on -- on page 3, lines 3 to 5.

23 A. Kind of got papers everywhere. Give me
24 just a second.

25 What was that reference again?

1 Q. The reference is to page 3, lines 3 to 5.

2 A. I see that.

3 Q. And there you testify that "The purpose
4 of my testimony is to demonstrate the financial harm
5 to AEP Ohio under the RPM-priced capacity
6 compensation mechanism and to describe the current
7 and projected shopping levels...."

8 Is there -- you will agree with me that
9 the company in this -- in this case has asked for a
10 charge of not RPM but \$355 a megawatt day.

11 A. That's correct.

12 Q. Okay. Is there anywhere in your
13 testimony that you can point to me today or in the
14 application where it says if the company receives the
15 \$355 per megawatt day, this is the revenue we will
16 receive and this is the rate of return on equity?

17 A. No, that's not in the testimony, but I
18 think we just discussed the comparison to 2011.

19 Q. That's all I asked. So it's not there
20 but we could figure that out today, couldn't we,
21 right here on the stand, you and I?

22 A. I'm pretty good with numbers. I don't
23 know if I can model a financial -- a complex
24 financial company like AEP as I sit here on the stand
25 today.

1 Q. Well, let's give -- let's give it a shot.
2 Let's go down and look at your answer. Why don't you
3 take a moment and look at your answer on lines 14 to
4 21, and this is where you've calculated the rate of
5 return assuming RPM pricing.

6 A. I see that.

7 Q. Okay. And will you agree with the
8 methodologies you use there is that you looked at all
9 the gross revenues that would be coming in to Ohio
10 Power, subtracted out all of the costs, and
11 determined that that left a net earnings -- this is
12 on line 17 of \$344 million for year of 2012.

13 A. Right. And that's a year where the
14 partial of the really low RPM and partial at the
15 higher RPM and the shopping loads are increasing
16 throughout the year.

17 Q. Right. And when we talk about 2012, are
18 we talking about calendar-year 2012? Are we talking
19 about PJM year 2012?

20 A. No. For financial forecasting purposes
21 we always look on it at a calendar year basis, so
22 these are calendar year.

23 Q. So this is calendar year of 2012. And
24 that's \$344 million.

25 MR. PETRICOFF: Your Honor, at this time

1 I would like to get marked as exhibit -- I guess we
2 will call this RESA 101 and we'll save 100 for
3 Ms. Ringenbach's testimony.

4 EXAMINER PARROT: So marked.

5 EXAMINER SEE: Mr. Petricoff.

6 MR. PETRICOFF: Oh, I'm sorry. I'm
7 sorry, Commissioner.

8 COMMISSIONER PORTER: Thank you.

9 MR. PETRICOFF: Your Honor, I was going
10 to start 100 for Ms. Ringenbach's testimony, but
11 Mr. Nourse informs me thus far the convention has
12 been to start with 101, so may we mark this as
13 Exhibit 102?

14 EXAMINER PARROT: Yes. The exhibit shall
15 be so marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. (By Mr. Petricoff) Now, are you
18 familiar -- and do you recognize the exhibit that has
19 just been marked as RESA Exhibit 102?

20 A. These appear to be an Excerpt from my
21 workpapers in the ESP 2.5 and modified ESP case, yes.

22 Q. Okay. And you'll recall we had a
23 deposition on I believe it was April 10 when we went
24 through that -- those workpapers?

25 A. Yes, we looked at them on a brief basis,

1 but, yeah.

2 Q. Right. And these workpapers were
3 actually prepared for the 11-346 case.

4 A. That's correct, yep.

5 Q. But you indicated the information here
6 could be used in looking at capacity prices in this
7 case, the 10-2929 proceeding.

8 A. I don't know that that's what I did. I
9 know I indicated -- I do know that I indicated the
10 data for the shopping levels that were assumed in
11 that case are consistent with the shopping levels I
12 discussed in -- or used in my financial forecast
13 here.

14 Q. Okay. Now, if you turn to the -- to the
15 first page -- I'm sorry, actually be the second page
16 of what's marked as page 1 of 2 Exhibit WAA-4. We
17 have a list for the year 2012-2013 of capacity
18 revenues. Could you describe for me what those
19 capacity revenues are?

20 A. Those capacity revenues are a blend of
21 the capacity revenues at \$255 a megawatt day and \$146
22 a megawatt day is my recollection.

23 Q. So this is a projection for the 2012 year
24 and out, we have a second tier, and I'll get to that
25 in a minute, but these are projections of what the

1 revenue would be -- what the revenue would be
2 generated and received by Ohio Power for capacity
3 charges for the year 2012-2013?

4 A. For the 2012-'13 PJM planning year which
5 is the June, 2012, through May of 2013 period that
6 shows the CRES capacity revenues at the two-tiered
7 pricing structures that we proposed in that case,
8 different than the two-tiered pricing structure that
9 is laid out in the first line of my exhibit here
10 though. They are different -- different prices in
11 those two structures.

12 Q. So on your line 17, \$344 million of
13 revenue, you are assuming there that everyone was
14 receiving the RPM pricing, correct, for the calendar
15 year?

16 A. No. That assumes that RPM pricing began
17 I think in -- by March of 2012 for all customers, and
18 that 344 is an earnings number but the vast majority
19 of customers received RPM pricing. It would have
20 reflected what happened in the first two months.

21 Q. Now, in my -- in the exhibit that you
22 have here we have -- we have a total revenue for the
23 2012 PJM year of \$391 million that would be collected
24 for capacity charges. In your figure on 3, 17, you
25 had to include some portion of the revenue from

1 capacity in coming up with your net revenue number.

2 What number did you have for capacity
3 revenue for your -- your number on line 17?

4 A. I don't have that granularly as we sit
5 here today. There would be the capacity in there
6 at -- at RPM pricing throughout all of 2012, you
7 know, the shopped load.

8 Q. Would it be a number similar to 391
9 million?

10 A. No.

11 Q. And what would be the difference?

12 A. The difference the \$344 million of
13 earnings in 2012 that I show in line 17 is assuming
14 all customers received RPM pricing after the
15 Commission issued their order in I think it was
16 February of 2012 that said all capacity would be
17 priced at RPM starting in March.

18 Q. And this 391 figure, what was the
19 assumption that was made there?

20 A. That the first 21 percent of customer
21 shopping would be served at \$146 a megawatt day
22 roughly for the last seven months of 2012, the first
23 seven months of the planning year, for the first five
24 months of 2013, the last five months of the 2012-13
25 planning year, 31 percent would be priced at RPM.

1 All additional shopping for that entire
2 12-month shopping would be priced at \$255 a megawatt
3 day.

4 Q. Let's drop down to the next line where it
5 says "Capacity Revenues at Full Cost." And you have
6 \$684 million. Does that assume all capacity there is
7 charged at \$355?

8 A. All capacity for shopped load?

9 Q. Right.

10 A. Paying \$355.72, yes.

11 Q. Okay. So basically if we were looking
12 at -- if we were going to do a similar calculation
13 for 2013 that you have on line 17, and we are going
14 to assume that the Commission has granted for AEP
15 effective January 1, 2013, \$355 per megawatt hour,
16 the revenue flow would be \$684 -- I'm sorry,
17 \$684 million for AEP Ohio?

18 MR. CONWAY: Megawatt day.

19 MR. PETRICOFF: Megawatt day. Did I say
20 "megawatt hour"?

21 Q. Let me -- let me repeat -- let with me
22 withdraw that and rephrase the question.

23 If in the year -- calendar year 2013 AEP
24 is awarded from this Commission the right to charge
25 \$355 a megawatt day, would you expect that the

1 revenue that we see would be \$684 million?

2 A. No. This is planning year 2013. It's
3 not the same as calendar year 2013.

4 Q. Okay. And that's because -- do you have
5 an estimate of what it would be?

6 A. I don't as we sit here today.

7 Q. If the -- and as far as you know, there
8 is nowhere in this -- in the application where the
9 Commission could look to see what these numbers are
10 to try to determine what the revenue would be that
11 would be the equivalent of your \$344 million in net
12 revenue if, in fact, it granted the company's request
13 for \$355 per megawatt a day?

14 MR. NOURSE: I object to the question. I
15 am not sure what application you are referring to
16 there.

17 Q. Do you understand the question?

18 A. I think I do and let me give you the best
19 explanation I can. If we look at the \$355, it was
20 based upon the company's cost of providing capacity.
21 It assumed a return on equity of 11.15 percent. So
22 one would assume if I received my full price of
23 capacity, and we know that my full price of capacity
24 from our prior discussions is equal to my SSO rates,
25 they produce essentially the same revenues that the

1 generation function that were approximately 11.15
2 percent. And we've just gone through a distribution
3 base case that had a return component of 10.3
4 percent.

5 The transmission component of the
6 business has a formula rate very similar actually to
7 the formula rate we have on the capacity here that
8 has an ROE embedded in it somewhere in the 11 percent
9 range.

10 Looking at the typical breakdown between
11 the three functions, that generation function
12 generally is going to represent 50 to 60 percent of
13 the business, for ease here we'll say 50 percent.

14 Transmission usually represents 10
15 percent of the business, distribution would represent
16 about 40 percent, so my expectation would be that the
17 ROE based upon that set of assumptions for the
18 company in 2012 and '13, if we were to receive our
19 full price of capacity, would be somewhere in the
20 10-1/2, 11 percent range.

21 Q. And that does not include your revenues
22 from off-system sales.

23 A. That's correct.

24 Q. So that would have to be added on top of
25 that.

1 A. That would be additional earnings for the
2 company, yes.

3 Q. And if we look at -- if we look at lines
4 11 and 12 on page 5, it appears that in the estimate
5 that you have in that study the off-system sales was
6 about \$145.8 million?

7 A. I'm sorry, you are going to have to give
8 me the reference again.

9 Q. Yes, and let me rephrase the question.
10 Looking at page 5, lines 11 and 12 of your testimony,
11 it appears that the impact of off-system sales moves
12 the net revenue figure from 353.8 million to
13 499.6 million for some 145.8 million.

14 A. And that's based upon higher market
15 prices for 2012 than where we currently see market
16 prices, so those numbers would come down in today's
17 market, but yeah.

18 Q. But if we assume that figure of your
19 off-system sales got moved over to your estimate here
20 of 12 percent return -- well, actually if we looked
21 at that number, we could -- we could add that roughly
22 \$145 million in as a projection of additional income
23 for calculating what your -- what the company's rate
24 of return would be if you got the 355.

25 A. No, that's not a reasonable assumption.

1 I think it's in my testimony here what we've seen
2 from September 7, from that September timeframe when
3 I prepared the analysis that we are looking at here
4 on page 5, that has that level of off-system sales
5 margin. The energy market has gone from about \$40 a
6 megawatt hour on a round-the-clock basis for the AEP
7 zone for the balance of 2012 down to about \$30 a
8 megawatt hour.

9 And obviously AEP's fuel prices as you
10 are aware in fact are in the \$30 a megawatt hour
11 range, so you can imagine if the market price has
12 gone from \$40 a megawatt to \$30 a megawatt hour,
13 there is not a lot of margin to be made in the
14 off-system sales market.

15 Q. So this testimony at lines 11 and 12 is
16 now outdated and shouldn't be considered.

17 A. The testimony I show on lines 11 and 12
18 is simply a discussion of the difference in the
19 return on equity presentation in the September
20 stipulation where I presented proformas in that case
21 that showed that the return excluding off-system
22 sales would have been 7.7 percent.

23 The reason we included that here is some
24 parties have claimed that some of the filings that
25 are made in this case that the 2012 earnings, the

1 harm that we showed going down to 7.6 percent was
2 really no harm because we had originally projected
3 7.7 percent and we have only gone down to 7.6
4 percent.

5 What I was attempting to do here is to
6 show that -- that there is a difference in basis
7 between those two forecasts. That forecast excluded
8 off-system sales. What we included in the return on
9 equity would have been 10.9 percent. That's what we
10 agreed to in the stipulation.

11 When we got the order in January, that
12 reduced the expected earnings to 7.6 percent. That's
13 the sole purpose of this piece of testimony. It's
14 not intended to give a projection of what the
15 off-system sales margins are in 2012 based upon
16 today's market conditions.

17 Q. Now, I want to bring this home because at
18 some point the Commission may well think that it is
19 important to know what the revenue is going to be
20 received if they grant -- what the revenue the
21 company is going to receive if they grant the request
22 that is given, and you'll agree with me there is no
23 place they can find that in your testimony or in the
24 application right now.

25 A. I think I described how I would go about

1 the -- the exercise of doing that.

2 Just from a thought perspective as we sit
3 here today when I don't have financial models that I
4 can take advantage of, and as we've indicated, the
5 margins are going to be less than they were then, so
6 pretty clearly something in the 12 percent range
7 would be a kind of the high end of the expectation if
8 we were to get \$355 a megawatt day.

9 Q. So we don't have a calculation now. The
10 next question I want to get with you is that if, in
11 fact, we were looking at revenue, you would agree
12 with me that to the degree there was capacity, the
13 company would engage in off-system sales and that
14 your original projection was that that would bring --
15 that would raise net revenues by 145.8 million but
16 you're not sure that's an accurate projection today.

17 A. I know it's not an accurate projection
18 today. The number would be less than that. That's
19 not the purpose of these numbers, so to use them for
20 that purpose would be inappropriate.

21 Q. Right. But if the -- but if the
22 Commission wanted to figure out exactly how much
23 revenue it was granting, if it gave you the rate
24 relief, someone would have to make an assumption as
25 to what -- what the revenue that would be received

1 from the capacity charges would be, how that would
2 contribute -- how many millions of dollars that would
3 contribute to the AEP's revenues, and they would have
4 to add in, if they thought it was important, the
5 off-system sales, and that number minus costs would
6 give you the basis of an ROE if divided by the equity
7 of the company.

8 A. I don't think you can look at it that
9 simply. One of the other factors you have got to
10 look at as you change pricing for capacity the mix of
11 customers that choose to shop will be different, so
12 you have to factor that into the calculation.

13 At RPM pricing it's pretty clear based
14 upon the significant discounts that could be provided
15 that large numbers of customers would shop, very
16 large numbers, over a very short time period.

17 At 355 I would expect the speed of
18 shopping to be a little slower than what I have
19 assumed in this analysis so you would have to change
20 your shopping assumptions and look at, you know, are
21 CRES providers taking those high-margin customers,
22 are they, you know, going to be more predominant in
23 the commercial class, industrial, a little less in
24 the residential, maybe more in the residential. It
25 just depends on what marketing the CRES providers do.

1 Q. Before we leave I was hoping maybe we
2 could come up with an ROE number, but if not, I want
3 to at least leave the record with a methodology.

4 Let's go back to page 3. Let's look at
5 your lines 16 to 18 and let's see if we can agree on
6 what you've done.

7 This figure that you've come up with for
8 2012 basically was that you -- you summed all of the
9 capacity revenue that you've -- that you've projected
10 the company would receive in calendar year 2012 and
11 you summed all of the money that the company would
12 receive from the sale of energy and capacity under
13 the SSO rates, and you summed all of the wires
14 charges in there as well?

15 A. Yes, distribution charges, yes.

16 Q. Distribution charges, but you didn't
17 include any off-system revenue, and that was your --
18 that was your revenue portion. Anything else in
19 revenue that we left out?

20 A. I didn't leave off off-system sales
21 margins in the 7.6 percent here. Line 18 --

22 Q. So this 344 million includes off-system
23 sales revenue?

24 A. Yes, and that's why on page 5 I make that
25 distinction. The analysis we did in September

1 consistent with how we prepared proformas in the past
2 for the ESP cases excludes off-system sales.

3 Q. Okay.

4 A. What I've shown here is a whole list of
5 the earnings of the entire company, transmission,
6 distribution, generation including off-system sales
7 margins and CRES capacity revenues.

8 Q. Okay. Well, let's go back because we are
9 still trying to get a methodology. The 344 million
10 you have here is basically the sum of all the
11 capacity charges, all the SS -- I'm sorry, all the
12 capacity revenues, all of the SSO revenues, all of
13 the wires revenues, and all of the off-system sales
14 revenues, right?

15 And from that set we've now subtracted
16 you have a set of costs. What were in the costs that
17 you subtracted from the revenues to come up with the
18 344 million?

19 A. All the costs of the company, O&M costs,
20 depreciation, taxes, interest. It's a standard
21 financial forecast. I've taken all the revenues of
22 the company, subtracted from that all of the expenses
23 of the company, and come up with a return.

24 Q. Now, you wouldn't expect that the cost of
25 fuel or the cost of executive salaries would be

1 affected if the company charged more in the capacity
2 rate -- if it charged \$355 for capacity rate as
3 opposed to \$146, would you?

4 A. I would -- I don't know if I would agree
5 with that. Fuel costs should be the same to generate
6 for the units irregardless. If the company were to
7 receive RPM-priced capacity revenues, this spending
8 of the company, and it's been publicly discussed,
9 would have to change and it would, you know, the cost
10 of jobs and things like that, other people have
11 talked about that. So, you know, but what I've done
12 here is just started with a full set of costs.

13 Q. And I'm just looking at that too. At
14 this point though you -- let's see, if we were
15 looking at this model, with the exception of the fact
16 that maybe the company would spend more if it made
17 more for -- we would assume other services or
18 improvements, if the spending stayed the same, then
19 basically all we would have to do to get a rate of
20 return is just to add in the additional -- the
21 additional revenue that the company would collect by
22 charging the higher capacity and then take that
23 number and divide it by your -- the equity the
24 company has to come up with a rate of return,
25 correct?

1 A. Yes. You have to tax affect the value
2 and, you know, as I indicated, you probably want to
3 look at the shopping assumptions to make sure that
4 you are still comfortable with those levels.

5 Q. Well, let's go back. I thought you told
6 me that at 355 you were indifferent whether a
7 customer shopped or didn't shop. Do you actually
8 make less money if they shop at 355?

9 A. In certain customer classes, yes. For
10 instance, in the commercial class our base generation
11 rates that we've talked about in the past are kind of
12 legacy rates. They have been unbundled back in 2000.
13 We have added costs on, done these percentage
14 increases in the last ESP and the ETP cases.

15 And so in the commercial class our base
16 generation rates are above the 355. So if
17 the commercial customers alone shopped, it would have
18 a negative impact on our earnings and that's where we
19 have seen the shopping occur initially when the price
20 was in the \$200 range, that's where it started in the
21 commercial class because that's where the high
22 margins are, and then it spread to the other classes
23 after that.

24 So if you change the price, you may have
25 different groups of customers shop, and so it does

1 change the financial impact. You've got -- you've
2 got to look at that. There's an interplay there
3 between capacity pricing and which customer groups
4 are shopping.

5 Q. Okay. Let's go back because I want to
6 get -- I want to get this idea of methodology
7 completed before we -- we move on, and basically if
8 the company wanted to present to the Commission what
9 its revenues -- what it projects its revenues would
10 be and what its rate of return would be, it would
11 basically have to add the revenue in from the
12 additional charges which it's not done, subtract its
13 expenses and then divide that out by the -- by the
14 equity in the company. And then you would get a rate
15 of return.

16 A. And I -- because there is a lot of
17 complexity in financial forecasting that's generally
18 what you would do but you have to look at whether the
19 company is receiving RPM pricing if there are any
20 impairments of the assets and things of that nature
21 from an accounting perspective so those are things
22 you have to look at, but the company is fully capable
23 of performing calculations like that.

24 Q. So basically there is no way to take this
25 testimony and come up with a reasonable estimate of

1 what the company will earn because there are too many
2 factors that aren't covered in here that would have
3 to be done.

4 A. And I think I've given you a couple of
5 examples. I have gone through a little thought
6 exercise of how you would do that, and I've also
7 described if we look at 2011 earnings and assuming
8 that the revenue streams are the same as what they
9 would have been in 2011, the earnings are going to be
10 similar, the company is going to see an increase in
11 cost due to inflation and the like earnings are going
12 to be less in 2012 because of the reduction in some
13 of the revenues the company may have received in 2011
14 due to the higher mark and things of that nature but
15 I think you can get some comfort based on the fact
16 the SSO rates are essentially equal of the aggregate
17 rates across the system that the company would earn a
18 fair and reasonable return at \$355 a megawatt day for
19 capacity.

20 Q. I just want to answer the question that I
21 put before you, and I don't think you've done it yet.
22 And that is, the company could have made this
23 calculation, it did not make this calculation, and
24 there is nothing in your testimony that we can use
25 now to add in the numbers that would be expected on

1 increased capacity and come up with an earnings
2 figure; is that correct? Yes or no?

3 A. The purpose of my testimony was to show
4 the financial harm if we receive RPM. I think
5 Witness Pearce showed that the 355 was compensatory
6 so it -- the projected earnings of the company that
7 may come from other revenue streams I don't think are
8 critical here.

9 I think what's critical in this case is
10 determining what's the appropriate price to charge
11 CRES providers for the use of our capacity, and the
12 355 a megawatt day is the appropriate price, as
13 indicated by Witness Pearce.

14 Q. And you have no opinion whether it's
15 appropriate or not. It rests on Pearce's testimony?

16 A. No, I think it's appropriate. I've
17 looked at the costs, and as I indicated, I looked at
18 the revenues, that bears out to me that those are --
19 that's a reasonable cost.

20 The company's earned a fair and
21 reasonable return charging those rates to our retail
22 customers. If we charge those same rates to our
23 wholesale customers, I think that's also fair and
24 that would continue to produce a reasonable result
25 for the company.

1 Q. And you were here when -- when Witness
2 Pearce indicated that there was no distinct -- well,
3 let me rephrase this question.

4 As far as you know in terms of the rate
5 structure, is there a distinct capacity rate in the
6 SSO rates' capacity component?

7 A. There is not a distinct capacity
8 component in the rates but the recovery of the
9 capacity costs would be in the base generation rates,
10 but it's not a distinct element.

11 Q. And that -- and that base rate is based
12 upon the original ETP of the electric transition rate
13 proceeding that was conducted in 1999?

14 A. I would say it goes back further than
15 that. And it comes closer to today as well. That
16 rate is based upon rate cases that were filed by the
17 company and cost of service that were filed by the
18 company in the 1991 and 1994 timeframe and over time
19 those rates have been adjusted.

20 A large component of those increases are
21 increases to cover new environmental costs that the
22 company is -- had to incur. Obviously environmental
23 retrofits like adding structures and the like, those
24 are capacity costs and so those go all the way
25 through to I think cost for 2010 or '11 for

1 environmental assets.

2 So the rates are very old; the rates are
3 also very new, so we have kind of incorporated
4 components of the company's capacity costs over a
5 variety of years through a variety of mechanisms.

6 Q. All right, so basically we had -- we
7 started with what was originally a discrete system
8 before 1999 and then we had the rate stabilization
9 rates and then we had ESP rates that are added on top
10 that reflect increases in price but there was no new
11 cost-of-service study?

12 A. Right, there has been no new
13 cost-of-service study that has looked at just the
14 capacity rates on a total bundled basis for the
15 company. We haven't gone through and done a
16 cost-of-service study for the entire company G and D
17 combined. We have done a distribution
18 cost-of-service study, but we haven't done a combined
19 study here is all the capacity-related costs.

20 Q. But the one thing that you do know from
21 your work here is that the rates you would get for
22 the combined energy and power if you went and sold it
23 in the market would not be -- that would be
24 substantially less than what you would collect if you
25 could charge the customers the full rates that you

1 have in tariff.

2 A. Remember, and I think some of the other
3 witnesses described this, we are an FRR entity. I
4 can't sell my capacity into the market. We've
5 designated our capacity to serve our retail customers
6 so that capacity stays in Ohio serving Ohio
7 customers. That's -- that's what we've done.

8 So I can't sell it in the market so I'm
9 not in the RPM market. There has been a lot of
10 discussion about the RPM market. Using the RPM
11 market would be the same thing as what's the capacity
12 market in California or Texas or we're not in those
13 markets so I can't answer your question about what we
14 would get for capacity because we can't sell it into
15 the market. We are an FRR entity.

16 Q. But you can observe that at \$355 a
17 megawatt day, the price you are asking is a lot more
18 than what cleared in the market in a competitive
19 auction.

20 A. It's not an auction that we participated
21 in. I mean, it's almost like saying, you know, an
22 apple costs a dollar and I should sell my organic
23 apple for a dollar as well. They are distinctly
24 different things. Everybody agrees an organic apple
25 costs more.

1 I've got FRR capacity. It's got a little
2 of different attributes to it than RPM. It's here
3 for the long term so it's very different. I don't
4 think you can point to that market. It's not our
5 market, and as I indicated, you could use California,
6 you could use Texas. They are not our market.

7 Q. But that -- but that auction was for all
8 unconstrained PJM areas and you are an unconstrained
9 PJM area?

10 A. No, I wouldn't agree with that. The
11 auction was for the entities that participated in the
12 auction, the load. AEP's load was not in that
13 auction, and I think people try to mislead about that
14 case. We're not in that market.

15 Q. Yeah, but your generation wasn't in that
16 market either.

17 A. That's correct. Our generation is FRR so
18 our load and our generation are FRR; they are not
19 part of the RPM market.

20 Q. There was a surplus of generation bid
21 into the last RPM auction?

22 A. I think Witness Horton would have been a
23 better person to ask for that.

24 Q. Okay. You have the Exhibit RESA 102 in
25 front of you. Turn to the second page.

1 A. I see that.

2 Q. And will you agree with me that the
3 numbers that you see in the rows going across is the
4 load that is served in gigawatt hours -- I'm sorry,
5 the load that's projected to be served in gigawatt
6 hours at different megawatt day prices?

7 A. That's correct, for the various planning
8 years.

9 Q. And would you agree with me that when you
10 look -- first of all, did you do these projections?

11 A. I did.

12 Q. Okay. And what was the basis that you
13 used to make these projections?

14 A. And I think as we discussed a little bit
15 with Mr. Kutik earlier, I looked at the RPM pricing
16 that we may see and looked at some of the how much
17 headroom customers may have. Is this still headroom?
18 And looked at the speed of customer switching that
19 we've seen in other jurisdictions -- or I'm sorry.
20 in other EDU service territories in Ohio.

21 Q. Okay. And I notice if you look at the
22 residential ones, rows going across, that basically
23 at the higher rate, the 255 rate, the load that's
24 served -- the shopping load that's served is less
25 than at the 146 rate. Will you agree with that

1 observation?

2 A. I'm sorry. Can you point me to that
3 again?

4 Q. Sure. Let's take the first year. In
5 year 2012, you estimate that the residential shopping
6 load would be 4 -- 4,844 gigawatt hours. And for the
7 same period of time if the price is \$255 a megawatt
8 day, it would be \$3,175.

9 A. No. I think you misunderstood.

10 Q. 3,175 gigawatt hours.

11 A. No. And that's what I want to clarify
12 what this exhibit is showing. I think you
13 misunderstand what it's doing. First, look to the
14 bottom of the page, maybe that will help, that's the
15 total connected load of AEP Ohio broken out between
16 residential, industrial, commercial by planning year.
17 The four sections above that split that load between
18 the four different ways that customers could be
19 served during the ESP period that the company has
20 proposed in that case. So the first section are
21 those customers that would be served by CRES
22 providers at \$146 per megawatt day at the 21 percent,
23 the 31 percent, and 41 percent levels.

24 The second section CRES load served at
25 255 are those additional customers that choose to be

1 served by the CRES provider that are above those 21,
2 31, 41 percent levels and per the proposals in the
3 ESP case are charged \$255 a megawatt day.

4 Both of those sets of customers are being
5 served by a CRES provider. They are separate and
6 apart from each other. They are not -- one is not a
7 subset of the other. They do not include the same
8 customers.

9 And then the next column down or next
10 section down is the SSO load served by AEP Ohio.
11 Those are essentially the nonshopping customers.

12 Q. Okay. So, this was -- you had already
13 made the calculation based on your projected
14 migration and then separated out the tiers basically
15 in this chart.

16 A. That's correct.

17 Q. Okay. I understand. Thank you.

18 If you would turn to your Exhibit WAA-2.

19 A. I'm there.

20 Q. Okay. And I want to get a feel for what
21 the impact would be if the Commission grants the
22 request for \$355 a megawatt day in a capacity charge
23 for the -- for the customers. Is it fair to say then
24 at the moment that all of the shopping customers
25 would see an increase?

1 A. What I can say is that the CRES providers
2 serving all those customers would see an increased
3 charge from the company to compensate us for use of
4 our capacity. What I can't say is whether or not
5 individual customers would have those charges pass
6 through to them.

7 I know there's, you know, various
8 contracts out there. Some of them look at amount of
9 aggregation deals, have guaranteed discounts. What
10 those guaranteed discounts mean, I assume that means
11 they guarantee that the customer would get a
12 5 percent discount but I don't know how the CRES
13 would deal with those.

14 Q. Let's just talk in terms then of revenue
15 for the company.

16 A. Okay.

17 Q. In the first one we have the
18 residential. Are all of the 8.43 percent of the
19 residential in tier 1 now?

20 A. They are currently paying the \$146 a
21 megawatt or \$146 per megawatt day price.

22 Q. That's the tier 1 price.

23 A. That's correct.

24 Q. And earlier you were taking me through on
25 how to convert -- in fact, you converted the megawatt

1 day for -- for residential to megawatt hour charge.
2 Okay. What -- the one -- at the 146 tier 1 price,
3 what is the price per megawatt hour for a residential
4 customer?

5 A. For planning year 2012-2013, the capacity
6 rate on a dollar per megawatt hour for a residential
7 customer that would be charged to the CRES provider
8 not directly to the customers, would be \$1.23 a
9 megawatt hour.

10 Q. So that would be roughly 1.23 per
11 kilowatt hour.

12 A. It would be exactly 1.23 per kilowatt
13 hour.

14 Q. Okay. And if the 355 is approved by the
15 Commission, what would the charge be either per
16 megawatt hour or kilowatt hour?

17 A. That would be a value of \$30.01 per
18 megawatt hour.

19 Q. So 3.1 cents per kilowatt hour?

20 A. 3.001 cents per kilowatt hour.

21 Q. Thank you. It looks like you have got a
22 chart there. Could you take us through for
23 commercial and industrial what those prices would be
24 per kilowatt hour?

25 A. Sure, and these would all be for planning

1 year 2013.

2 Q. That would be fine.

3 A. They change year by year due to the
4 changes in the PLCs that we discussed earlier, but
5 for planning year 2013 for the commercial class at
6 \$146 a megawatt day the equivalent dollar per
7 megawatt hour would be \$9.43 per megawatt hour.

8 At the company's full cost of capacity
9 the value would be \$23.01 per megawatt hour. In the
10 industrial class the capacity rate at 146 would be
11 \$7.09 per megawatt hour. The full cost capacity rate
12 would be \$17.29 per megawatt hour.

13 So from this data what you can see is
14 even at a level of 146 for the residential class when
15 a customer shops, the company is being under
16 compensated for capacity about \$18 a megawatt hour,
17 for commercial it's about 3 and a half dollars per
18 megawatt hour, and for industrial it's about \$10 a
19 megawatt hour.

20 MR. PETRICOFF: Okay. I have no further
21 questions.

22 Thank you very much, Mr. Allen.

23 EXAMINER PARROT: Thank you,
24 Mr. Petricoff.

25 Let's take a 10-minute break.

1 (Recess taken.)

2 EXAMINER PARROT: Okay. Let's go back on
3 the record.

4 Mr. Darr.

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

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Darr:

9 Q. Mr. Allen, a few minutes ago you
10 indicated that there was, I think I wrote this down
11 correctly, plenty of room in shopping at \$355 per
12 megawatt day. Do you remember making a statement
13 like that?

14 A. Yes, I do.

15 Q. Now, is that true for customers in the
16 commercial class?

17 A. Yes, it is.

18 Q. In the industrial class?

19 A. Yes, it is.

20 Q. Is it also true for the residential
21 class?

22 A. Based upon the company's rate structure,
23 there would be on a class-average basis using market
24 sources of generation for energy using the PJM energy
25 markets, it would be difficult to attract customers.

1 The -- our rates would be below market but if a
2 supplier had access to their own generation fleet
3 with fuel costs in the low 20s, they would be able to
4 have margin to serve residential customers in our
5 territory.

6 Q. Now, that's with regard to the rates that
7 are currently in place and as frozen under your
8 proposed ESP?

9 A. Yes, that's correct.

10 Q. And we're specifically talking about the
11 G rate in your proposed ESP; is that correct?

12 A. The base G and the fuel component, yes.

13 Q. Now, if that's true with regard to the
14 commercial customers, would I be correct in
15 concluding that your ESP rates would not be at -- at
16 or below market, thereby creating that headroom, at
17 least for some of the customers in the commercial
18 class?

19 A. It depends on how you define "market."
20 In the ESP case when we look at the market price, we
21 include a retail administer -- retail administration
22 fee as well as a risk adder. Those are both profit
23 margin opportunities for CRES providers and the
24 values of those are presented by another witness in
25 the case.

1 But there's a difference in how you would
2 look at what the market price is under an ESP
3 scenario and the analysis I've look at here today
4 that says that there's -- that CRES providers could
5 procure energy in the market and serve customers at
6 less than our SSO rates with some profit margin
7 available to them.

8 Q. So is the answer to my question with
9 regard to commercial customers is yes.

10 A. If you could restate the question that
11 you're asking me to say yes to, that would be
12 helpful.

13 Q. That implicit in your conclusion that
14 there's headroom in the market, that the ESP rate is
15 above the market price available?

16 A. As I indicated, there's a different way
17 you have to look at the two. The SSO rate would be
18 above what I would describe as the cost of goods sold
19 component of the market price.

20 Q. So you would back out the margin or
21 profit that you identified in your prior testimony
22 with regard to the stipulation, you're taking a
23 similar approach?

24 A. Yes. You would first take out the
25 profits and you would see could a CRES provider

1 buying energy in the market serve a customer and have
2 some margin available that they could earn. The
3 level of margin is dependent upon each individual
4 CRES provider and their decisions. But what it says
5 is that they could serve an incremental customer and
6 still make a profit.

7 Q. And that's -- would your answer be the
8 same if I asked you the same question with regard to
9 the industrial customers?

10 A. Yes, it would be.

11 Q. And you've already indicated that under
12 some very specific circumstances, the same would be
13 true with regard to residential customers?

14 A. Yes, that's what I've indicated. And
15 just to be clear, when we talk about the residential
16 class, I didn't indicate that with relation to
17 market. With relation to market what I indicated is
18 you're buying in the market energy that based upon
19 the forward price curves that were included in our
20 ESP case that CRES providers would have negative
21 headroom to serve those customers but if a CRES
22 provider had access to their own generation fleet and
23 had fuel cost in the low 20s, they could serve
24 residential customers and have a profit margin.

25 Q. Earlier today you indicated that you were

1 also proposing this megawatt-per-day price based on
2 embedded cost so as to assure the -- or minimize, I
3 think your term was "minimize" the impact on AEP's
4 shareholders.

5 When you say the term "AEP shareholders"
6 are you aware AEP Ohio has exactly one shareholder?

7 A. AEP Ohio is a wholly-owned subsidiary of
8 AEP.

9 Q. So essentially the shareholder of AEP
10 Ohio affected in this case would be the AEP parent,
11 correct?

12 A. And as a direct result, the shareholders
13 of AEP would be affected, the individual pension
14 funds that hold AEP stock and the like as well as
15 individual investors, yes, they would be impacted
16 directly -- indirectly as those reduced profits
17 flowed through AEP.

18 Q. Also earlier today you made some
19 calculations with regard to the megawatt hour rates
20 that would result from a 146 or 146-dollar per
21 megawatt day calculation, a 355 to per megawatt day
22 calculation, and I believe you have done a
23 calculation similar to the megawatt hour calculation
24 for the base G rate in your current SSO, and I
25 presume the SSO that you are proposing in the ESP.

1 Do you have those numbers with you today?

2 A. Yes, I do.

3 Q. And would I be correct that based on your
4 calculations, the SSO rates for residential works out
5 to about \$23.82 per megawatt hour?

6 A. Yes.

7 Q. And for the commercial class that would
8 be \$28.10 per megawatt hour?

9 A. Yes. I have a summary with me here if it
10 would make it easier for people to look at these
11 numbers.

12 Q. Well, we -- I'm sorry.

13 A. We can talk --

14 Q. You could point me to your workpapers,
15 correct, in the ESP case?

16 A. I think it would be the workpapers of --
17 it would be in my workpapers as well as the
18 workpapers of Company Witness Roush.

19 Q. In fact, your workpapers it would be
20 WAA-47 through 49, correct?

21 A. Yes, that's correct.

22 Q. And that's in Case 11-346-EL-SSO?

23 A. Correct. Those are the workpapers that I
24 prepared showing that the revenues produced under the
25 SSO rates were essentially equivalent to the revenues

1 that would be produced under a capacity rate of
2 \$35.72 a megawatt day.

3 Q. Now, that calculation is how you, as you
4 testified earlier today, come up with the 1 billion
5 101 million dollar equivalence of the SSO revenues of
6 the passive revenues, correct?

7 A. I did a separate calculation before
8 coming over here today that did it on annual basis.
9 What I presented in my testimony was a monthly
10 analysis that summed to an annual total. But yes,
11 it's essentially the same calculation.

12 Q. And that was for the first year of the
13 proposed ESP, correct?

14 A. That's correct.

15 Q. Just to complete the circle, just so we
16 have it in the record here, I think we identified the
17 commercial SSO base G megawatt hour rate as \$28.10,
18 correct?

19 A. Yes, that would be the base G rate with
20 the environmental rates rolled into them as approved
21 by the Commission previously.

22 Q. And the industrial rate would be \$18.25
23 per megawatt hour; is that correct?

24 A. Yes, that's correct.

25 Q. Mr. Allen, in response to earlier cross

1 today you suggested that RPM pricing for CRES
2 providers would not necessarily mean that retail
3 customers would get the benefit of RPM-based pricing.
4 Do I summarize that correctly?

5 A. That's -- that's correct.

6 Q. Now, if there were a way to make sure
7 that all customers got the benefit of RPM-based
8 capacity, would AEP Ohio agree to use an RPM auction
9 process to set the price for generation capacity
10 service?

11 A. No, and I would offer that it's not
12 possible for the Commission to require CRES providers
13 to pass through those savings. CRES providers are
14 not regulated in the cost that they provide to
15 customers so there's no way for that to occur.

16 Additionally as I've shown the financial
17 impact to AEP Ohio, first of all, and most
18 importantly, would be severe. So the first point is
19 that it would be a significant financial harm to AEP
20 Ohio, and the second point is there is no way the
21 Commission can ensure that those savings actually
22 reach the customers.

23 Q. What I ask you to do is to assume that
24 was possible to have customers receive that benefit,
25 and I take it from your answer that you want to argue

1 about the premise of the question; is that correct?

2 A. First, I wouldn't agree with your
3 assumption, but I would even if --

4 Q. So the answer to my question is yes,
5 then, correct?

6 A. No.

7 Q. You want to argue about the assumption.

8 EXAMINER PARROT: All right. Let's not
9 talk over each other.

10 A. As I indicated in my previous answer, the
11 first and foremost reason that AEP does not believe
12 that it's appropriate to provide RPM-priced capacity
13 to CRES providers for use of our capacity, that it
14 would provide a significant financial harm to AEP and
15 ultimately AEP shareholders, and that's not
16 appropriate.

17 MR. DARR: Could I have a second here,
18 please?

19 EXAMINER PARROT: You may.

20 Q. If we were to use the RPM-based capacity
21 price and show an explicit charge for capacity for
22 all SSO rate schedules, would it be possible under
23 those circumstances to make sure that all nonshopping
24 customers get the benefit of lower RPM charge?

25 A. Can you repeat the question, please?

1 Q. Sure. If we were to use the RPM-based
2 capacity price to show an explicit charge for
3 capacity for all SSO rate schedules, it would be
4 possible to make sure that all nonshopping customers
5 got the benefit of the lower RPM passthrough charge,
6 correct?

7 A. It's kind of a ridiculous question, to be
8 honest. What you've said is that if --

9 Q. I hope not.

10 A. -- AEP voluntarily or for some reason
11 charged a lower rate to customers, would customers
12 benefit? That's always the case. What you fail to
13 recognize is AEP's entitled to fair compensation for
14 our capacity.

15 That's what one of the Commission's roles
16 in Ohio is, to ensure fair compensation to utilities,
17 and that's all we are asking for here today. So just
18 arguing if I lowered the rate to customers would
19 customers benefit, of course, they would, but that
20 doesn't mean it's appropriate to do so.

21 Q. Well, if we did so, then the only way a
22 CRES supplier to produce a lower bill for capacity
23 charged a portion of the SSO rate is to do better
24 than the RPM price, correct?

25 A. No. Remember, AEP is an FRR entity.

1 During the period AEP is an FRR entity, all CRES
2 providers would be procuring capacity from AEP. The
3 CRES provider doesn't have an ability to bring in a
4 lower priced capacity unless they had chosen the
5 self-supply option that Witness Horton brought up, I
6 think Mr. Munczinski brought up in the past too.

7 So CRES providers had an opportunity to
8 do that. They chose not to. I don't think your
9 question makes a lot of sense.

10 Q. Well, I am not sure I got an answer to my
11 question, but I think I'm going to move on.

12 Currently in your rates is there any
13 explicit charge in your SSO rates, is there any
14 explicit charge that's based on a megawatt day?

15 A. No. Under traditional regulation rates
16 are typically done on a dollar-per-kW-month, not on a
17 dollar-per-megawatt-day basis. That's really a
18 construct of PJM and I think -- and you can do an
19 easy conversion between the two.

20 But Witness Pearce has previously
21 discussed on the stand that the \$355 a megawatt day
22 price is very similar and comparable to the demand
23 rates that AEP charges to some of their retail
24 customers where there is an explicit demand charge.

25 Q. In terms of making this calculation

1 you've indicated it is an easy conversion. In doing
2 these easy conversions you have to have information
3 with regard to the load or load factor, correct?

4 A. When you look at individual customers,
5 when we do dollars per kW month there are, you know,
6 60 percent minimum provisions. There is a lot of
7 provisions in the retail tariff that are different
8 than the 355-dollar a megawatt day basis that's just
9 based upon that customer's PLC.

10 But as we've indicated before, when you
11 run the numbers, the results on an aggregate basis
12 produce very comparable results.

13 MR. DARR: I would like to have marked as
14 IEU Exhibit 111, please, a document that's a
15 four-page document.

16 EXAMINER PARROT: So marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 Q. (By Mr. Darr) Mr. Nourse -- Mr. Nourse.
19 Mr. Allen, you have in front of you
20 what's been marked as IEU Exhibit 111.

21 A. Yes, I do.

22 Q. And could you identify this for us,
23 please?

24 A. They appear to be my workpapers for the
25 ESP case, workpapers WAA-47 through WAA-50.

1 Q. And this is in the ESP case 11-430 --
2 436?

3 A. It's 11-346 and it's the testimony that I
4 submitted most recently, yes.

5 Q. You are talking about the modified
6 version of the ESP, correct?

7 A. That's correct.

8 Q. And with regard to the aggregate number
9 that you're talking about, if we turn to the last
10 page, we see a number for the SSO revenues and
11 another number for the capacity revenues. That's the
12 aggregate numbers you're talking about?

13 A. Yes, that's correct. What I've done in
14 coming up with those numbers is taken the SSO rates
15 times the monthly load for each class, multiplied
16 those together and summed those up for all 12 months
17 and then for the capacity revenues I've taken the
18 \$355 a megawatt day using the dollar per kWh
19 conversion of that, multiplied that rate by the
20 entire load of AEP to come up with -- and then summed
21 it up for the 12 months to come up with 1billion
22 101 million dollars.

23 Q. And for purposes of determining the
24 capacity rates for each individual class under the --
25 using the \$356 per megawatt day assumption, I believe

1 you use a load factor of 49 percent or thereabouts
2 for the residential class; does that sound about
3 right?

4 A. I don't know the underlying load factor.

5 Q. Where did you get the load factor?

6 A. I didn't do the calculation of the load
7 factor. The load factor was -- the process used to
8 determine the rate is consistent with the methodology
9 we have used in the prior ESP case where we took the
10 PLCs for those customers times \$356 a megawatt day
11 times 365 days in a year, divided by the forecasted
12 load for those customers.

13 So implicit in the fact that we've taken
14 the PLCs in the numerator and the GWh in the
15 denominator, implicitly there is a load factor in
16 there. It's not an explicit part of the calculation.

17 Q. Could you identify again for the record
18 what the "PLC" is?

19 A. It's the peak load contribution on the
20 five peak days in the PJM market.

21 Q. Okay. So it's a number you derive from
22 PJM statistics.

23 A. Right. PJM tells us the days, days and
24 the hour, AEP calculates the PLCs for the customers
25 for those days.

1 Q. Now, is there anything in your current
2 rate structures that define what the individual
3 customer would see as their PLC?

4 A. No; that's part of the PJM process.

5 Q. Okay. Nothing in your retail rates,
6 correct?

7 A. That's correct. And that's kind of what
8 we have been talking about here, the capacity rates
9 we charge to CRES providers, those are wholesale
10 rates so those are governed by PJM of.

11 Q. Now, if we do -- and it's a simple
12 mathematical calculation. If we take the SSO rates
13 for the residential class and multiply them by the
14 number of megawatt hours of that class, we end up
15 with a revenue number, correct? And that would be
16 the line -- first line under SSO revenues listed as
17 residential for June of 2012.

18 A. You would take the -- for the SSO
19 revenues.

20 Q. These are total -- total aggregate load,
21 right? Your assumption -- let me make sure my
22 question is clear.

23 For the first line under Residential --
24 under SSO Revenues, you assumed 100 percent revenues
25 were again rated by the SSO residential load.

1 A. The calculation takes the sum of the SSO
2 load for residential and the OAD load for residential
3 and multiplied those by the 23.82.

4 Q. So it's an aggregate load number.

5 A. Right. What I have assumed here is all
6 load is priced at SSO prices or all load is priced at
7 the \$356 a megawatt day basis independent of whether
8 or not they were shown as SSO or OAD on this
9 workpaper.

10 Q. Right. And for the record could you just
11 define for us what the "OAD" is?

12 A. "OAD" is open access distribution load.
13 That's the load served by CRES providers. Those are
14 shopping customers.

15 Q. And if we just did on a numerical basis
16 what you've just used for the residential class, we
17 get a revenue number of about 26 million .5 -- 26.5
18 million, correct?

19 A. \$26,466,000 for the month of June, 2012,
20 yes.

21 Q. And after all that and looking at the
22 next block under capacity revenues, you made a
23 similar calculation with regard to residential, and
24 could you explain that for us?

25 A. Yes. That's the capacity revenues of all

1 customers were priced out \$356 a megawatt day so
2 essentially assumes all customers shopped and all
3 that load was priced at the \$356 a megawatt day price
4 and what that produces is \$33,343.

5 Q. In --

6 A. In the month of June; June, 21.

7 Q. We could go through this whole table and
8 that's what you've done with regard on the bottom two
9 sections of this table for each month during the
10 2012-2013 planning year, correct?

11 A. Yes, that's correct.

12 Q. And then if we took a look, and again,
13 it's just a function of the math, we took a look at
14 the residential contribution to generation, total
15 revenues, contribution to total revenues for July of
16 2012, and compared that to the residential
17 contribution, that would reduce -- would be produced
18 if the capacity revenues were set at 355, there's a
19 difference there, is there not?

20 A. Yes, there is.

21 Q. And that would be true as well for every
22 month for every residential class in this table?

23 A. It's true for every class every month but
24 what happens is when you compare those in total, they
25 produce comparable revenues. There are differences

1 among the classes and that's one of the things we
2 have been discussing here today.

3 Q. All right. So effectively on an
4 aggregate basis you end up with the same amount but
5 when you look at individual rates over individual
6 months, you get significantly different results,
7 correct?

8 A. I don't know if I would agree
9 "significantly different," but they are different
10 results, yes.

11 Q. Just one last question, how would an
12 individual retail customer figure out what his PLC
13 is?

14 A. I'm trying to recall whether or not that
15 information is presented on our website on a
16 customer-by-customer basis if the customer can see
17 that, but we do provide that information on an
18 individual customer basis to the CRES providers in
19 the state of Ohio. I just don't know if we post that
20 publicly for the individual.

21 Q. Wouldn't --

22 A. I just don't recall.

23 Q. For an individual customer wouldn't that
24 be highly confidential information?

25 A. That's information that the company I

1 think was ordered to provide to CRES providers under
2 the stipulation that the Commission approved in
3 December, and I think, you know, my understanding is
4 that's information that's typically provided to CRES
5 providers.

6 I know it was ordered to be provided to
7 CRES providers in the most recent Duke settlement as
8 well and the Commission approved that, so I know the
9 information is provided. That's really a legal
10 decision about whether or not it's confidential but
11 the Commission has ordered companies to provide that
12 information to CRES providers.

13 Q. It's not posted on your website, correct?

14 A. When I referred to information being
15 posted on the company's website, the company has a
16 portal that individual customers can go into to see
17 their usage, their bill, they log-in, they use a
18 password. They have to have their, you know, account
19 number and the like, so it's data they can only see.

20 As we were going through the stipulation
21 process and implementing things, within that portal
22 the customer-specific spot in the queue would have
23 been on that page. So there is a way that the
24 company is capable of providing information on a
25 customer-specific basis that only that customer can

1 see.

2 Q. As you sit here today, do you know
3 whether or not that individual customer would have
4 access to its PLC information?

5 A. I thought we had our last question but
6 I'll answer it anyway. I don't know if they have
7 access to that as I sit here today.

8 MR. DARR: Thank you. I don't have
9 anything else today. Thank you.

10 EXAMINER PARROT: Thank you.

11 Ms. Kyler?

12 MS. KYLER: No questions.

13 EXAMINER PARROT: Ms. McAlister?

14 MS. McALISTER: Thank you, your Honor.

15 - - -

16 CROSS-EXAMINATION

17 By Ms. McAlister:

18 Q. I guess good afternoon, Mr. Allen.

19 A. Good afternoon.

20 Q. Just a few follow-up questions. From
21 your discussion with Mr. Petricoff and also Mr. Darr,
22 you talked about the conversions from the dollars per
23 megawatt day to dollars per megawatt hour and you
24 indicated that you used the PLCs that were implicit
25 on a class basis; is that correct?

1 A. Sum of the PLCs for the class, yes.

2 Q. Oh, not counting residential, or what do
3 you mean by "some of the PLCs"?

4 A. Sum, you would add up all the sums for
5 that class.

6 Q. I thought you said "some."

7 A. S-U-M, not S-O-M-E.

8 Q. Thank you. For an individual customer
9 those amounts could vary greatly depending on what
10 their individual PLCs are; is that correct?

11 A. Yes, that's correct. That's kind of what
12 we discussed with Mr. Petricoff.

13 Q. And this morning in response to questions
14 from Mr. Kutik he mentioned that over the last year
15 or so you've increased your communications with CRES
16 providers. Do you recall that discussion?

17 A. I don't recall that exact statement but I
18 know we talked about commun -- my personal
19 communications is what you are referring to?

20 Q. Okay.

21 A. Oh, yes, my communication, yes.

22 Q. Is that also true of your communication
23 level with individual customers and customer
24 representatives?

25 A. That it's increased over the last year or

1 so? Yes.

2 Q. I think you also mention that at least
3 some customers are fairly sophisticated and
4 participate in the market or at least are aware of
5 what's going on in the marketplace; do you recall
6 that?

7 A. Yes.

8 Q. Do you believe that price predictability
9 is important to customers?

10 A. Individually -- individually as a
11 customer myself, price predictability would be
12 important to me. Individual customers may have
13 different views of predictability.

14 Some customers may be willing to take on
15 more risk, more unpredictable prices in exchange for
16 potentially receiving a lower price. Other customers
17 prefer to pay a slightly higher price, a little
18 premium for that predictable price. So it would vary
19 based on each individual customer.

20 Q. Okay. And if you know, is it possible
21 for a customer in FirstEnergy's service territory as
22 of June 1, 2012, to know within a reasonable range
23 what the capacity price or input into their contract
24 should be if they're shopping or looking to shop?

25 A. I don't know what individual customers in

1 the FirstEnergy territory know or don't know.

2 Q. Do you know how capacity -- what the
3 basis for capacity pricing in FirstEnergy's service
4 territory is?

5 A. You know, it's based upon an auction for
6 capacity. I know that they came into the -- into PJM
7 a number of years ago and they had some preliminary
8 auctions. I don't know if they have gone to the
9 point where the rates they are currently charging are
10 fully the RPM rate or if they're -- some of those
11 introductory options they did. I'm just not that
12 familiar with FirstEnergy's status.

13 Q. Okay. If you assumed FirstEnergy or Duke
14 or any other Ohio electric distribution utility was
15 charging CRES providers the RPM rate for capacity,
16 then would it be possible for customers to estimate
17 what their capacity price in their contract would be?
18 Within a reasonable range?

19 A. If a customer was serving an EDU and the
20 capacity price for that service territory was known
21 at this point, then the customer would be able to
22 know what's in their contract.

23 Q. Is that true for a customer that is in
24 AEP's service territory for the period starting
25 June 1, 2012?

1 A. If all my wishes came true, I would hope
2 the customers would know the price was \$355.72 a
3 megawatt day, but we are sitting here today trying to
4 decide what that price is.

5 The company has put on a case and the
6 Commission is going to issue an order at some point,
7 but until we resolved all the issues, you know, in
8 Ohio and possibly at the FERC, we can't know today
9 what that price is going to be.

10 Q. Even if the Commission resolved this case
11 and/or FERC resolved the two pending cases regarding
12 your capacity price, isn't it true that AEP's
13 proposed an ESP plan that includes two different
14 capacity costs for CRES providers?

15 A. Yes.

16 Q. So in order to determine which price the
17 customer may get, assuming you got variable outcomes
18 in the capacity case -- well, as of the point in time
19 the capacity issue was resolved, a customer would
20 still have to know certain other facts in order to
21 determine what the capacity price is going to be;
22 isn't that correct?

23 A. Can you repeat that question?

24 Q. Let me try to say it a little more
25 simply. Under the ESP a customer would still have to

1 know a number of facts in order to determine whether
2 they are going to be in tier 1 or tier 2 pricing;
3 isn't that correct?

4 A. Yes, that's correct.

5 Q. And we can't know those right now.

6 A. Some customers would know. Other
7 customers wouldn't be able to know. And the
8 distinction is under that proposal if it were
9 approved, the first 21 percent of customers would
10 receive the -- would receive \$146 a megawatt day for
11 capacity.

12 Currently under the -- I say the interim
13 proposal that's in place until June or until the end
14 of May, 21 percent of customers are receiving
15 RPM-priced capacity, so those customers would have
16 some indication they would continue to receive that
17 price as they would receive the 146.

18 Q. Let's see, and in follow-up to something
19 I thought I heard you say in response to a question
20 from Mr. Petricoff, in your testimony on page 3, line
21 17, the 344 million number, I thought that I heard
22 you say that you assumed that all customers got the
23 RPM pricing starting in March -- around March, 2012;
24 is that?

25 A. Yes, that's correct.

1 Q. But that's not what happened, right?

2 A. Right. The Commission has issued a
3 temporary order that has some customers are paying
4 \$25 a megawatt day.

5 Q. Okay. And you conducted an analysis of
6 the impact of charging CRES providers the RPM rate
7 versus the 355 on AEP Ohio and based on your
8 discussion today you also looked at the available
9 headroom on a customer class basis; is that correct?

10 A. I looked at available headroom at 355.
11 At RPM there would be additional headroom available.
12 It's a fairly simple calculation to do. I haven't
13 done it as we sit here today.

14 Q. Did you do any analysis of the impact on
15 any individual customers at any different capacity
16 costs?

17 A. One of the issues -- the company is not
18 aware of the contracts that any of the customers have
19 with their CRES providers. We've asked to see some
20 of that information but the providers have indicated
21 that's confidential.

22 Exactly how those prices would be passed
23 through, we don't know as we sit here today. So it
24 would be not -- it wouldn't be possible for me to
25 determine how a change in capacity price would impact

1 any individual customer without seeing their exact
2 contract and understanding the intent of the CRES
3 provider.

4 Q. Okay, so the answer is no?

5 A. That's correct.

6 MS. McALISTER: I have no further
7 questions, your Honor.

8 Thank you, Mr. Allen.

9 EXAMINER PARROT: Thank you.

10 Mr. Royer, do you have anything?

11 MR. ROYER: No questions.

12 EXAMINER PARROT: Mr. Yurick.

13 MR. YURICK: Just a couple, if I might.

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Yurick:

17 Q. Mr. Allen, could I draw your attention to
18 page 3 again? At the top of the page you say the
19 purpose of your testimony is to demonstrate the
20 financial harm to AEP Ohio under an RPM-priced
21 capacity compensation mechanism, correct?

22 MR. NOURSE: I'm sorry, could you use a
23 mic, please?

24 MR. YURICK: Trying, sorry.

25 Q. So starting again on page 3, you state

1 the purpose of your testimony is to demonstrate the
2 financial harm to AEP Ohio under an RPM-priced
3 capacity compensation mechanism, correct?

4 A. That's correct.

5 Q. Okay. And when you say "financial harm,"
6 are you comparing that to another scenario?

7 A. The first line of the analysis I show in
8 Exhibit WAA-1 is the projected earned under the
9 two-tiered pricing capacity mechanism if the
10 stipulation had been approved as modified by the
11 Commission and as interpreted in the December 28 it's
12 detailed implementation plan, just looking at the
13 capacity pricing elements.

14 So when we remove that, the result is
15 that it's a 2.4 percent return on equity, so from a
16 financial harm perspective what I was looking at was
17 really the result, not a comparison to another
18 scenario, but what's the ultimate result if the
19 Commission were to require AEP to provide RPM-priced
20 capacity for use by CRES providers.

21 Q. But -- but I guess what your -- your
22 baseline for comparison when you say the company
23 would be harmed compared to another scenario would be
24 if the Commission had approved the stipulation.

25 A. If the Commission had approved the

1 stipulation, the company would have seen some
2 financial harm. We looked at that as we did our
3 analysis but it was manageable.

4 What we see here today is if we were to
5 be forced to provide capacity at RPM pricing, the
6 harm would be significant and the earnings would be
7 2.4 percent, which is, you know, unacceptable, so
8 that's really what we looked at here. What's the end
9 result if we were to charge RPM pricing for all of
10 our capacity? Used by CRES providers?

11 Q. Okay. But it's -- when you say the
12 company's been harmed, do you not have a baseline?
13 Is your baseline embedded cost or? What are you
14 comparing the capacity -- the RPM-based capacity
15 costs scenario to?

16 A. First, if I am required to provide use of
17 my assets at a rate below my cost implicit, I'm
18 financially harmed by that.

19 Q. Okay.

20 A. What I've done here is flow through the
21 revenues I would receive. If I only received RPM
22 pricing for my capacity and looked at the costs that
23 we are going to have to identify what the ultimate
24 financial impact is on the company. What's the
25 result?

1 So there's -- the harm is known by the
2 fact that I'm having to provide my assets to someone
3 else for their use below my cost. That's a harm.

4 Q. Okay. So what you're saying is that if
5 you were forced to provide capacity or charge only
6 the RPM price for your capacity, that since the RPM
7 price is less than your cost, the company would be
8 financially harmed, correct?

9 A. That's correct.

10 Q. Okay. And do you have any feel for the
11 degree of difference between the embedded cost
12 methodology and the RPM cost methodology?

13 MR. NOURSE: Could I have the question
14 reread?

15 (Record read.)

16 A. On a -- I haven't done the analysis that
17 you have asked on an aggregate basis, but if we just
18 look on it on a class-by-class basis, the difference
19 in the residential class is \$28.33 per megawatt hour,
20 in the commercial class it's \$21.22 per megawatt
21 hour, and in the industrial class it's \$61.34 per
22 megawatt hour.

23 Q. And I'm assuming that if you took a total
24 of all those classes' megawatt hours of usage, that
25 would be a large number.

1 A. And that's exactly why the return for AEP
2 Ohio is projected to be 2.4 percent. If we only
3 receive RPM pricing for the use of our capacity,
4 that's correct.

5 Q. Would the -- in your opinion would the
6 difference between -- the difference in cost between
7 using an embedded cost methodology and using an
8 RPM price methodology be more than \$15.7 million in a
9 year?

10 A. I'm not sure where the \$15.7 million came
11 from.

12 Q. It's a hypothetical.

13 A. It's going to be greater than \$15
14 million. AEP is a 4 and a half billion equity
15 company. So, yes, it would be greater than that.

16 Q. Now, would you agree with me it would
17 also be greater than the \$25 million per year
18 difference?

19 A. Yes.

20 MR. YURICK: No further questions.

21 EXAMINER PARROT: Thank you.

22 Mr. Sugarman?

23 MR. SUGARMAN: Thank you, your Honor.

24 - - -

25

CROSS-EXAMINATION

By Mr. Sugarman:

Q. Sir, in your testimony today and in your prefiled testimony in exhibits there is no scenario under which you're telling this Commission that the financial harm to AEP Ohio contemplates a -- that you are going to lose money, correct?

A. For the --

Q. For any period of time.

A. For the bundled business or for the generation function?

Q. Well, for the same -- for the harm that you are speaking of on page 3. What does that refer to? What business?

A. The financial harm that I discuss there is the financial harm to the AEP Ohio bundled entity generation transmission and distribution.

Q. Okay. In using that same entity, you are not telling this Commission nor have you presented any testimony or evidence to suggest that the financial harm contemplates AEP Ohio is going to lose money, correct?

A. On a bundled basis AEP Ohio would not be projected to lose money under this scenario. On a functional basis --

1 Q. No --

2 A. -- if AEP Ohio on a generation basis
3 would, in fact, lose money, that could be
4 confiscatory.

5 Q. That wasn't my question. I'm asking you
6 to compare apples and apples. You're telling the
7 Commission you are going to decrease your earnings
8 and have a lesser return on equity for the business
9 you've described on page 3, correct?

10 A. The -- on page -- on Exhibit W --

11 Q. Page 3 of your testimony.

12 A. -- AA-1 I show the projected for AEP Ohio
13 would be 2.4 percent.

14 Q. Right, and a decrease in the amount of
15 earnings from 344 million in 2012 to 109 million,
16 correct?

17 A. That's correct. \$240 million decrease.

18 Q. Right. But nowhere are you telling the
19 Commission that for the basis of the numbers that
20 you've presented in your testimony prefiled and here
21 today and in your exhibits that at any time you
22 forecast a loss of money, correct?

23 A. Under these shopping scenarios I have
24 here today, it shows the company would earn a small
25 profit that would be well below any profit level that

1 any Commission staff I've ever seen recommend.

2 Q. Well, let me -- so under any scenario
3 that you are forecasting here, AEP is going to earn a
4 profit whether it's at RPM, whether it's at 255 per
5 megawatt day, whether it's 355 per megawatt day,
6 correct?

7 A. On a bundled basis, that's correct.

8 Q. I'm asking the same comparisons for which
9 you're telling this Commission of the financial harm
10 in your testimony. I'm not using any other point of
11 reference, same comparison apple to apple AEP Ohio
12 will make a profit under any scenario that you've
13 forecasted in your testimony and in your exhibits,
14 correct?

15 A. Under this scenario that I presented, not
16 under any scenarios there are scenarios AEP Ohio
17 could lose money.

18 Q. The scenario you've presented in your
19 testimony filed with the Commission in this
20 proceeding absent the scenario you have discussed
21 here today.

22 A. I presented one scenario here and it
23 shows the company would earn a return that would be
24 unacceptably low, yes.

25 Q. And it is -- I'm new to these type of

1 proceedings, but is there a guarantee that you earn a
2 minimal rate of return or always make money every
3 year? Is that a guarantee?

4 A. In a regulatory environment the standard
5 practice is that the company is provided a reasonable
6 opportunity to earn a fair return on its investment
7 based upon the data that I'm projecting here, the
8 company would required to provide RPM capacity. For
9 CRES providers the company would not be provided a
10 reasonable opportunity to earn a fair rate of return,
11 that's correct.

12 Q. Okay. That's different than saying --
13 you're talking about the opportunity to earn a rate
14 of return. I simply asked a question is there
15 somewhere that you're aware of in statutes, rules,
16 regulations, that guarantee that AEP Ohio makes a
17 profit on an annual basis?

18 A. From a general regulatory perspective I
19 am aware if a company through a set of events is
20 expected to lose money, potentially go bankrupt, that
21 the -- there are some emergency rate relief
22 proceedings. Exactly what those are in Ohio, I'm not
23 familiar with, but there are provisions, but there is
24 no underlying guarantee that I'm aware of.

25 Q. Thank you. No underlying guarantee.

1 In your testimony at page 3 on lines 19
2 and 20, about the financial harm again, sir, is there
3 a threshold at which the company begins to experience
4 this financial harm you're describing in your
5 testimony?

6 A. As I described in some prior cross,
7 identifying the exact levels is difficult to do. 2.4
8 percent is harming the company.

9 Q. I don't mean to replot old ground. I
10 thought you testified exhaustively. I just wanted to
11 know if there was any threshold at which you could
12 tell the Commission at which this financial harm
13 begins to set in.

14 A. I can't identify an exact level as we sit
15 here today.

16 Q. Okay. Thank you. Your response on the
17 question of profit to the shareholder, I think you
18 responded to Mr. Darr and acknowledged there is a
19 single shareholder of AEP Ohio and that is AEP,
20 correct? AEP, the publicly traded entity?

21 A. That's correct.

22 Q. And then you also expounded upon that
23 answer in saying that the harm or the lesser return
24 on equity and the lesser earnings that AEP Ohio might
25 sustain would carry-over to AEP shareholders and AEP

1 investors. Did I understand you to say that?

2 A. Yes, that's correct. This isn't a free
3 lunch where we can provide money to CRES providers.
4 The money comes from somebody. Ultimately it comes
5 from our shareholders.

6 MR. SUGARMAN: I would move to strike the
7 answer after "that's correct." Totally nonresponsive
8 to what I asked. That was pretty straightforward.
9 The free lunch.

10 MR. NOURSE: Your Honor.

11 MR. SUGARMAN: We are all hungry, but.

12 Q. Well, let me move on. It could be a lot
13 shorter. If you don't understand the question I'm
14 asking you, you can let me know and I will try and
15 reframe it.

16 Are you aware of the bases of which AEP
17 the public company makes a determination of
18 distributions to shareholders?

19 A. That's a decision by the Board of
20 Directors. They vote on it.

21 Q. So you're not aware. That's all I asked.
22 Are you aware?

23 A. I think I was describing it to you.

24 Q. I didn't ask -- I simply asked if you
25 were personally aware of the bases. Continue.

1 A. I think I answered your question the
2 Board of Directors votes on that based upon a variety
3 of factors, looking at the cash flow of the company,
4 typically they would look at things such as dividend
5 payout ratio and the like. So those are the types of
6 things that a Board of Directors looks at.

7 They determine distributions.
8 Distributions to shareholders though are not the same
9 as earnings. They are two distinctly different
10 things. Earnings are the earnings of the company.
11 Distributions are usually a portion of those earnings
12 that are provided to shareholders on a quarterly
13 basis.

14 Q. And AEP Ohio is not the only earnings
15 stream that contributes to whatever distributions AEP
16 shareholders may receive; is that correct?

17 A. That's correct. There's a variety of
18 subsidiaries.

19 Q. Okay. Now, if I'm -- tell me if I
20 understand this correctly in this proceeding that AEP
21 Ohio is asking for higher capacity charges to
22 decrease the financial risk to the company and its
23 shareholders and to protect the return on investment.

24 A. No. I don't think that's our testimony
25 here today. The testimony we presented as a company

1 that AEP is seeking to recover from CRES providers
2 the cost the company incurs in providing capacity
3 that those CRES providers are using.

4 Q. Right. So you want higher capacity
5 charge from CRES providers.

6 A. We want a cost-based capacity charge from
7 CRES providers.

8 Q. A higher charge than what you currently
9 experience or higher than RPM, correct?

10 A. It's higher than RPM, yes.

11 Q. That's what you're asking the Commission
12 and you are saying one of the reasons for doing that
13 based on your testimony that we have -- everyone has
14 explored on page 3 is because of the potential
15 financial harm to AEP Ohio, right?

16 A. That's -- that's not the reason that the
17 company is seeking it. When the company filed their
18 case at FERC back in 2010, the company filed for a
19 cost-based rate so the company could be compensated
20 for use of its capacity.

21 What I've presented today, here today is
22 based upon a request by CRES providers and a current
23 interim mechanism that existed in Ohio up until the
24 most recent interim mechanism that said that CRES
25 providers could use the company's capacity at RPM

1 prices.

2 I've shown the financial impact of that.
3 The company sought to receive cost-based capacity
4 rates from CRES providers so that we were fairly
5 compensated. So you have to go back to 2010 when the
6 company made its filings to understand why we made
7 the filings. This is the result, not the reason.

8 Q. In response to -- in response to a
9 question from Ms. McAlister you talked about you as a
10 customer willing to take on more risk if you were to
11 get a lower price. Did I understand that correctly?

12 A. Ms. McAlister and I discussed that
13 customers may have different interests in the pricing
14 structure provided to them. Some may prefer to have
15 a lower price with more risk; some may prefer to pay
16 a little higher price to avoid that risk.

17 Q. And here you are asking for higher price
18 to avoid risk as a company.

19 A. No, that's not what we are doing here
20 today at all.

21 Q. AEP Ohio -- let me move on then. Let me
22 make sure I understand. If you have IEU Exhibit 111
23 in front of you, Mr. Darr presented to you. When you
24 are able to locate that, let me know, please.

25 A. You are going to have to tell me what

1 that document is. I have been handed quite a few
2 documents and don't know which one it is.

3 Q. At the very bottom it says "Base G versus
4 355." It's the SSO load, total load, it's about four
5 pages.

6 MR. KUTIK: Workpapers 47 to 50? It's
7 your workpapers.

8 A. I will just refer to my workpapers.

9 Q. You have those then? It starts at page
10 47 of your workpapers.

11 A. Yep. Okay, I've got that.

12 Q. Now, you had earlier today, and I know
13 it's been a long morning, but you had talked about
14 legacy rates in the commercial class, and I'm
15 wondering if the commercial SSO rates that are
16 reflected on your workpapers for the commercial class
17 are those legacy rates of 28.10 megawatt hour?

18 A. Those are the current rates or the --
19 they are the current rates that we're charging and
20 they are based upon legacy costs and different
21 Commission orders that have occurred over time.

22 Q. Okay. And if I understand the chart
23 correctly, if the same -- if the rate for the
24 commercial class on this SSO rate goes to the 356 per
25 megawatt day, that megawatt per hour rate decreases

1 from 28.10 to 23.01; is that correct?

2 A. That's correct.

3 Q. And in your testimony earlier about
4 switching and shopping and in preparing your
5 testimony, did you look at rates that customers
6 were -- customer classes were currently paying and
7 were anticipated to be paying in order to make some
8 projections about the likelihood of customers
9 switching?

10 Let me ask it this way. I am going to
11 withdraw that question and ask it this way: If in
12 your looking at the high rate of switching among the
13 commercial class, which I believe you testified to
14 and acknowledged in both your workpapers and your
15 testimony, do you attribute that in part to the fact
16 that the current SSO rate in the commercial class is
17 above the 355-megawatt per day charge?

18 A. The thing you'll have to remember is that
19 under the, you know, under the current mechanism that
20 the Commission has in place a larger number of
21 commercial customers are paying \$146 a megawatt day.
22 Month customers are currently paying 355 other than
23 SSO customers.

24 The -- at the -- at 146, which is what a
25 lot of commercial customers are shopping at, there is

1 significant headroom below the company's SSO rates.
2 That's why we are seeing a lot of shopping in the
3 commercial class currently and even at the 255 there
4 is significant headroom.

5 Q. Okay. But as you increase the megawatt
6 charge per day, that will decrease the headroom in
7 all classes, won't it? Wouldn't you expect that?

8 A. It would decrease the headroom, and as
9 I've indicated in our discussions previously though,
10 commercial customers could still receive discounts to
11 our SSO rate from CRES providers based upon the \$356
12 per megawatt day capacity price.

13 Q. Okay. But the higher capacity charges
14 that AEP Ohio is asking the Commission to impose as a
15 result of this proceeding would likely result, would
16 it not, less shopping for smaller commercial
17 customers going forward than it would currently?
18 Would that be your expectation?

19 A. No. I don't think so, because what we
20 see is the commercial customers can still see savings
21 if they shop. A lot of those customers have already
22 shopped. They've taken that leap. They've gone out
23 into the market.

24 The expectations of those customers, you
25 know, are now familiar with the market, they stay out

1 in the market, and as you've indicated it's still
2 headroom, there's still savings available to those
3 customers. So I would expect those customers to
4 continue to shop and additional customers would shop
5 as well.

6 Q. All right. But that wasn't quite
7 responsive to the question, which was as you continue
8 to increase -- if the capacity charges increases as a
9 result of this proceeding, especially looking at
10 commercial customers, the headroom for them decreases
11 as that capacity charge increases; isn't that
12 correct?

13 A. Yes, that's correct.

14 Q. Okay.

15 A. As the capacity price increases, the cost
16 to CRES providers goes up.

17 Q. And the headroom for smaller commercial
18 customers to shop is correspondingly decreased?

19 A. The headroom available to CRES providers
20 to serve those customers goes down. Whether the CRES
21 providers are passing through large savings and all
22 that discount to smaller commercial customers, I
23 don't know.

24 MR. SUGARMAN: I have no further
25 questions. Thank you.

1 EXAMINER PARROT: Ms. Thompson.

2 MS. THOMPSON: No questions, your Honor.

3 EXAMINER PARROT: Ms. Kern.

4 MS. KERN: No questions.

5 EXAMINER PARROT: Mr. Jones?

6 MR. JONES: Yes, thank you.

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Jones:

10 Q. Mr. Allen, I wanted to follow-up on Mr.
11 Petricoff's questioning of you in regards to did you
12 prepare an estimate of AEP Ohio earnings for 2012 and
13 2013 under the scenario that AEP Ohio was able to
14 charge 355.72 for its capacity used by CRES
15 providers?

16 A. As I indicated to Mr. Petricoff, I have
17 not done that calculation.

18 Q. Do you know of anyone in your
19 organization who has made that calculation?

20 A. No.

21 Q. Okay. Mr. Allen, isn't it very likely
22 that there would be less CRES activity under AEP's
23 proposal if the Commission were to adopt your
24 proposed capacity rate in the next planning year.

25 A. I don't know if there would be less CRES

1 activity. Some CRES providers may decide that
2 there's not a lot -- not enough profit to be made to
3 make it worthwhile to serve in the territory.

4 One thing to recognize is that the
5 company has announced publicly that they are going to
6 go to RPM-priced capacity. We have the companion ESP
7 filing. It has corporate separation involved with
8 it.

9 So CRES providers may be looking to the
10 longer-term horizon in Ohio, one would hope that CRES
11 providers are looking out for the long-term market,
12 not just trying to cherry pick these low prices that
13 exist today.

14 CRES providers who are here for the long
15 term to serve Ohio customers, so it may decrease the
16 level of CRES activity but I think it would put the
17 level of CRES activity at an appropriate rate level
18 where those CRES providers that want to stay in for
19 the long term have value propositions that they can
20 offer to customers.

21 Those participants are here. There's an
22 opportunity to make a profit for those CRES providers
23 based on the headroom we just discussed earlier so
24 CRES providers can participate.

25 What we're here talking about is that

1 they should compete fairly without utilizing AEP's
2 assets and using those assets without paying us our
3 full costs and so long-term CRES providers, I would
4 hope they continue to operate in the state of Ohio.
5 We see a lot of shopping, a lot of customers have
6 already shopped, so.

7 Q. But your proposal, the 355.72 charge for
8 capacity, that -- that would be a new record for a
9 charge for capacity, wouldn't it -- you've never had
10 that type of rate ever in the past.

11 A. No, that's not true, actually. And if
12 you --

13 Q. When?

14 A. -- listen to the testimony I just
15 presented, the average capacity, the rate we're
16 charging our customers today is \$355 a megawatt day.
17 That's why the revenues under the SSO equal the
18 revenues under the \$355 a megawatt day basis, so it's
19 not a record. It's the actual cost we're charging
20 today.

21 So I really don't appreciate that
22 inflammatory language you are using with me because
23 we're not charging a record. We are charging our
24 costs today.

25 Q. Mr. Allen, did you make that calculation

1 as to what the capacity rate is you charge to your
2 retail customers?

3 A. What I did is I compared the SSO revenues
4 that the company is collecting today and I compared
5 that to the revenues the company would recover if we
6 were charging that -- all that load \$355 a megawatt
7 day. Those rates are equivalent. That's the
8 calculation we did as we sit here today.

9 Q. Your rates are bundled, you have all
10 sorts of elements in the -- in the base G generation
11 charge, correct?

12 A. The vast --

13 Q. It's not just capacity but it's energy,
14 it's ancillary service, there's other components that
15 are made up for that charge.

16 A. The ancillary services are generally
17 recovered through the TCRR from a base G rate. The
18 amount of revenues that are recovered for energy
19 charges in base G rates are very small.

20 The vast majority of the variable costs
21 of operating a power plant are coal, fuel handling,
22 all the allowances, the consumables, those all flow
23 through the fuel clause.

24 Q. But you have not shown that analysis as
25 to where you -- where you show the Commission that

1 the -- that the capacity charge you charge for retail
2 customers is 352? Is that in the record?

3 A. What we've --

4 Q. Is it in this record?

5 A. What I've indicated is that the company
6 hasn't filed a base generation rate in a number of
7 years. Because of the regulatory environment in Ohio
8 you can't take and segregate the rates we currently
9 do today without performing cost-of-service study and
10 setting new rates for customers.

11 What we've shown though is when we do a
12 cost-of-service study, and that's what Witness Pearce
13 presented, that cost-of-service study shows that our
14 capacity costs are \$355 a megawatt day. If we were
15 to do a rate case today, those are the types of costs
16 that would be included in base rates.

17 So what we've shown is that even though
18 Ohio is in a cost-based state, the rates we're
19 currently charging are equivalent to what a
20 cost-based rate would be, and that's what Witness
21 Pearce presented.

22 Q. But you did not do that cost-based
23 analysis, correct?

24 A. The company did a cost-based analysis.

25 Q. You didn't for that rate.

1 A. What I did, I compared the revenues we
2 received today and based upon those comparisons
3 determined if the revenues we received today are
4 essentially equivalent to the capacity rate that
5 Witness Pearce calculated.

6 Q. And for purposes of your analysis for
7 your testimony as to each one demonstrate financial
8 harm, you are referring to the 2012-2013 planning
9 year where the RPM rate would be \$20.01, correct?

10 A. For 2012 what I reflected is the calendar
11 year 2012 is 2011-2012 planning year, and the
12 2012-'13 planning year. For the forecast of calendar
13 year 2013, what I've incorporated is the planning
14 year 2012-2013 for PJM and the 2013-2014 planning
15 year. There is two planning years that span each of
16 those calendar years.

17 Q. Okay. So there's two RPM rates that you
18 are -- that you have in your analysis?

19 A. That's correct. So in the first year a
20 portion of the year is at 146 and the second portion
21 is at the roughly \$17.

22 In the -- in 2013, the rate would be the
23 \$27 clearing price which the actual RPM rate after
24 losses and things is the 33.71, so I've incorporated
25 those two years that are the load years of the RPM

1 market.

2 Q. Okay. So 146.37; is that what you just
3 said?

4 A. It's 146 for planning year 2011-2012.

5 Q. Right.

6 A. First five months of 2012 for the balance
7 of 2012, the end rate is \$20.01.

8 Q. Yes.

9 A. For the first five months of 2013 the
10 rate is \$20.01. For the last seven months of 2013,
11 the rate is 32.71.

12 MR. JONES: Okay. Okay. That's all I
13 have. Thank you.

14 EXAMINER PARROT: All right.
15 Commissioner Porter has a few questions.

16 - - -

17 EXAMINATION

18 By Commissioner Porter:

19 Q. Afternoon, Mr. Allen. Can you hear me?

20 A. Yes. Good afternoon.

21 Q. Good. Good afternoon. I just want to
22 understand your understanding of why we're here, why
23 we are in the room today.

24 The purpose of this proceeding is to
25 assist the Commission in understanding --

1 understanding the company's, AEP Ohio's, cost of
2 capacity which would have been -- would then be
3 charged to CRES providers for shopping customers; is
4 that correct?

5 A. Yes.

6 Q. That's accurate?

7 And I've sat through all the
8 cross-examination today and there was several
9 questions regarding that level of capacity and I
10 believe on cross-examination from multiple parties
11 that you respond there should be a reasonable return
12 for that cost of capacity. Do you believe it should
13 be reasonable?

14 A. Yes, I do.

15 Q. Okay. And I'm looking at your testimony
16 and in the Exhibit WAA that's attached, am I correct
17 to understand -- I understand the earnings based upon
18 a two-tiered capacity pricing scheme and that would
19 produce an ROE of 7.3 percent? Is that correct?

20 I'm looking at Exhibit WAA -- WAA-1 of
21 your testimony. It's entitled "Estimate of AEP
22 Ohio's Earnings."

23 A. For 2013 that would produce 7.3 percent,
24 that's correct.

25 Q. Okay. And that's reasonable or

1 unreasonable? That 7.3 percent is reasonable or
2 unreasonable?

3 A. I would view a reasonable return to be in
4 the 10 to 12 percent range and what we've presented
5 in the case through analysis that Dr. Avera presents
6 in presenting our distribution case is that
7 reasonable rate is 11.15 percent, but typically any
8 10 to 12 percent is a reasonable return.

9 Q. Okay. So you get to the 11.15 by
10 charging a capacity rate -- I'm sorry, if everything
11 was held constant in this exhibit, all the other
12 inputs but you changed the capacity rate to a 355,
13 you would then have an 11.15 rate of return on
14 equity?

15 Tell me where I'm wrong. I am just
16 looking to under --

17 A. I haven't done that analysis but we went
18 through the thought exercise since the distribution
19 rates are regulated and that produced a return of
20 10.3 percent -- I'm sorry 10.2 is what we proved
21 there. We have a formula rate for transmission that
22 allows us to earn I think it's 11.2 percent, it's
23 right around 11.

24 If we had an ROE of 11.15 percent on the
25 generation function, the overall bundled return would

1 be right about 11 percent, maybe a little bit lower
2 than that.

3 Q. Okay. Okay, and so I understand the 7.3
4 ROE and the testimony, and then if we drop down to
5 projected earnings for all capacity and RPM, it's 2.4
6 percent?

7 A. Right. And that's on a bundled basis.

8 Q. A bundled basis. How am I -- I can't
9 speak for all the commissioners, but how am I to
10 understand, if you could help me, before a decision
11 is made what the ROE would be at the 355 rate? Is
12 that in the record anywhere?

13 A. No, other than through the discussion
14 we've had here that we would expect that total return
15 to be about 11 percent plus the off-system sales
16 margins in the currently depressed market.

17 Q. So if we approved -- if the Commission --
18 if the Commission approved and -- I'm sorry, a
19 capacity rate of 355.27 is that what it is? There
20 would be -- there would be a reasonable return on
21 equity?

22 A. Yes.

23 Q. Okay. What would that number be?

24 A. That's what I indicated it's going to be
25 about 11 percent is what I would expect plus whatever

1 off-system sales margins would go on top of that.

2 Q. Okay. This is -- this is an analysis
3 that you conducted so this is an analysis that you
4 did conduct, this is an ROE of 11 percent with all
5 things being held constant and a capacity other than
6 a capacity rate of 355 --

7 A. That's what I indicated we haven't done
8 that analysis. Kind of go through just a thought
9 exercise of what that result would be.

10 Q. Okay.

11 A. And the other thing that I think I should
12 give the Commission some -- some comfort that we also
13 have the SEET provision in Ohio such that if for some
14 reason the off-system sales market really took off or
15 whatnot, or, you know, the company cut costs to
16 produce extra profits, the SEET provision protects on
17 the inside.

18 Q. Okay. But if we are to ensure we're
19 giving in this case a reasonable return, what could
20 I -- the only thing I point to is the discussion we
21 are having here today of you telling me that there is
22 a -- that this would be a reasonable return of 11
23 percent?

24 A. From a generation function we presented
25 the cost study that Witness Pearce presented so I

1 think there's some comfort that that's producing an
2 11.15 percent return on the generation business unit.

3 Q. Uh-huh.

4 A. And to combine the other bundled pieces
5 you kind of have to go through that thought exercise.
6 We haven't presented those individual pieces.

7 COMMISSIONER PORTER: Okay. Those are
8 all the questions I have, your Honors. Just I can't
9 speak for the other commissioners but I would just
10 suggest if the record were more complete with details
11 regarding the ROE and the 355.72 rate, it would be
12 helpful for at least one of the commissioners,
13 myself, to understand what we would be approving as a
14 reasonable rate of return. Thank you.

15 - - -

16 EXAMINATION

17 By Examiner See:

18 Q. Mr. Allen, you mentioned the SEET, the
19 significant excessive earnings test, as sort of a
20 check on the earnings of AEP Ohio --

21 A. Yes.

22 Q. -- in response to Commissioner Porter's
23 question.

24 To your knowledge had a -- has the
25 Commission included off-system sales in that

1 analysis?

2 A. Not historically.

3 Q. Okay. And is it your understanding that
4 the purpose of the SEET test is to review the
5 company's earnings in association with its ESP?

6 A. Yes.

7 Q. So it wouldn't include -- is it your
8 understanding it wouldn't include the earnings
9 associated with capacity?

10 A. I'm trying to think about the SEET
11 statute.

12 Q. If you know.

13 A. How it works. I think it's a legal
14 conclusion I can't come up with as we sit here today.

15 EXAMINER SEE: That's fine. Thank you.

16 EXAMINER PARROT: Let's go off the
17 record.

18 (Discussion off the record.)

19 EXAMINER PARROT: Let's go back on the
20 record. We are going to break for a couple of
21 minutes off the record.

22 (Recess taken.)

23 EXAMINER PARROT: All right. Let's go
24 back on the record.

25 Any redirect, Mr. Nourse?

1 MR. NOURSE: No redirect, your Honor.

2 Thank you.

3 EXAMINER PARROT: Thank you very much.

4 MR. NOURSE: Your Honor, I renew my
5 motion to admit Company Exhibit 104.

6 EXAMINER PARROT: Thank you very much,
7 Mr. Nourse.

8 Are there any objections to the admission
9 of AEP Exhibit 104?

10 Hearing none, AEP Exhibit 104 is admitted
11 into the record.

12 (EXHIBIT ADMITTED INTO EVIDENCE.)

13 EXAMINER PARROT: Mr. Kutik.

14 MR. KUTIK: Yes, your Honor. FES moves
15 for the admission of FES Exhibits 112 through 117.

16 EXAMINER PARROT: Are there any
17 objections to the admission of FES Exhibits 112
18 through 117?

19 All right.

20 MR. NOURSE: Your Honor, I think the only
21 objection we have relates to Exhibit 116. This
22 exhibit was not authenticated and the witness didn't
23 have knowledge about it. He stated he didn't think
24 it appeared to be data he was familiar with in the
25 PUCO website. So I don't think there is a foundation

1 to admit it.

2 MR. KUTIK: In the alternative, your
3 Honor, we would move for the administrative notice of
4 the Commission's statistics on aggregation.

5 MR. NOURSE: Well, your Honor, I don't
6 think administrative notice of factual material found
7 on the website, regardless of the voracity of the
8 owner of the website, is really appropriate. You
9 know, it's -- administrative notice is appropriate
10 for orders and prior statements in meetings. You
11 know, so I don't think that's an appropriate request.

12 MR. KUTIK: Your Honor, part of the
13 PUCO's mission is to collect and publish statistics.
14 Those statistics are indisputable facts in terms of
15 their publication and their location. Administrative
16 notice is appropriate we are noticing something
17 that's indisputable fact.

18 MR. NOURSE: But, your Honor, it says
19 Source Form MM-1 through 3. The whole point is
20 Mr. Allen indicated he wasn't clear it was from the
21 website and couldn't verify that, so that's the
22 issue.

23 MR. KUTIK: That's not the point. My
24 point is if -- if the Bench is hesitant to admit this
25 exhibit, in the alternative we would move for the

1 administrative notice of the Commission's
2 publications on its website with respect to
3 statistics regarding aggregation activity in Ohio.

4 EXAMINER PARROT: All right. Thank you
5 both.

6 FES Exhibits 112 through 115 and 117 are
7 admitted. The motion to admit FES Exhibit 116 is
8 denied as well as the request to take notice --
9 administrative notice of the Commission's aggregation
10 information on its website.

11 (EXHIBITS ADMITTED INTO EVIDENCE.)

12 Mr. Petricoff.

13 MR. PETRICOFF: Yes, your Honor. I would
14 like to move for admission of RESA Exhibit 102.

15 EXAMINER PARROT: Are there any
16 objections to the admission of RESA Exhibit 102?

17 MR. NOURSE: No objection.

18 EXAMINER PARROT: RESA Exhibit 102 is
19 admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 EXAMINER PARROT: And Mr. Darr.

22 MR. DARR: Move for the admission of IEU
23 Exhibit 111.

24 EXAMINER PARROT: Any objections?

25 MR. NOURSE: No, your Honor.

1 EXAMINER PARROT: Hearing none,
2 Exhibit -- IEU Exhibits 111 is admitted.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 EXAMINER PARROT: All right. Let's take
5 a recess for a late lunch. We will reconvene at
6 approximately 3:15. Thank you.

7 (Therefore, at 2:01 p.m. a lunch recess
8 was taken.)

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1 Thursday Afternoon Session,
2 April 19, 2012.

3 - - -

4 EXAMINER PARROT: Let's go back on the
5 record.

6 There are a number of outstanding motions
7 that are related to a number of discovery requests
8 that the Bench is prepared to address at this time.
9 I'm going to start with the motions that relate to
10 discovery requests that were propounded upon
11 FirstEnergy Solutions.

12 I believe we have three different motions
13 to compel that were filed by Ohio Power Company, the
14 first of which was filed on April 12, 2012. With
15 respect to that motion the Bench is going to grant
16 the motion to compel with the exception of
17 interrogatories No. 6 and No. 9. We believe that
18 with respect to interrogatory 6 and 9 that the
19 information that was sought has been provided by
20 FirstEnergy Solutions.

21 Turning to the second motion, which was
22 filed by Ohio Power Company on the 16th of April, the
23 motion to compel is granted; however, we do wish to
24 note that interrogatories No. 34 through 38 seek
25 information related to contracts with customers that

1 FES has -- that FES has with customers in the state
2 of Ohio. We wish to note that FES may narrow those
3 requests in such a way to produce only contracts with
4 customers in AEP Ohio's distribution service
5 territory.

6 And finally, the third motion to compel,
7 which was filed by Ohio Power Company on the 18th of
8 April, the motion to compel is granted in its
9 entirety.

10 And the Bench notes that FirstEnergy
11 Solutions should provide the information by the close
12 of business tomorrow.

13 MR. KUTIK: Your Honor, we would like to
14 advise the Bench at this time that it is our intent
15 to file interlocutory appeal.

16 EXAMINER PARROT: Thank you, Mr. Kutik.

17 I believe that deals with all of the
18 outstanding motions that pertain to FirstEnergy
19 Solutions.

20 Ms. McAlister, with respect to your
21 motion for protective order, I believe you noted that
22 you were in the process of working on a protective
23 agreement with Ohio Power Company. Has any progress
24 been made on that front?

25 MS. McALISTER: Yes, your Honor. I do

1 have an agreement in place with Ohio Power Company.
2 I would still seek protection from public disclosure
3 with regard to the discovery responses for any
4 parties who I do not have non-disclosure agreements
5 with and that would be every other party at this
6 point.

7 Your Honors, if I may, if it helps, I did
8 provide confidential versions of the testimony to
9 parties who requested it pursuant to non-disclosure
10 agreements but no other party has requested any
11 non-disclosure agreements in regards to the discovery
12 responses.

13 EXAMINER SEE: Okay.

14 EXAMINER PARROT: I think we're going to
15 defer a ruling then should it become necessary to
16 address your motion. If any party should seek that
17 information, I think we'll deal with it at that time.

18 MS. McALISTER: Thank you, your Honors.

19 MR. NOURSE: Your Honor, I think this is
20 consistent with what you just said, but in talking
21 with counsel for OMA, the information that we
22 received under the agreement certainly will treat
23 confidential pursuant to the agreement regardless or
24 unless and until the Commission rules otherwise, and
25 we will certainly make every effort to try to do

1 cross-examination without certainly without
2 disclosing and let alone trying to seal the record
3 and that may be possible. We're going to attempt
4 that.

5 EXAMINER PARROT: Thank you, Mr. Nourse,
6 I appreciate that.

7 All right. And finally I believe we have
8 one other outstanding motion to compel. This one is
9 directed at Exelon Generation Company and was filed
10 by Ohio Power Company on April 17th.

11 Having reviewed the responsive filing by
12 Exelon, appreciate you getting that to us quickly,
13 Mr. Petricoff, the Bench is going to grant the motion
14 to compel in its entirety.

15 MR. SATTERWHITE: Thank you.

16 MR. PETRICOFF: Your Honor, in terms of
17 that, we will -- one item we would want to work out
18 with the company first before we turned it over would
19 be a suitable protective agreement. So that would be
20 the only thing that we would ask at this time is
21 to -- for the Bench to allow us some period of time
22 to work that out before we supplied them the
23 information. I don't think it would take more than a
24 day.

25 MR. SATTERWHITE: And if it helps, your

1 Honor, what we've done with OMA and what we did with
2 FirstEnergy Solutions as well is we executed one
3 provided to them. The same one that we hold people
4 to the standard of the information we give them, we
5 just sign a mutual one with OMA by the signatures on
6 the one with FirstEnergy Solutions, and I believe
7 we've given one to Lija as well, she asked for one
8 last week so they've had it for over a week now
9 already and we would do a reciprocal one just the
10 same.

11 MR. PETRICOFF: Well, we could talk about
12 that later.

13 MR. SATTERWHITE: Absolutely.

14 MR. PETRICOFF: We had some problems with
15 that, but we can work that out with you.

16 EXAMINER PARROT: All right. We would
17 appreciate it. As we directed with FirstEnergy
18 Solutions, that the information be provided and the
19 protective agreement worked out by close of business
20 tomorrow. If that poses some sort of problem, please
21 notify the examiners as soon as possible.

22 MR. PETRICOFF: One other thing, does the
23 same provision in terms of limiting this to just Ohio
24 apply? I'm sorry, the AEP -- I'm sorry, the Ohio
25 Power service territory apply?

1 MR. SATTERWHITE: That's all we would
2 request, so absolutely.

3 EXAMINER PARROT: Thank you, Mr.
4 Satterwhite.

5 Are there any other outstanding motions?

6 I know we have some motions -- a motion
7 to strike that we mentioned we would deal with as
8 witnesses are called. Just wanted to make sure that
9 all the discovery issues have been dealt with at this
10 point so that we can proceed with our witnesses.

11 MR. HAYDEN: Your Honor, I believe we
12 filed a motion for protective order as well. I'm not
13 sure.

14 EXAMINER SEE: When was that motion
15 filed?

16 MR. ALEXANDER: Your Honor, Trevor
17 Alexander, I believe it was the 13th. It was a
18 memorandum motion to compel and a motion for
19 protective order.

20 MR. NOURSE: I believe it was Monday.

21 MR. ALEXANDER: Yeah, I'm sorry, I think
22 it was Monday.

23 MR. KUTIK: The 16th.

24 MR. SATTERWHITE: Ohio Power had done a
25 partial composition. We weren't opposed to the

1 protection but the way it was explained to be used it
2 was trying to bar Ohio Power in all the proceedings.
3 We have no problem with holding the information
4 confidential, and as I said we've already provided
5 the mutual protective agreement and will hold
6 ourselves to the same standard we ask of FirstEnergy
7 Solutions.

8 MR. ALEXANDER: Your Honor, if I could
9 address that quickly. The issue was the protective
10 agreement did not cover documents that had been
11 produced by FirstEnergy Solutions' customers so we
12 wanted to make sure those documents would be entitled
13 to the same protections that were given to AEP Ohio.

14 MR. SATTERWHITE: I don't want to
15 interrupt you guys talking, but just to clarify that
16 point, the information was requested from other
17 parties in the case, so FirstEnergy Solutions, like
18 OMA that we already had an agreement with, I believe
19 you've already granted a protection for that. So
20 might be arguing over nothing here.

21 EXAMINER PARROT: That's what I was
22 wondering.

23 I think as Mr. Satterwhite noted, this
24 may not be an issue. If it becomes one, we'll
25 address it at that point.

1 MR. KUTIK: Your Honor, I just want to
2 clarify something so that we're not having a
3 confusion about expectations.

4 As I indicated, we will be filing an
5 interlocutory appeal. It is not our intent to comply
6 with the order by the end of close of business
7 tomorrow. Just wanted the Bench to be aware of that.

8 EXAMINER SEE: When did you expect to
9 file your interlocutory appeal?

10 MR. KUTIK: I hope we could file it
11 tomorrow, certainly by -- tomorrow is Friday, so I'm
12 hoping that we can get it done by Friday, Monday
13 obviously at the latest, but we're going to aim for
14 Friday. We understand everybody wants to move on
15 this and so do we.

16 EXAMINER SEE: In light of FES's intent
17 to file an interlocutory appeal, we'll be
18 reevaluating the witness order to the extent it's
19 possible or necessary to move witnesses around.

20 MR. SATTERWHITE: Again, the one
21 extraneous issue asked if there was anything else.
22 The schools were waiting to provide information based
23 upon how it all turned out. They were holding back
24 some contracts for that. So I think it's taken care
25 of as well.

1 We've also given them a confidentiality
2 agreement to sign, and I put that in a couple of
3 motions to compel and whittled that out, but just
4 wanted to, so it's on the table.

5 MR. KUTIK: I wonder, your Honor, since
6 it's our trade secret whether we could be given
7 copies of the protective agreements that Ohio Power
8 enters into with other parties in this case with
9 respect to documents that are ours.

10 MR. SATTERWHITE: Your Honor, we were
11 interacting with the parties that had testimony in
12 this case. If they had contractual obligations with
13 whoever their supplier is, FirstEnergy Solutions or
14 someone else, I imagine those parties could work that
15 out.

16 MR. KUTIK: All we're asking for, your
17 Honor, is a copy of whatever agreement they have with
18 respect to the treatment of documents in this case.

19 MR. SATTERWHITE: I'm clear why we're
20 providing a copy of something may have a business
21 relationship with someone that's a party in this case
22 and they provided us information. It seems that they
23 would take care of that with their business
24 relationship.

25 MS. McALISTER: Your Honor, to make it

1 easy I'm happy to provide FirstEnergy Solutions with
2 the agreement that I reached with Ohio Power.

3 MR. KUTIK: And to the extent there are
4 other agreements, your Honor, that Ohio Power reaches
5 with other parties in this case with respect to our
6 trade secrets question, we would like a copy of those
7 agreements. Not what's produced necessarily, I
8 assume we'll get that, we're looking for the
9 agreement covering the protection.

10 MR. SATTERWHITE: We're not claiming that
11 there's big confidentiality of who we have
12 confidentiality agreements with. Maybe that helps.
13 I just don't know why Ohio Power would be ordered to
14 provide something from other third parties in the
15 case.

16 MR. KUTIK: It's your agreement.

17 EXAMINER SEE: And we'll take the
18 requests under advisement, Mr. Kutik.

19 MR. KUTIK: Thank you.

20 MR. PETRICOFF: Your Honor, before we
21 leave this subject, I will have to confer with my
22 clients to see if they want to seek an interlocutory
23 appeal as well. I would assume by tomorrow we would
24 be able to put that on the record as well.

25 EXAMINER SEE: We would just ask as soon

1 as the parties know, they at least shoot an email to
2 the Bench and let us know, and also serve us with a
3 copy of the interlocutory appeal through email like
4 we had with all the other documents. Send us a copy
5 of your interlocutory appeal like we have served all
6 the other documents on each other. We get it much
7 faster.

8 Originally I think we had Hamman and
9 Ringenbach scheduled for tomorrow?

10 MR. KUTIK: Along with Dr. Lesser.

11 EXAMINER SEE: Okay.

12 MR. NOURSE: Your Honor, could I just
13 briefly speak to that?

14 EXAMINER SEE: Yes.

15 MR. NOURSE: We, of course, are
16 interested in moving forward as efficient as possible
17 in this proceeding, however, as we indicated before,
18 we wanted to get the discovery issues cleared up, the
19 information we have drives the -- drives the issues
20 in the case and the cross-examination and the
21 arguments.

22 So depending on what happens, for
23 example, with Howard's clients relative to providing
24 information versus filing interlocutory appeal, it's
25 a possibility we could go forward with Mr. Hamman and

1 Ms. Ringenbach tomorrow. I don't know that we can go
2 forward with the FirstEnergy witness till those
3 issues are resolved.

4 So I'm not sure if that's consistent with
5 what you already said about reevaluating the witness
6 order, but just trying to give you our perspective on
7 that. So, you know, we can tentatively schedule
8 those two witnesses.

9 EXAMINER SEE: And that's what we are.

10 MR. NOURSE: Subject to when it happens,
11 and when it happens I guess with Howard's clients.
12 Excuse me, Mr. Petricoff's clients.

13 MR. WHITT: If I may, your Honor, Mark
14 Whitt on behalf of Interstate Gas Supply. Mr. Hamman
15 is available to testify today, if that would help
16 move things along. We are not engaged in motion
17 practice over discovery. So if it would please the
18 Bench, we're happy to do that today.

19 MR. NOURSE: I think -- again, I think we
20 really prefer to at least take a little bit of time
21 to reevaluate where things stand and retool questions
22 and that sort of thing. What we think we're going to
23 get what we're not going to get, and I'd prefer to do
24 them both tomorrow. It will be a very short day if
25 those are the only two witnesses we'll do. We'll be

1 done by lunch.

2 MR. KUTIK: Your Honor, I believe we
3 should go forward with Dr. Lesser. Number one,
4 Dr. Lesser is not available next week. Number two,
5 there is nothing in Dr. Lesser's testimony that's
6 dependent upon any document or any information that
7 FES has. Did not rely on any information about FES's
8 business.

9 MR. NOURSE: And in fairness, your Honor,
10 Mr. Conway is handling that, he just left a few
11 minutes ago, and so we could get back with you on
12 that question. But I just said earlier that I wasn't
13 sure we could go forward with him. So I guess we
14 could check on that if you'd like us to.

15 EXAMINER SEE: Please do.

16 MR. NOURSE: Okay. And the other thing I
17 guess just to point out, your Honor, in our motion to
18 strike, that motion to compel had an alternative
19 request to strike did include several claims that
20 Dr. Lesser made in his testimony that again, we got
21 the information, this motion to strike wouldn't
22 apply. If we didn't, then it would, so I guess that
23 remains to be seen if FirstEnergy's going to
24 challenge the ruling.

25 EXAMINER SEE: The Bench is aware of

1 that.

2 MR. NOURSE: Okay.

3 EXAMINER SEE: We'll re-adjourn at 9 a.m.
4 tomorrow.

5 MR. NOURSE: Thank you, your Honor.

6 (Thereupon, the hearing was adjourned at
7 4:06 p.m.)

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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, April 19,
5 2012, and carefully compared with my original
6 stenographic notes.

7
8 _____
9 Karen Sue Gibson, Registered
10 Merit Reporter.

11
12 _____
13 Julieanna Hennebert, Registered
14 Merit Reporter.

15 (KSG-5513)

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Summary: Transcript of Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company hearing held on 04/19/12 - Volume III electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.