

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

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

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

- - -

PROCEEDINGS

before Ms. Greta See and Mr. Jonathan Tauber,  
Attorney Examiners, and Commissioner Andre Porter, at  
the Public Utilities Commission of Ohio, 180 East  
Broad Street, Room 11-A, Columbus, Ohio, called at  
10:00 a.m. on Thursday, May 17, 2012.

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VOLUME I

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## 1 APPEARANCES:

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4 Mr. Matthew J. Satterwhite  
5 and Mr. Yazen Alami  
6 One Riverside Plaza, 29th Floor  
7 Columbus, Ohio 43215

8 Porter, Wright, Morris & Arthur, LLP  
9 By Mr. Daniel R. Conway  
10 and Ms. Christen Moore  
11 41 South High Street  
12 Columbus, Ohio 43215

13 On behalf of the Ohio Power Company and  
14 Columbus Southern Power Company.  
15 AEP Retail Energy Partners, LLC  
16 By Mr. Jay E. Jadwin  
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18 Columbus, Ohio 43215

19 On behalf of the AEP Retail Energy  
20 Partners.  
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22 By Mr. Mark A. Hayden  
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8 Corporation.

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10 West Broad Street, Suite 1800  
Columbus, Ohio 43215

On behalf of the Residential Ratepayers  
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Ohio Power Company.

- - -

## 1 APPEARANCES: (Continued)

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3 By William Wright, Section Chief  
4 Public Utilities Section  
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6 Mr. John H. Jones  
7 and Mr. Werner L. Margard, III  
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11 On behalf of the staff of the Public  
12 Utilities Commission of Ohio.

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14 By Mr. Christopher L. Miller  
15 Mr. Gregory J. Dunn  
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18 Columbus, Ohio 43215

19 On behalf of the Association of  
20 Individual Colleges and Universities,  
21 City of Upper Arlington, City of Grove  
22 City, and City of Hillsboro.

23 Boehm, Kurtz & Lowry  
24 By Mr. Michael L. Kurtz  
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7 Duke Energy Commercial Asset Management.

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9 By Mr. Robert A. McMahon  
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14 On behalf of Duke Energy Ohio.

15 Bricker & Eckler, LLP  
16 By Mr. Thomas J. O'Brien  
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19 Ohio Hospital Association  
20 By Mr. Richard L. Sites  
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23 On behalf of the Ohio Hospital  
24 Association.

25 Bricker & Eckler, LLP  
By Ms. Lisa Gatchell McAlister  
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On behalf of Ohio Manufacturers  
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## 1 APPEARANCES: (Continued)

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10 Constellation Energy Commodities Group,  
11 Inc., Retail Energy Supply Association,  
12 Direct Energy Services, and Direct Energy  
13 Business, LLC, The Compete Coalition, and  
14 PJM Power Providers Group.

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20 On behalf of Constellation Exelon  
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22 Covington & Burling, LLP  
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On behalf of The Compete Coalition.

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On behalf of Appalachian Peace and  
Justice Network.

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## 1 APPEARANCES: (Continued)

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11 On behalf of Wal-Mart Stores East, LP,  
12 and Sam's East, Inc.

13 Bricker & Eckler, LLP  
14 By Mr. Christopher L. Montgomery  
15 Mr. Matthew Warnock  
16 and Mr. Terrence O'Donnell  
17 100 South Third Street  
18 Columbus, Ohio 43215

19 On behalf of Paulding Wind Farm, LLC.

20 SNR Denton US, LLP  
21 By Ms. Emma F. Hand  
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On behalf of EnerNOC.

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7           On behalf of National Federation of  
8           Independent Business, Ohio Chapter.

9           Bailey Cavalieri, LLC  
10          By Mr. Dane Stinson  
11          10 West Broad Street  
12          Columbus, Ohio 43215

13          On behalf of the Ohio Association of  
14          School Business Officials, Ohio School  
15          Boards Association, Buckeye Association  
16          of School Administrators, and Ohio  
17          Schools Council.

18          Whitt Sturtevant, LLP  
19          By Mr. Mark A. Whitt  
20          Ms. Melissa L. Thompson  
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24          Columbus, Ohio 43215

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and Mr. Matthew White  
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On behalf of the Interstate Gas Supply,  
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On behalf of Direct Energy Services and  
Direct Energy Business.

## 1 APPEARANCES: (Continued)

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3 By Ms. Carolyn S. Flahive  
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7 Columbus, Ohio 43215

8 On behalf of Border Energy Electric  
9 Services, Inc.

10 Williams, Allwein & Moser  
11 By Mr. Todd M. Williams  
12 Two Maritime Plaza  
13 Toledo, Ohio, 43604

14 On behalf of the Ohio Business Council  
15 for a Clean Environment.

16 William, Allwein & Moser  
17 By Mr. Christopher J. Allwein  
18 1373 Grandview Avenue, Suite 212  
19 Columbus, Ohio 43212

20 On behalf of the Natural Resources  
21 Defense Council.

22 Dayton Power & Light Company  
23 By Ms. Judi L. Sobecki  
24 1065 Woodman Drive  
25 Dayton, Ohio 45432

On behalf of Dayton Power & Light.

Ohio Automobile Dealers Association  
By Mr. Charles C. Howard  
and Ms. Sarah Bruce  
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On behalf of the Ohio Automobile Dealers  
Association.

1 APPEARANCES: (Continued)

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3 By Mr. Randy Hart  
4 200 Huntington Building  
5 Cleveland, Ohio 44114

6 On behalf of Summit and Fostoria  
7 Ethanol.

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1 Thursday Morning Session,

2 May 17, 2012.

3 - - -

4 EXAMINER SEE: Scheduled for hearing at  
5 this time is Case No. 11-346-EL-SSO, Case No.  
6 11-348-EL-SSO, 11-349-EL-AAM, 11-350-EL-AAM, entitled  
7 In the Matter of the Application of Columbus Southern  
8 Power Company and Ohio Power Company for Authority to  
9 Establish a Standard Service Offer Pursuant to  
10 Section 4928.143 of the Ohio Revised Code in the Form  
11 of an Electric Security Plan.

12 And In the Matter of the Application of  
13 Columbus Southern Power Company and Ohio Power  
14 Company for Approval of Certain Accounting Authority.

15 My name is Greta See. With me presiding  
16 over this case is Jon Tauber, also an AE in the  
17 Commission's Legal Department, and joining us for  
18 this proceeding is Commissioner André Porter.

19 Commissioner Porter, do you wish to make  
20 a statement?

21 COMMISSIONER PORTER: Certainly, thank  
22 you.

23 Again, my name is André Porter, a Public  
24 Utilities Commissioner. I'll be sitting in on these  
25 hearings for the purposes of monitoring the hearings

1 as I did in the 10-2929 case. I will not respond to  
2 evidentiary and procedural motions and requests  
3 during this process; those decisions will, of course,  
4 be left to our Attorney Examiners who will handle  
5 those matters.

6 However, I will reserve for myself the  
7 ability to ask questions of witnesses following the  
8 close of cross-examination, and certainly at the  
9 close of the record in this proceeding I'll join with  
10 the other Commissioners in considering the record  
11 that's been created here in making a final decision  
12 in this matter.

13 So I look forward to the process. Thank  
14 you.

15 EXAMINER SEE: At this time I'd like to  
16 take appearances of the parties. We'll start with  
17 AEP Ohio.

18 MR. NOURSE: Thank you, your Honor. On  
19 behalf of Ohio Power Company, Steven T. Nourse,  
20 Matthew J. Satterwhite, Yazan Alami, One Riverside  
21 Plaza, Columbus, Ohio, 43215, as well as Daniel R.  
22 Conway, Christen M. Moore, from the law firm of  
23 Porter, Wright, Morris & Arthur, 41 South High  
24 Street, Columbus, Ohio, 43215.

25 EXAMINER SEE: On behalf of IEU-Ohio.

1 MR. RANDAZZO: Yes, your Honors and  
2 Commissioner Porter, on behalf of the Industrial  
3 Energy Users of Ohio I'd like to enter the appearance  
4 of Frank Darr, Joe Olikier, Matt Pritchard, and  
5 myself, Sam Randazzo.

6 EXAMINER SEE: On behalf of Duke Energy  
7 Retail and Duke Energy Commercial Asset Management.

8 MS. KINGERY: Yes, thank you, your Honor.  
9 On behalf of Duke Energy Retail Sales and Duke Energy  
10 Commercial Asset Management, Amy B. Spiller and  
11 Jeanne W. Kingery, 139 East Fourth Street,  
12 Cincinnati, Ohio, and Philip B. Sineneng of the law  
13 firm of Thompson Hine, 41 South High Street,  
14 Columbus, Ohio.

15 EXAMINER SEE: On behalf of the Ohio  
16 Energy Group.

17 MR. KURTZ: Your Honors, for the Ohio  
18 Energy Group, Mike Kurtz, Kurt Boehm, and Jody Kyler.

19 EXAMINER SEE: On behalf of the Ohio  
20 Hospital Association.

21 MR. O'BRIEN: Good morning, your Honor.  
22 On behalf of the Ohio Hospital Association, Richard  
23 L. Sites and Thomas J. O'Brien.

24 EXAMINER SEE: On behalf of the office of  
25 Ohio Consumers' Counsel.

1 MS. GRADY: Thank you, your Honor. On  
2 behalf of the residential ratepayers of Columbus  
3 Southern Power and Ohio Power, Maureen R. Grady,  
4 Terry L. Etter, and Joseph P. Serio.

5 EXAMINER SEE: On behalf of the Kroger  
6 Company.

7 MR. YURICK: On behalf of the Kroger  
8 Company, your Honor, Mark Yurick and Zach Kravitz,  
9 law firm of Taft, Stettinius & Hollister.

10 EXAMINER SEE: On behalf of FirstEnergy  
11 Solutions.

12 MR. HAYDEN: Good morning, your Honors.  
13 On behalf of FES, Mark Hayden, from the law firm of  
14 Calfee, Halter & Griswold, Jim Lang, Laura McBride,  
15 and Trevor Alexander, from the law firm of Jones Day,  
16 David Kutik and Allison Haedt.

17 EXAMINER SEE: Paulding Wind Farm 2.

18 MR. MONTGOMERY: Thank you, your Honor.  
19 On behalf of Paulding Wind Farm 2 Chris Montgomery,  
20 Terrence O'Donnell, and Matthew Warnock.

21 EXAMINER SEE: The Appalachian Peace and  
22 Justice Network.

23 MR. SMALZ: Yes, your Honor, on behalf of  
24 the Appalachian Peace and Justice Network, Michael R.  
25 Smalz and Joseph V. Maskovyak of the Ohio Poverty Law

1 Center.

2 EXAMINER SEE: The Ohio Manufacturers  
3 Association Energy Group.

4 MS. McALISTER: Thank you, your Honor.  
5 On behalf of the OMA Energy Group, Bricker & Eckler,  
6 by Lisa McAlister and J. Thomas Siwo, 100 South Third  
7 Street, Columbus, Ohio, 43215.

8 EXAMINER SEE: AEP Retail.

9 MR. JADWIN: Thank you, your Honor. On  
10 behalf of AEP Retail Energy Partners, Jay Jadwin, 155  
11 West Nationwide Boulevard, Suite 500, Columbus, Ohio.

12 EXAMINER SEE: PJM Power Providers.

13 MR. PETRICOFF: On behalf of PJM Power  
14 Providers, Howard Petricoff and Lija Kaleps-Clark  
15 from of the law firm of Vorys, Sater, Seymour &  
16 Pease.

17 EXAMINER SEE: On behalf of  
18 Constellation.

19 MR. STAHL: Good morning, your Honors.  
20 David Stahl and Scott Solberg of the firm Eimer Stahl  
21 in Chicago, and Howard Petricoff and Lija  
22 Kaleps-Clark, Vorys Sater.

23 EXAMINER SEE: Complete Coalition.

24 MR. PETRICOFF: Yes, your Honor. On  
25 behalf of Compete Coalition, William Massey from the

1 law firm of Covington Burling, and Howard Petricoff  
2 from Vorys, Sater, Seymour & Pease.

3 EXAMINER SEE: Natural Resource Defense  
4 Council.

5 MR. ALLWEIN: Good morning, your Honors,  
6 Commissioner Porter. On behalf of the Natural  
7 Resources Defense Council, Christopher J. Allwien,  
8 1373 Grandview Avenue, Suite 212, Columbus, Ohio.

9 EXAMINER SEE: On behalf of the Sierra  
10 Club.

11 On behalf of the Sierra Club?

12 Retail Energy Suppliers Association.

13 MR. PETRICOFF: Yes, your Honor. On  
14 behalf of the Retail Energy Supply Association,  
15 Howard Petricoff and Lija Kaleps-Clark from the law  
16 firm of Vorys, Sater, Seymour & Pease.

17 EXAMINER SEE: On behalf of Exelon.

18 MR. STAHL: Good morning, your Honors.  
19 Once again, David Stahl, Scott Solberg, and Howard  
20 Petricoff and Lija Kaleps-Clark from Vorys Sater.

21 EXAMINER SEE: City of Grove City.

22 MR. HAQUE: Good morning, your Honor. On  
23 behalf of the City of Grove City, Asim Z. Haque,  
24 Christopher L. Miller, Gregory J. Dunn of Ice Miller,  
25 LLP, 250 West Street, Columbus, Ohio, 43215.

1 EXAMINER SEE: The Association of  
2 Independent Colleges and Universities of Ohio.

3 MR. HAQUE: Your Honor, Asim Z. Haque,  
4 Christopher L. Miller, Greg Dunn, Ice Miller, LLP.

5 EXAMINER SEE: On behalf of Wal-Mart and  
6 Sam's.

7 MS. SMITH: Good morning, your Honors,  
8 Commissioner Porter. My name is Holly Rachel Smith.  
9 I'm entering an appearance on behalf of Wal-Mart  
10 Stores East, LLP and Sam's East, Inc., and I'd also  
11 like to enter the appearance of David A. Meyer of  
12 Keating, Muething & Klekamp, PLL. Thank you very  
13 much.

14 EXAMINER SEE: On behalf of Dominion  
15 Retail.

16 MR. ROYER: Thank you, your Honor. For  
17 Dominion Retail, Barth Royer, Bell & Royer Co., LPA,  
18 33 South Grant Avenue, Columbus, Ohio.

19 EXAMINER SEE: Environmental Law and  
20 Policy Center.

21 Ohio Environmental Council.

22 On behalf of Ormet.

23 MR. BARNOWSKI: Good morning. Dan  
24 Barnowski, Emma Hand, Tom Millar, SNR Denton on  
25 behalf of Ormet. Thank you.

1 EXAMINER SEE: On behalf of EnerNOC.

2 MR. POULOS: Good morning, your Honor.

3 Gregory J. Poulos on behalf of EnerNOC. I also have  
4 in attendance with me today Jonathan Hsu, we are in  
5 the Ohio State Supreme Court Mentoring Program  
6 together and he is a staff attorney over at the  
7 Environmental Review Appeals Commission, just  
8 attending today.

9 EXAMINER SEE: CPV Power Providers.

10 City of Hillsboro.

11 MR. HAQUE: Good morning, your Honor.

12 Asim Haque, Chris Miller, Greg Dunn, Ice Miller, LLP.

13 EXAMINER SEE: Ohio Business Council.

14 MR. WILLIAMS: Good morning, your Honors.

15 Todd Williams for Ohio Business Council for a Clean  
16 Environment from Williams, Allwein & Moser, Two  
17 Maritime Plaza, Toledo, Ohio, 43604.

18 EXAMINER SEE: City of Upper Arlington.

19 MR. HAQUE: Your Honor, Asim Haque, Chris  
20 Miller, Greg Dunn, Ice Miller, LLP.

21 EXAMINER SEE: Summit and Fostoria  
22 Ethanol.

23 MR. HART: Good morning, your Honors.

24 From Summit and Fostoria Ethanol, Randy Hart, 200  
25 Huntington Building, Cleveland, Ohio, Hahn, Loeser &

1 Parks.

2 EXAMINER SEE: University of Toledo.

3 Border Energy.

4 MS. CHMEIL: Good morning, your Honor.

5 On behalf of Border Energy Electric Services, Inc.,

6 Stephanie Chmiel, Carolyn Flahive, and Michael

7 Dillard from Thompson Hine, 41 South High Street

8 Columbus, Ohio, 43215.

9 EXAMINER SEE: Council of Smaller

10 Enterprises.

11 Ohio Construction Materials.

12 National Federation of Independent

13 Businesses - Ohio.

14 MR. SUGARMAN: Good morning, Roger

15 Sugarman, Kegler, Brown, Hill & Ritter, Columbus,

16 Ohio, on behalf of NFIB-Ohio.

17 EXAMINER SEE: Ohio Automobile Dealers.

18 MR. HOWARD: On behalf of the Ohio

19 Automobile Dealers Association, Charles Howard and

20 Sarah Bruce, 655 Metro Place South, Suite 270,

21 Dublin, Ohio.

22 EXAMINER SEE: Direct Energy.

23 MR. CLARK: On behalf of Direct Energy

24 Services, LLC and Direct Energy Business, LLC, Joseph

25 M. Clark, 6614 North High Street, Worthington, Ohio,

1 43085.

2 EXAMINER SEE: Duke Energy Ohio.

3 MS. WATTS: Thank you, your Honor,  
4 Commissioner Porter. On behalf of Duke Energy Ohio,  
5 Rocco D'Ascenzo, Elizabeth Watts, and Robert McMahon  
6 from the firm of Eberly McMahon.

7 EXAMINER SEE: Ohio Restaurant  
8 Association.

9 Ohio Restaurant Association.

10 Ohio Farm Bureau.

11 Ohio School Boards.

12 MR. STINSON: Yes, your Honor. On behalf  
13 of the Ohio Schools, Dane Stinson, Bailey Cavalieri,  
14 LLC, 10 West Broad Street, Suite 2100, Columbus,  
15 Ohio, 43215.

16 EXAMINER SEE: Interstate Gas Supply.

17 MS. THOMPSON: Thank you, your Honor. On  
18 behalf of Interstate Gas Supply, Inc., Mark Whitt,  
19 Andrew Campbell, Melissa Thompson, of the firm Whitt,  
20 Sturtevant, and Vincent Parisi and Matthew White on  
21 behalf of Interstate Gas Supply, Inc.

22 EXAMINER SEE: Dayton Power and Light --

23 MS. SOBECKI: Thank you, your Honor. On  
24 behalf of Dayton Power & Light, Judi Sobecki, 1065  
25 Woodman Drive, Dayton, Ohio.

1 EXAMINER SEE: Is there any party present  
2 that has been granted intervention that has not yet  
3 entered an appearance?

4 MR. MARGARD: Your Honor, we'd like to  
5 enter an appearance. Mike DeWine, Ohio Attorney  
6 General, William Wright, Public Utilities Commission,  
7 by Assistant Attorneys General Werner L. Margard and  
8 Steven L. Beeler.

9 EXAMINER SEE: Last but not least.

10 EXAMINER TAUBER: Before we get into  
11 matters this morning we have a couple of outstanding  
12 motions for protective order. The first one is  
13 AEP Ohio's which was filed May 2nd and that's  
14 relating to supplemental testimony and Witness  
15 Nelson's Exhibit; the second one is OAMEG which was  
16 filed May 4th, and that relates to OSCO Industries,  
17 Summitville Tiles, Belden Brick, Whirlpool Corp.,  
18 Lima Refining, and AMG's testimony;

19 We also have IEU's motion for protective  
20 order which was filed May 4th as well, and that  
21 relates to confidential information contained in  
22 Witness Murray's testimony;

23 FES's motion for protective treatment  
24 which was also filed May 4th and that relates to  
25 FES Exhibit A and Table 6.

1           Exelon's motion for protective order  
2       filed May 4th relating to confidential proprietary  
3       information and Witness Fein's testimony;

4           And then Ohio Power Company's motion  
5       filed May 11th relating to information in other  
6       companies' motions for protective order.

7           The Bench finds that all of those are  
8       consistent with Commission Rule 4901:1-24 and should  
9       be kept confidential under seal, and we'll keep them  
10      under seal for 18 months, to keep everybody  
11      consistent we'll do it 18 months from the date of the  
12      opinion and order and it will also be in the opinion  
13      and order as well.

14          MR. SATTERWHITE: If I may, your Honor,  
15      so we have all of it in one area of the transcript,  
16      also in Witness Godfrey's testimony there was  
17      information already granted protection in the  
18      previous proceeding.

19          EXAMINER TAUBER: Correct, and that will  
20      carry over from the 18 months as well, so from the  
21      date of the opinion and order.

22          MR. SATTERWHITE: Thank you.

23          EXAMINER TAUBER: We also have  
24      outstanding motions to strike and what the process  
25      will do throughout the hearing is to just address

1 those before each witness is set to testify in order  
2 to keep everything clear and concise with what is and  
3 will not be a part of the record.

4 So first we'll address IEU's motion to  
5 strike the application of Ohio Power Company and  
6 IEU's motion to strike Witness Powers' testimony  
7 relating to illegal capacity charges, corporate  
8 separation issues, citations of the stipulation and  
9 the illegal pool rider, and at this time we're going  
10 to deny these motions to strike, however, we'll  
11 remind parties they'll have the opportunity during  
12 cross-examination to raise any issues that they feel  
13 necessary.

14 We'll start with the company this  
15 morning.

16 MR. SATTERWHITE: Thank you, your Honor.  
17 The company would call Robert Powers to the stand.

18 EXAMINER TAUBER: Mr. Powers, please  
19 raise your right hand.

20 (Witness sworn.)

21 EXAMINER TAUBER: Thank you.

22 MR. SATTERWHITE: Thank you, your Honor.

23 - - -  
24  
25

1 ROBERT P. POWERS

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

4 DIRECT EXAMINATION

5 By Mr. Satterwhite:

6 Q. Mr. Powers, can you please state your  
7 name, title, and business address for the record.

8 A. My name's Robert Powers. You asked me  
9 for my title as well? Executive Vice President,  
10 Chief Operating Officer, American Electric Power, 1  
11 Riverside Plaza, Columbus, Ohio.

12 Q. And did you cause testimony to be filed  
13 under your name in this docket on March 30th, 2012?

14 A. Yes, I did.

15 MR. SATTERWHITE: May I approach, your  
16 Honor?

17 EXAMINER TAUBER: You may.

18 MR. SATTERWHITE: At this time I'd like  
19 to mark AEP Exhibit 101, the direct testimony of  
20 Robert Powers.

21 EXAMINER TAUBER: It will be so marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 Q. Mr. Powers, can you identify the document  
24 I've just placed in front of you marked AEP Exhibit  
25 101?

1 EXAMINER SEE: Mr. Satterwhite. We need  
2 a copy of Mr. Powers' testimony, please.

3 MR. SATTERWHITE: Sorry.

4 Q. Mr. Powers, can you please identify the  
5 document I've just placed in front of you?

6 A. Yes, I can. This is the testimony I  
7 submitted in this case.

8 Q. Was this testimony prepared by you or  
9 under your direction?

10 A. Yes, it was.

11 Q. Do you have any changes to this testimony  
12 today, or corrections?

13 A. I have one correction. On page 9,  
14 footnote 7, the number "563" should be "516."

15 Q. And with that correction made in the  
16 testimony do you adopt that as your testimony today  
17 on the stand?

18 A. Yes, I do.

19 MR. SATTERWHITE: Your Honor, at this  
20 time I would move for the admission of AEP Exhibit  
21 101 subject to cross-examination.

22 EXAMINER TAUBER: Okay. For  
23 cross-examination this morning we're going to go  
24 through the same order we went through the parties  
25 initially, unless there's a preference.

1 MR. RANDAZZO: If I may, some of us  
2 talked initially this morning to try and allocate  
3 time and I volunteered to go first, and that seemed  
4 to be okay with some of the parties, I didn't have a  
5 chance to talk to all the parties, but I'm happy to  
6 do that.

7 EXAMINER TAUBER: Thank you. Do any  
8 parties have any issues with Mr. Randazzo and  
9 Industrial Energy Users going first this morning?

10 MR. HAYDEN: Your Honors, we had talked  
11 with some of the parties as well, we're happy to go  
12 first with respect to the cross to all the witnesses  
13 except for Mr. Powers; I believe IEU is going to go  
14 first. We have the most cross and that may make the  
15 most sense, if that's okay with you.

16 EXAMINER TAUBER: Are there any  
17 objections to FES going first with other witnesses on  
18 cross-examination?

19 (No response.)

20 EXAMINER TAUBER: Okay. In light of that  
21 what we'll do is we'll start this morning with  
22 Mr. Randazzo and then we'll work our way around the  
23 table and we'll see if any parties that aren't at the  
24 table are interested in cross-examination as well,  
25 and then if there are parties out there that would

1 like to conduct cross-examination, we ask that  
2 somebody who is sitting at the table be respectful of  
3 that and allow them to come up.

4 Thank you. Mr. Randazzo.

5 MR. RANDAZZO: Thank you, your Honors.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Randazzo:

9 Q. Mr. Powers, my name is Sam Randazzo, I  
10 represent the Industrial Energy Users of Ohio and I  
11 have some questions about your testimony.

12 Let's begin on page 2 which is where the  
13 text of your testimony begins. Before we get to some  
14 questions about the scope of your responsibilities  
15 and the nature of your employment, are you sponsoring  
16 the application in this case?

17 A. Are you asking me if I'm personally  
18 sponsoring the application?

19 Q. Yes.

20 A. I'd have to ask counsel. I don't know.

21 Q. Are there any witnesses that are being  
22 offered on behalf of the application or the proposal  
23 in this proceeding that are employed directly by Ohio  
24 Power Company?

25 A. If I understand your question, are there

1 any witnesses that are employed by Ohio Power  
2 Company?

3 Q. Yes.

4 A. I believe so, yes.

5 Q. And who would those witnesses be?

6 A. Selwyn Dias, Thomas Kirkpatrick. That's  
7 what comes to mind off the top of my head.

8 Q. Any others that you can think of at the  
9 moment?

10 A. At the moment -- I'll give it thought.  
11 I believe that's it.

12 Q. Thank you.

13 At page 2, line 6, you indicate that  
14 you're employed by American Electric Power Service  
15 Corporation, or AEPSC. And you say there that it's a  
16 unit of American Electric Power. What is the role of  
17 the Service Corporation as a unit of American  
18 Electric Power?

19 A. The service company is a general  
20 management structure for the management of AEP as a  
21 business overall.

22 Q. All right. So when you say that it is a  
23 management structure for AEP overall, you're  
24 referring to all the various business units that  
25 reside within the holding company structure of

1 American Electric Power; is that correct?

2 A. I know they pay my salary; that's a good  
3 thing. And I think I've given an answer that  
4 describes what the service company performs. Beyond  
5 that I really haven't studied the legal structure of  
6 the service company.

7 Q. I'm not asking you about the legal  
8 structure. I'm asking you about the functional  
9 relationship between the Service Corporation and the  
10 business units within the holding company structure  
11 of American Electric Power.

12 So does American Electric Power Service  
13 Corporation functionally support all the business  
14 units within the holding company structure of  
15 American Electric Power?

16 A. I think if we can accept any specific  
17 legal structure about, you know, where an operating  
18 company or other part of AEP's business is legally  
19 structured to the service company does support the  
20 business units including the operating companies that  
21 AEP -- that are part of AEP.

22 Q. Okay. And you then go on in the next  
23 sentence to indicate that your title is Executive  
24 Vice President and Chief Operating Officer of AEP.  
25 When you use "AEP" there, can you tell me what you're

1 referring to? Is it the holding company?

2 A. Mr. Randazzo, I mean, the AEP Service  
3 Company and AEP I don't spend time differentiating in  
4 my mind. I work for American Electric Power, I work  
5 for the service company, as my testimony states, and  
6 I don't know how to parse those statements any  
7 further.

8 Q. Well, Mr. Powers, the reason I'm asking  
9 is because you understand that there are functional  
10 separation requirements associated with utilities,  
11 electric utilities, that operate in the state of  
12 Ohio, correct? In other words, you have to separate  
13 the competitive from the noncompetitive businesses;  
14 is that your understanding?

15 A. My understanding is there needs to be  
16 functional separation, that's correct.

17 Q. All right. And so what I'm trying to get  
18 help from you on is when you speak about American  
19 Electric Power in your testimony, are you referring  
20 to all the various functions that are performed by  
21 the holding company structure which would include  
22 generation, transmission, and distribution functions,  
23 and perhaps others?

24 A. I am responsible for all those functions,  
25 that's correct.

1           Q.    Okay.  When you use the -- when you say  
2   "AEP Ohio" or, as you indicate on line 11, or  
3   "company" in your testimony, are you referring to all  
4   the functions, generation, transmission, and  
5   distribution, that are performed by those entities?

6           A.    I believe so, yes.

7           Q.    And for purposes of understanding your  
8   perspective as reflected in your testimony is it your  
9   view that the issues that are raised in this  
10   proceeding must be addressed from the perspective of  
11   a vertically integrated utility, in other words, a  
12   utility that still operates generation, transmission,  
13   and distribution functions?

14           MR. SATTERWHITE:  Your Honor, I'll object  
15   only to the extent the question is asking for the  
16   legal conclusion by the witness of what this is, the  
17   scope of the case.

18           EXAMINER TAUBER:  The objection is  
19   overruled.

20           A.    My understanding is the issue of  
21   functional separation has been presented before the  
22   Commission previously and the Commission has opined  
23   that the functional separation that's represented by  
24   the organization I described adequately addresses the  
25   requirements in Ohio for functional separation.

1           Q.    I have no quarrel with your statement.  
2    It's just not responsive to my question.

3                    The question that I have for you is that  
4    when you use "AEP Ohio" or "company" as you do on  
5    page 2 in lines 6 through 11, are you referring to  
6    the entities "AEP Ohio" or "company" as vertically  
7    integrated entities, in other words, entities that  
8    are providing generation, transmission, and  
9    distribution service?

10           A.    I believe I've answered the question to  
11   the best of my ability and I'd have to seek counsel  
12   to answer your question more specifically.

13           Q.    Well, so you don't know whether your  
14   references to "AEP Ohio" or "company" are references  
15   to a vertically integrated company or simply a  
16   distribution entity?

17           A.    As you state the question, I've provided  
18   an answer. I don't know how to respond to your  
19   question any -- in any more detail than I've  
20   provided.

21           Q.    Well, so as we see the references  
22   throughout your testimony to "AEP Ohio" or the  
23   "company," you can't help us to understand whether  
24   those references are to a vertically integrated  
25   enterprise or simply a distribution -- simply a

1 distribution utility; is that correct?

2 A. Mr. Randazzo, I don't know exactly where  
3 you're going, but what I can say is that AEP Ohio  
4 still represents distribution assets, it represents  
5 generation assets and it represents transmission  
6 assets. That's the practical answer to your  
7 question. Any other legal opinion, I don't know.

8 Q. Well, again, so we're clear, throughout  
9 my discussion with you today I am not asking you to  
10 offer a legal opinion. I would like for you to  
11 answer my questions from the perspective of the  
12 functions for which you have responsibility and how  
13 you characterize "AEP Ohio" or "company" as you use  
14 those terms in your testimony relative to the various  
15 functions that you understand must be separated.

16 MR. SATTERWHITE: Just for clarification,  
17 are you still talking about lines 6 through 11, or  
18 are you trying to get a global application in the  
19 answer?

20 MR. RANDAZZO: Both. I have used the  
21 discussion about lines 6 through 11 as an  
22 illustration to try and get a better understanding of  
23 when the witness uses "AEP Ohio" or "company" whether  
24 he's referring to a vertically integrated enterprise  
25 or an enterprise that is simply engaged in the

1 business of a distribution utility.

2 MR. SATTERWHITE: And I'll object, your  
3 Honor. I think he just explained what his definition  
4 of what AEP Ohio is and if there's specific  
5 references later on that he thinks may be different,  
6 Mr. Randazzo, I think he can raise those, but I think  
7 Mr. Powers has already answered his definition of  
8 what "AEP Ohio" represents.

9 EXAMINER TAUBER: Mr. Satterwhite, I  
10 don't think I've heard an answer to the question yet  
11 so we'll allow the witness to answer to the best of  
12 his knowledge.

13 MR. SATTERWHITE: Thank you.

14 A. So is there a question pending?

15 Q. Well, let me see if I can restate it to  
16 save time. When you use references to "AEP Ohio" or  
17 "company" such as you do in line 11 at page 2, are  
18 you referring to a vertically integrated company  
19 providing generation, transmission, and distribution  
20 functions, or are you referring to an entity that is  
21 engaged in the distribution function?

22 A. I don't believe I'm describing either of  
23 those options you've presented. I'm describing a  
24 company that has distribution assets, it has  
25 transmission assets, and it has functionally

1 separated generation assets.

2 Q. Okay. I guess we'll have to do what we  
3 can. On page 2 you indicate that, beginning at line  
4 14, that you're directly responsible for the overall  
5 operations of Commercial Operations, and you have a  
6 capital C and a capital O. That suggests to me that  
7 that is one of the -- Commercial Operations is one of  
8 the units within the AEP structure; is that a fair  
9 conclusion on my part?

10 A. That is a fair conclusion.

11 Q. And can you tell me what Commercial  
12 Operations does?

13 A. Commercial Operations helps assure the  
14 dispatch of AEP generation into wholesale markets and  
15 also performs some level of trading in  
16 electric-related commodities.

17 Q. Does Commercial Operations engage at all  
18 in the provision or support of competitive retail  
19 service?

20 A. Commercial Operations does not  
21 specifically.

22 Q. And when you say it "does not  
23 specifically," can you tell me what you mean by the  
24 word "specifically" there?

25 A. AEP has another functional unit that

1 operates in the competitive market in Ohio, if I  
2 understood your question.

3 Q. Okay. But Commercial Operations is, as I  
4 understood your earlier answer, is engaged in energy  
5 marketing, energy trading, power projects, asset  
6 investments, market operations, and commercial  
7 analysis; is that correct?

8 A. Generally speaking, I think that's a fair  
9 characterization.

10 Q. And so Commercial Operations would be  
11 responsible for managing the participation of AEP's  
12 generation fleet in the wholesale market; is that  
13 correct?

14 A. Yes, that's a fair characterization.

15 Q. And Commercial Operations would be the  
16 organization or unit within AEP that is responsible  
17 for handling how the various AEP generating units,  
18 including those that may be owned or controlled by  
19 AEP Ohio, are bid into the PJM market; is that  
20 correct?

21 A. Yes, I'd say it's fair to say that some  
22 of the activities that Commercial Operations engage  
23 in are conducted on behalf of AEP Ohio's generation  
24 assets.

25 Q. But the scope of the Commercial

1       Operations' responsibility is not limited to  
2       AEP Ohio's generating assets, but all the generating  
3       assets that are owned and controlled by the -- by the  
4       holding company structure; is that correct?

5             A.     Yes, that's correct.

6             Q.     And the role of Commercial Operations, as  
7       you understand it, is to maximize the value of those  
8       generating assets; is that correct?

9             A.     It's more than that. It includes the  
10      economical dispatch of the units to assure that the  
11      units with the best heat rate and best efficiency are  
12      made available first. It's to assure economical and  
13      optimal dispatch. But at the end of the day there's  
14      a component that's to optimize the value to both  
15      customer and to AEP of those assets.

16            Q.     When you say value to customer and value  
17      to AEP, you're really referring to, when you say  
18      "AEP" there, to the holding company structure; is  
19      that correct?

20            A.     I believe since, again, the assets, the  
21      generation assets are still part of AEP Ohio,  
22      although functionally separated, it's to the benefit  
23      of both.

24            Q.     Well, how many shareholders does AEP Ohio  
25      have?

1           A.    Shares of American Electric Power are at  
2   the parent level, not at AEP Ohio.

3           Q.    Right.  So the common equity shareholder  
4   for Ohio Power Company is the parent organization; is  
5   that correct?

6           A.    It sounds like a legal conclusion, but  
7   AEP Ohio's a subsidiary of American Electric Power,  
8   so I can confirm that.

9           Q.    Well, I wasn't trying to get into a  
10  custody battle.

11          A.    Well, that's good.

12          Q.    My use of "parent" was -- it is good.  I  
13  can assure you.  My use of "parent" in my last  
14  question was to the parent subsidiary relationship  
15  that I thought that you had referenced previously,  
16  but it is correct that the -- AEP Ohio is wholly  
17  owned by the parent organization AEP, Inc., correct?

18          A.    That's correct.

19          Q.    Now, what other activities, other than  
20  the ones that we've discussed, are you directly  
21  responsible for through your oversight of Commercial  
22  Operations?

23          A.    Within the Commercial Operations group  
24  there is AEP Retail Energy.

25          Q.    Okay.  And would you also -- let's back

1 up.

2 What does AEP Retail do?

3 A. AEP Retail Energy is a CRES provider in  
4 Ohio.

5 Q. All right. And when you say "CRES  
6 provider," you're referring to C-R-E-S, which stands  
7 for competitive retail electric service provider; is  
8 that correct?

9 A. That's correct.

10 Q. Now, what is the interface or what is the  
11 functional relationship between Commercial Operations  
12 and AEP Retail?

13 A. They operate with a, basically a Chinese  
14 wall between the two. They have an executive who is  
15 responsible for each but code of conduct applies to  
16 separate the activities of the two units.

17 Q. Okay. Are they physically located in the  
18 same space?

19 A. They are not.

20 Q. But they have overlapping management in  
21 your case; is that correct?

22 A. Certainly in my case, yes.

23 Q. Any other overlapping management?

24 A. Yes. The senior vice president over the  
25 broad organization of Commercial Operations has

1 responsibility for both.

2 Q. And would I be correct that that's  
3 Mr. Todd Busby?

4 A. You would be correct.

5 Q. And Mr. Busby reports to you; is that  
6 correct?

7 A. That's correct.

8 Q. Now, the next area or unit that you  
9 indicate that you have responsibility for is Customer  
10 and Distribution Services, and, again, because of the  
11 use of capital letters there, I assume that that is a  
12 unit. Is my assumption correct?

13 A. I think that's a fair characterization.

14 Q. All right. Can you tell me what Customer  
15 and Distribution Services does functionally?

16 A. I think for the people in the room,  
17 certainly the activity you would relate to,  
18 understand the easiest, would be they operate the  
19 call centers where you report an outage at AEP on  
20 behalf of not only AEP Ohio but the other operating  
21 companies. A lot of the other activities involve  
22 engineering-related activities for the design and  
23 optimization of the distribution system.

24 Q. Okay.

25 A. Among other things.

1           Q.    All right.  And earlier in discussion,  
2           and I'm sorry for going back here, but in our  
3           discussion about Commercial Operations you indicated  
4           that Commercial Operations was responsible for  
5           dispatch.  Can you explain for me what you understand  
6           to be Commercial Operations' role in the dispatch of  
7           AEP's generating units?

8           A.    My understanding of the role of  
9           Commercial Operations is that as load changes on a  
10          minute-to-minute basis, that Commercial Operations  
11          helps ensure that the appropriate dispatch orders are  
12          provided to the power plants to assure that the most  
13          economical units are always running to meet the  
14          current demand.

15          Q.    Okay.  And does Commercial Operations  
16          also attempt to make forward sales of the output of  
17          the generating units either physically or  
18          financially?

19          A.    Yes.  To the extent that I've described  
20          them involved in trading activities, those would be  
21          the types of activities that we'd be talking about.

22          Q.    So do you understand what the term "open  
23          position" is as it relates to energy trading?

24          A.    Generally speaking.

25          Q.    Okay.  And to the extent that -- what's

1 your understanding?

2 A. There is the ability to cover the  
3 financial risk of a sale or an obligation that a  
4 generator has, or any buyer or seller of a commodity  
5 like electric has.

6 There's an ability to provide hedges to  
7 minimize the financial risk, an open position could  
8 be a position in which a hedge position hasn't been  
9 taken, and to the extent that the hedge is not  
10 perfect you could have an open position that  
11 represents financial -- financial benefit or  
12 financial risk.

13 Q. Right. And so in terms of your  
14 understanding or your description of the role of  
15 Commercial Operations, Commercial Operations would be  
16 engaged in not only managing physical risk or  
17 physical activities related to the wholesale market,  
18 physical sales activities related to the wholesale  
19 market, but also attempting to manage financial risk  
20 through the various financial devices associated with  
21 conditions such as open positions, correct?

22 A. I believe that's generally correct.

23 Q. And you oversee that in your capacity  
24 as -- or, in --

25 A. Are you asking me do I manage the

1 positions, on a day-to-day basis?

2 Q. No. You oversee it. I mean, you say at  
3 line 2 you're directly responsible for the overall  
4 operations of Commercial Operations, so I assume that  
5 you have direct responsibility in that regard. Is my  
6 assumption correct?

7 A. As chief Operating Officer, I'm  
8 responsible for approximately 16,000 of the 19,000  
9 employees in AEP. I'm responsible for the functional  
10 areas I've described. I maintain an appropriate but  
11 broad oversight of all the activities I'm responsible  
12 for.

13 Q. Okay. Does part of your responsibility  
14 include oversight of government relations activities?

15 A. Not entirely, but to some extent.

16 Q. How about political contributions?

17 A. I'm involved personally with political  
18 contributions.

19 Q. Isn't it true that no political  
20 contributions can be made without your signature?

21 A. That's not true.

22 Q. All right. Tell me what your role is  
23 with regard to political contributions.

24 A. What I can -- at a personal level I have  
25 no ability to control what political contributions

1 are made. There is an AEP policy regarding political  
2 contributions, if allowed by state law, at the  
3 operating company level, and I am mentioned or I'm a  
4 part of the process to approve those political  
5 contributions.

6 MR. RANDAZZO: Your Honors, I would like  
7 to have marked for identification purposes IEU  
8 Exhibit 101. Your Honors, I apologize, the large  
9 attendance we have, I don't have enough copies for  
10 everybody. I do have -- I made 30. So the task  
11 associated with distributing copies to the large  
12 audience is rather daunting from a cost standpoint.  
13 We'll do our best to do the best we can and I would  
14 appreciate instructions from the Bench as to how you  
15 would like us to try to accommodate those who may be  
16 interested in copies.

17 EXAMINER SEE: First, let's initially try  
18 one per party as opposed to one for each counsel, and  
19 thereafter is it possible to scan and transmit later  
20 or to bring additional copies?

21 MR. RANDAZZO: We would be happy to make  
22 .pdfs and distribute to the service list and do it in  
23 a way that doesn't create problems in terms of the  
24 capacity, the size of the files. I don't know what  
25 else to do, but we're happy to do that. Or provide,

1 for those documents that are available on the  
2 internet, and quite a few of them are, provide a link  
3 to the document as well.

4 MR. SATTERWHITE: Maybe it will help, was  
5 this in a discovery response, too, people might have?

6 MR. RANDAZZO: This one is not. This is  
7 on the website, though. This is on AEP's website.

8 Anybody else need a copy?

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 Q. (By Mr. Randazzo) Mr. Powers, do you have  
11 before you what is marked IEU Exhibit 101?

12 A. Mr. Randazzo, it's not marked anything,  
13 but I have what you handed to me.

14 Q. Yeah, my bad. I forgot. From your  
15 testimony it doesn't sound like you've testified  
16 numerous times, at least in Ohio, so when I hand the  
17 Bench an exhibit and I ask to have it marked a  
18 particular number, it may be helpful if you go ahead  
19 and write down the number that I identify on the  
20 exhibit so that we can have a conversation about it.  
21 So for our discussion the document I handed you  
22 should be identified as IEU Exhibit 101.

23 A. That's great.

24 Q. Sorry. I should have went through that.

25 Now, do you have before you what has been

1 marked for identification as IEU Exhibit No. 101?

2 A. I do.

3 Q. And am I correct that this is the policy  
4 statement that was issued concerning political  
5 contributions at the corporate level?

6 MR. SATTERWHITE: Your Honor, at this  
7 time I'll object to the relevance of the document now  
8 that we're going to get into questions on it. Mr.  
9 Powers has been presented to sponsor the modified ESP  
10 plan. I don't know what policy statements of  
11 political contributions would have to do with that.

12 EXAMINER TAUBER: Mr. Randazzo.

13 MR. RANDAZZO: This goes to this  
14 individual's scope of responsibility within the  
15 organization. He describes his responsibilities as  
16 part of his testimony. I think I'm entitled to  
17 inquire about other areas of responsibility he has  
18 within AEP.

19 EXAMINER TAUBER: I'll allow it for now.

20 Q. Do you recall the question, Mr. Powers?

21 A. Would you please repeat it?

22 Q. Sure. Am I correct that what has been  
23 marked for identification purposes as IEU Exhibit 101  
24 is the current policy with regard to corporate  
25 political contributions at AEP?

1           A.    Yes, it is.

2           Q.    And you are identified as the owner.  Can  
3 you tell me -- on the document.  Can you tell me what  
4 "owner" means in the present context?

5           A.    "Owner" would mean if there are needs to  
6 modify, change this procedure, I would be the  
7 sponsor.

8           Q.    Okay.  And what is your role for purposes  
9 of determining -- excuse me.

10                  Would you turn to page 2 of the document.  
11 Underneath the heading "Authorization to Make  
12 Political Contributions," does paragraph A identify  
13 the individuals within AEP that are authorized to  
14 make political contributions?

15           A.    Let me take a minute to read paragraph A.

16           Q.    Sure.

17           A.    I believe in reading paragraph A I would  
18 agree that that describes who is authorized to  
19 authorize a political contribution.

20           Q.    Okay.  And in your testimony, which we'll  
21 get to in more detail in a while, regarding your  
22 position associated with capacity charges, am I  
23 correct that it's your view that in the event that  
24 the -- what is called the compromise two-tier  
25 capacity charge that is proposed in the modified ESP

1 is not approved as filed by the Commission, that the  
2 litigation position that AEP Ohio has presented in  
3 the capacity charge case, which we just finished  
4 Wednesday -- Tuesday, I'm sorry, your litigation  
5 position in the capacity charge case is your position  
6 in this case, correct?

7 A. Mr. Randazzo, you just handed me a  
8 political contribution procedure and now you asked a  
9 long, long question on another topic.

10 Q. And I'm prone to do it again.

11 A. I'll be asking for some clarification.

12 Q. Sure. And that's -- we're having a  
13 conversation, if there's anything you don't  
14 understand, please let me know and I'll do my best.  
15 I've been at this for quite a while so sometimes I  
16 lapse into jargon and if you can help improve the  
17 quality of my questions, then it will work to improve  
18 the quality of your answers.

19 MR. SATTERWHITE: I'll try to help, too.

20 MR. RANDAZZO: Yeah, I knew I could count  
21 on you, Matt.

22 MR. SATTERWHITE: I'm here for you.

23 Q. All right. So am I correct that your  
24 position as you express in your testimony is more  
25 simply stated that if the Commission doesn't take

1     what you proposed in the way of a so-called  
2     compromised capacity charge in the modified ESP case,  
3     that the default is your litigation position in the  
4     capacity charge case, the 10-2929 case?

5           A.    I can't agree to that, but what I can say  
6     is that AEP has proposed an ESP that provides a great  
7     deal of balance between benefits to the customers,  
8     benefits to CRES providers, benefits to AEP.  We  
9     thought long and hard about how to achieve that  
10    balance.

11           What I would say is if that balance is  
12    changed, you know, we as a business would never say  
13    "never" and never say "always," but we would have to  
14    think long and hard about what the consequences from  
15    any change to that plan would be.

16           Q.    All right.  Would you turn to page 4 of  
17    your testimony and at the sentence that begins on  
18    line 16 and ends on line 19.  Am I correct that what  
19    you say there is that "While AEP Ohio is presenting a  
20    compromise solution in the modified ESP II that  
21    includes discounted capacity as well as a transition  
22    to market, AEP Ohio's litigation position in the  
23    capacity charge proceeding (case 10-2929) remains  
24    intact."  Did I read that sentence correctly?

25           A.    I believe you read that sentence

1       correctly.

2               Q.     Okay.  And as you understand the  
3       litigation position in 10-2929, it is one that  
4       advocates the use of embedded cost for purposes of  
5       establishing a capacity charge; is that correct?

6               A.     AEP believes -- knows that it has a  
7       contract with PJM for FRR capacity.  So AEP's  
8       position is that's the contractual obligation which  
9       was supported by the Ohio Commission when we made  
10      that election years ago and continue to believe that  
11      that is the capacity -- cost-based capacity that  
12      AEP Ohio deserves.

13              Q.     Okay.

14              A.     We are willing to consider other capacity  
15      charges in the spirit of addressing the Commission's  
16      desire to move to market more quickly.

17              Q.     Mr. Powers, I appreciate your answer, but  
18      it's not what I asked you.  My question was am I  
19      correct that the litigation position in case 10-2929,  
20      which you reference on page 4 of your testimony at  
21      the sentence that I directed you to, is that the  
22      Public Utilities Commission of Ohio should set a  
23      capacity charge based upon an embedded cost  
24      methodology?  Is that correct?

25              A.     I believe I've answered your question.

1 MR. RANDAZZO: I would ask the Bench to  
2 instruct the witness to answer my question.

3 MR. SATTERWHITE: Your Honor, I'll  
4 object. I think if you read it back, read back the  
5 answer, he does answer it. He says we're entitled to  
6 recover costs. Just because he didn't use the exact  
7 words Mr. Randazzo did does not mean it wasn't  
8 responsive to the question.

9 EXAMINER TAUBER: Again, I'm not sure  
10 Mr. Powers answered the question, so, Mr. Powers, if  
11 you could please answer Mr. Randazzo's question to  
12 the best of your ability.

13 THE WITNESS: Could I ask that the  
14 question be reread?

15 EXAMINER TAUBER: Absolutely.

16 (Record read.)

17 A. That is our position in the capacity  
18 case. In this ESP case we've obviously offered an  
19 alternative to support the Commission's desire to  
20 move to market more quickly.

21 Q. Okay. And for purposes of the cost-based  
22 methodology that you are using or advocating in favor  
23 of in the 10-2929 case, would political contributions  
24 be part of the cost that would be picked up by the  
25 cost-based methodology?

1 MR. SATTERWHITE: Your Honor, I'll  
2 object. Now we're asking questions about the 10-2929  
3 case, what's going on in that case. I think he's  
4 referenced the 10-2929 case to show what's in this  
5 application, but it sounds like the question is  
6 what's justified or not justified in the 10-2929  
7 case.

8 MR. RANDAZZO: I'm not asking about what  
9 was justified or not justified. I just want to  
10 understand the scope of the costs that would be  
11 picked up in the alternative to which this compromise  
12 has been compared.

13 MR. SATTERWHITE: And if I can, your  
14 Honor, I think that's asking what's part of the cost  
15 in the 10-2929 case. We just finished that on  
16 Tuesday, thank goodness, I don't think we want to  
17 redo that in this case as well.

18 EXAMINER TAUBER: With Mr. Randazzo's  
19 clarification we'll allow you to answer the question,  
20 Mr. Powers.

21 A. What I can say is that the number of  
22 political contributions that are authorized are very  
23 few and would amount to less than, nominally,  
24 \$50,000. I don't know off the top of my head from an  
25 accounting standpoint whether those would be

1 reflected in any operating company expense that  
2 ultimately would get reflected in the Eastern  
3 Generation Pool that would establish capacity cost.

4 So I can tell you that unequivocally  
5 there is very little effect from a dollars  
6 standpoint, and beyond that I'd have to check with my  
7 accountants and get more detail on how those are  
8 specifically handled financially.

9 Q. Okay.

10 MR. RANDAZZO: Your Honor, I would ask  
11 that a one-page document designated "Agents for Ohio  
12 Power Company dba AEP & AEP Ohio," be designated as  
13 IEU 102.

14 EXAMINER TAUBER: It shall be so marked.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 MR. SATTERWHITE: Do you have a pen up  
17 there, since Mr. Randazzo's asked you to mark stuff?

18 THE WITNESS: Check.

19 MR. SATTERWHITE: Okay.

20 Q. (By Mr. Randazzo) Mr. Powers, do you have  
21 before you what has been marked for identification  
22 purposes as IEU Exhibit 102?

23 A. I do.

24 Q. Am I correct that this lists the  
25 registered lobbyists in the state of Ohio for AEP and

1 AEP Ohio?

2 A. It's the first I've ever seen this  
3 document. I don't know what it represents.

4 Q. Do you recognize the names that are  
5 listed on the document? Do you know who Michael  
6 Brello is?

7 A. Yes.

8 Q. And who is Michael Brello?

9 A. Michael Brello is one of our government  
10 relations employees in AEP Ohio.

11 Q. And if we were to work down the list,  
12 would you agree that each of these individuals that's  
13 listed is a registered lobbyist of both the  
14 legislative and executive branch for AEP Ohio?

15 MR. SATTERWHITE: Your Honor, I'll object  
16 again on relevance. I'm waiting to get to questions  
17 about the modified ESP that we have here today. I  
18 don't know if this is still questions on 10-2929, I  
19 don't know why we're trying to get into the who's  
20 registered as a lobbyist in the state of Ohio. I  
21 think it's beyond the scope of this hearing, this  
22 witness and this hearing.

23 EXAMINER TAUBER: Mr. Randazzo.

24 MR. RANDAZZO: It's the same purpose as  
25 the last question about political contributions. We

1 are going to compare the compromise that is in the  
2 modified ESP to some cost-based alternative that's in  
3 the 2929 case, I believe that I'm entitled to inquire  
4 about the types of costs that would be included in  
5 the cost-based alternative.

6 And where I'm going with this is to ask  
7 the witness if he knows the extent to which the costs  
8 of various lobbying activities are included in the  
9 cost-based alternative.

10 EXAMINER TAUBER: I think you're getting  
11 a little off track, Mr. Randazzo. The objection is  
12 sustained.

13 MR. RANDAZZO: Okay.

14 Q. How about association dues, Mr. Powers?  
15 Would association dues, contributions to various  
16 organizations be included in the cost that you would  
17 consider for purposes of setting a capacity charge?

18 MR. SATTERWHITE: Your Honor, same  
19 objection. We seem to be getting into what goes into  
20 the 10-2929 price that was litigated and I believe  
21 there was testimony in that case --

22 MR. RANDAZZO: I'll withdraw the  
23 question. I'll withdraw the question.

24 MR. SATTERWHITE: Thank you.

25 EXAMINER TAUBER: Thank you.

1           Q.    Mr. Powers, you indicate at page 2 of  
2           your testimony that you -- at the bottom of the page,  
3           lines 17 and 18, that you oversee and lead AEP in  
4           establishing goals that are designed to benefit  
5           customers and shareholders. Would those goals  
6           include principles of conduct for the business as it  
7           interfaces with various stakeholders?

8           A.    It's not what I was thinking of when I  
9           wrote that sentence but, yes, I try to consider those  
10          circumstances as well.

11          Q.    Am I correct, Mr. Powers, that AEP has  
12          adopted principles of business conduct?

13          A.    I'm sorry. Is that a question?

14          Q.    Yes, it is.

15          A.    Could you repeat it?

16          Q.    Yes. Am I correct, Mr. Powers, that AEP  
17          has adopted principles of business conduct?

18          A.    Yes, that's correct.

19               MR. RANDAZZO: Your Honors, I would ask  
20           that the document that I've just handed out, which is  
21           designated "AEP's Principles of Business Conduct," be  
22           designated as IEU Exhibit 103.

23               EXAMINER TAUBER: So marked.

24               (EXHIBIT MARKED FOR IDENTIFICATION.)

25          Q.    Mr. Powers, do you have before you what's

1       been marked as IEU Exhibit 103?

2               A.     Yes, I do.

3               Q.     Is this a copy of AEP's Principles of  
4       Business Conduct?

5               A.     I'd have to take a minute and review it.

6               Q.     Please do.

7               A.     I can confirm the title says that.

8               Q.     Please do.

9               A.     Is there a question, Mr. Randazzo?

10              Q.     Yes. I asked you if these were AEP's  
11       Principles of Business Conduct, and you said you  
12       wanted to take a moment to look through it and  
13       confirm whether or not they are.

14              A.     I would say they reflect AEP's business  
15       principles.

16              Q.     Okay. Would you turn to, it's divided  
17       into sections and I apologize, the pages are not  
18       numbered, but there is a section about a third into  
19       the document that has a cover page called "Business  
20       Relationships." Let me know when you're there.

21                     EXAMINER SEE: Mr. Randazzo.

22                     MR. RANDAZZO: Yes.

23                     EXAMINER SEE: The pages, some of the  
24       pages are numbered and the number is obvious, it's in  
25       the lower left-hand corner. Could you give us some

1 idea of what page you're on?

2 MR. RANDAZZO: It would be page 8, I  
3 believe.

4 EXAMINER SEE: Okay.

5 MR. RANDAZZO: Thank you. It's ten pages  
6 in but it is page No. 8.

7 THE WITNESS: My page No. 8 has a  
8 compass.

9 Q. That's right, that's the title "Business  
10 Relationships," so we're at the same place.

11 A. I believe so.

12 Q. Would you turn to the next page, please.  
13 Do the statements on this page represent your  
14 understanding of the type of conduct that is expected  
15 of AEP employees relative to competitive activities?

16 A. I'd have to take time to read the page.

17 Q. Please do.

18 A. Mr. Randazzo, could you repeat your  
19 question again.

20 MR. RANDAZZO: Could I have the question  
21 read back?

22 (Record read.)

23 A. I think it's fair to say these would  
24 govern all AEP employee activities.

25 Q. Okay. And you see under the heading

1 "Antitrust" on the top left-side column discusses the  
2 premise of state and federal laws and then states the  
3 premise? Do you agree that that's the premise of the  
4 laws that deal with federal and state antitrust laws?

5 A. Mr. Randazzo --

6 MR. SATTERWHITE: Your Honor, I'm going  
7 to object. I don't think the witness is an antitrust  
8 lawyer who can testify to the basis of those laws.

9 MR. RANDAZZO: Well, I'll withdraw the  
10 question.

11 Q. Do you believe that it's, through the  
12 premise of our legal structure and our commercial  
13 structure, is that the economy and public will  
14 benefit most if businesses compete vigorously, free  
15 from unreasonable restraints on competition and  
16 trade?

17 A. Mr. Randazzo, I think you saw by my  
18 background that I'm kind of a nuclear engineer type  
19 and I'm not a lawyer, so I don't know how to answer  
20 your question from a legal standpoint.

21 Q. Okay. You thought my question was legal,  
22 I take it.

23 A. Sure sounded that way.

24 Q. Do AEP employees receive training with  
25 regard to the principles of business conduct that are

1 outlined in what has been marked for identification  
2 purposes as IEU Exhibit 103?

3 MR. SATTERWHITE: Your Honor, at this  
4 point I'm going to object again and try to allow some  
5 questions but I'm not seeing the relevance to this  
6 case at all. I mean, we can go -- AEP has a million  
7 policies probably down to how we buy thumbtacks that  
8 as chief operating officer could be tied to this  
9 witness, I don't see how that's related to this case  
10 today, I'll object to relevance and try to move on to  
11 the case we're here for.

12 EXAMINER TAUBER: Mr. Randazzo.

13 MR. RANDAZZO: It's my last question on  
14 the exhibit.

15 EXAMINER TAUBER: Okay. I'll allow it.

16 A. Could I have the question read back?

17 Q. (By Mr. Randazzo) Do AEP employees  
18 receive training on the principles of business  
19 conduct that are identified in what has been marked  
20 for identification purposes as IEU Exhibit 103?

21 A. You know, as I sit here this morning I  
22 would generally indicate yes, with the caveat I  
23 couldn't say with what frequency or what -- what  
24 periodicity of that training might be.

25 Q. All right. Would you turn to page 4 of

1 your testimony. Now, again at line 8 you use  
2 "AEP Ohio." Can you help me to understand when you  
3 say "AEP Ohio" there whether you're referring to the  
4 vertically integrated utility and all the functions  
5 we discussed earlier or simply the distribution  
6 utility?

7 A. I don't think I ever agreed with your  
8 description of vertically integrated utility, but I  
9 can agree that that represents AEP Ohio as I  
10 previously described.

11 Q. Okay. So you're not confining AEP Ohio  
12 there to the role of a distribution utility; is that  
13 correct?

14 A. I believe that's correct.

15 Q. And, again, line 10 you use the word  
16 "company's." If I asked you the same question and  
17 answer would your -- or same questions, would your  
18 answer be the same with regard to your use of the  
19 word "company's"? In other words, you're not  
20 confining the use of the word "company" to simply a  
21 distribution utility function, correct?

22 A. Let me read just a little bit.

23 I didn't make any effort to suddenly  
24 distinguish one AEP entity from another.

25 Q. And that's true throughout your

1 testimony, correct? So I don't have to keep asking  
2 you every time these entity names pop up.

3 MR. SATTERWHITE: I'll object, your  
4 Honor, I think we established that earlier and he  
5 gave his definition and then Mr. Randazzo tried to  
6 give the two definitions he originally gave that  
7 Mr. Powers said he wouldn't agree with either one.  
8 So I thought we already cleared this up and he  
9 referred back to his previous testimony.

10 EXAMINER TAUBER: We did establish that  
11 earlier so let's move along.

12 MR. RANDAZZO: Great. Thank you.

13 Q. Now, on line 14 you use the words twice  
14 "competitive market." What competitive market are  
15 you suggesting that we are transitioning to based  
16 upon the modified ESP proposal?

17 A. It would be a competitive market that  
18 would in part be defined by auction for energy and  
19 capacity.

20 Q. Anything else?

21 A. That's I think a good, general  
22 description of what we're describing.

23 Q. Okay. And the auction that you referred  
24 to there would be an auction to establish the price  
25 for default generation supply; is that correct?

1           A.    I believe there are several auctions that  
2           were described by my answer.

3           Q.    Okay.  Can you identify the auctions?

4           A.    I think in Ohio, as indicated in this  
5           ESP, AEP Ohio has committed in the future to have  
6           capacity established by the RPM process which  
7           includes an auction, and the ESP has offered early  
8           auctions in the transition starting six months after  
9           the approval of the ESP and another auction in  
10          January of 2015 for energy, and then a full auction  
11          for the SSO load in June of 2015, so those are the  
12          auctions I'm referring to.

13          Q.    Okay.  But would you agree, Mr. Powers,  
14          that all of those auctions are related to  
15          establishing a price for default service?  Is that  
16          correct?

17          A.    I don't -- in my position I don't map to  
18          the word "default service."  Could you explain what  
19          that means?

20          Q.    Yes.  When you used SSO, that stands for  
21          "standard service offer," correct?

22          A.    That's correct.

23          Q.    All right.  What is the nature of the  
24          generation responsibility -- generation supply  
25          responsibility of an electric distribution utility

1       such as AEP Ohio as you understand it?

2               A.    As I understand it, AEP Ohio would be  
3       obligated to procure generation through auction, to  
4       support the energy and capacity needs of the  
5       customers that remain with their generation through  
6       that standard service offer. And also AEP Ohio would  
7       have to consider what other generation resources  
8       would be made available as a provider of last resort  
9       should customers who chose to switch decide to come  
10      back to AEP Ohio.

11             Q.    Okay.

12             A.    In a general sense that's what I  
13      understand.

14             Q.    All right. So when I use the term  
15      "default supply," I was referring to a situation  
16      where AEP Ohio, the electric distribution utility's  
17      responsibility to provide generation supply only  
18      exists in circumstances where the customer is not  
19      receiving such supply or generation supply from a  
20      competitive supplier.

21                    Is that consistent with your  
22      understanding of the responsibility of an electric  
23      distribution utility in Ohio with regard to the  
24      provision of generation supply?

25                   MR. SATTERWHITE: Can I have the question

1 reread, please?

2 (Record read.)

3 A. And I guess in hearing the question read  
4 back I provided my answer to the best that I can  
5 provide it.

6 Q. Okay. Let me try to come at it a  
7 different way. The auctions that you identified  
8 previously are auctions that are all related to what  
9 you called SSO service; is that correct?

10 A. You know, at my level of understanding I  
11 just, I can't agree that they're all related only to  
12 SSO service, so.

13 Q. Okay. What would the relationship of any  
14 of those auctions be to anything but SSO service  
15 based upon your understanding?

16 A. I don't know. And I've given you the  
17 answer the best I can give my answer.

18 Q. But as you're referring to the term  
19 "competitive market" on line 14, twice, you're  
20 referring to the auctions that you described earlier?

21 A. Can you say the question again?

22 Q. Yeah. When you use the words  
23 "competitive market" twice in line 14, are you  
24 referring to the auctions that you described earlier?

25 A. Mr. Randazzo, I'm referring in a general

1 sense and in a broad sense to the stated desires of  
2 the Public Utility Commission of Ohio to move to  
3 competition more quickly. I've described the  
4 auctions that I'm aware of that are part of that  
5 process. I've not tried to parse the definitions any  
6 closer than that.

7 Q. Okay. So --

8 A. I know we have to engage in auctions for  
9 load. I know we've committed to the PJM RPM capacity  
10 process going forward, in a broad sense that's what  
11 I'm referring to.

12 Q. Okay. So beyond what you've already  
13 said, you have nothing to add to the description of  
14 the competitive market that you are proposing that we  
15 transition to; is that correct?

16 MR. SATTERWHITE: I'll object, your  
17 Honor. This witness has stated his understanding and  
18 there are other witnesses in the case such as David  
19 Roush and others that speak more specifically to  
20 these issues, and I think asking the same question  
21 over when he's already given his understanding is  
22 objectionable.

23 EXAMINER TAUBER: The objection is  
24 overruled.

25 Q. Do you want the question read back?

1           A.    Yes, please.

2                   (Record read.)

3           A.    Well, I would add, again, in a broad  
4   sense that certainly based on the number of people in  
5   this room and some of their stated public positions  
6   that some believe that there's a competitive market  
7   in existence for some of Ohio's utilities at the  
8   moment, and so I'm describing in a broad sense moving  
9   to the market that many of you seem to represent as  
10  the place you'd like to see all Ohio utilities moving  
11  to.

12          Q.    Anything else?

13          A.    No.

14          Q.    Now -- well, strike that.

15                You indicate that, on page 4 of your  
16  testimony at line 15 and 16, that there are "unique  
17  risks within the state of Ohio's electricity  
18  environment." Can you describe for me what unique  
19  risks you're referring to there?

20          A.    For more than a decade the state of Ohio  
21  has considered going to competitive markets. For  
22  more than a decade as Ohio considered the move to  
23  markets, as market prices have been high, the sense  
24  of urgency on the part of the state of Ohio to move  
25  to market has gone low. And for over a decade

1 AEP Ohio has been asked not to take its generation to  
2 market. For more than a decade AEP Ohio has offered  
3 customers below-market rates worth billions of  
4 dollars.

5 Ohio more recently has indicated a desire  
6 to move to market very quickly. The market that Ohio  
7 has represented it wants to move to is relatively  
8 nescient.

9 A movement and a request for AEP Ohio to  
10 move to market over a short period of time represents  
11 a lot of risk, from a future investment standpoint,  
12 from an impact from a financial standpoint. Those  
13 are the types of risks I'm referring to.

14 Q. And when you say "move to market," can  
15 you tell me what you mean by "market"?

16 A. "Market" as defined by the Public Utility  
17 Commission of Ohio.

18 Q. And you say there that -- strike that.

19 The balance of the page on page 4, again,  
20 we talked about this a moment ago, you reference  
21 AEP's litigation position. Am I correct that AEP's  
22 litigation position is that the Public Utilities  
23 Commission of Ohio does not have authority to  
24 establish a wholesale capacity price that applies to  
25 a competitive retail electric supplier?

1 A. Can you say that again?

2 Q. Yeah.

3 A. Remember, I'm not a lawyer.

4 Q. Yes. You are a senior manager.

5 A. Not a lawyer.

6 Q. Yes. Is it your understanding that AEP's  
7 litigation position is that the Public Utilities  
8 Commission of Ohio does not have the authority to  
9 establish a wholesale capacity price that AEP Ohio  
10 may charge to a competitive retail electric supplier?

11 A. I'd have to check with counsel on what  
12 our specific litigation position is. I can say that  
13 AEP believes -- knows that it has a contract with PJM  
14 for FRR capacity.

15 Q. Okay. And in the balance of the page 4  
16 that I've referenced you to there, you say that --  
17 you're reserving the right to pursue any legal  
18 remedies or avenues of relief before any  
19 administrative agency or federal or state court.  
20 What is your understanding of the meaning of those  
21 words?

22 A. Those words do not reflect probability or  
23 desire or ultimately reflect what we will do. Those  
24 words represent what we believe to be legitimate  
25 legal positions regarding an FRR capacity contract.

1           Q.    Okay.  Would you agree with me that  
2           you're asking in the modified ESP proposal for the  
3           PUCO to approve a wholesale capacity price that  
4           applies to a competitive retail electric supplier?

5           A.    Would you repeat the question?

6           Q.    I'll restate it.

7                        Would you agree with me, sir, that in the  
8           modified ESP proposal that you are speaking to in  
9           your testimony that AEP Ohio is asking the Public  
10          Utilities Commission of Ohio to approve a wholesale  
11          capacity price that applies to a competitive retail  
12          electric supplier?

13          A.    AEP Ohio has a contract for capacity  
14          that's FRR, so from our perspective we haven't been  
15          participating in a competitive environment as you've  
16          described it.

17                       Moreover, AEP Ohio's position is that for  
18          more than a decade, as I suggested earlier, that  
19          every time AEP Ohio either asked to go to market or  
20          circumstance otherwise suggested that market prices  
21          were high, that AEP Ohio was asked not to go to  
22          market.

23                       We're also representing that in Senate  
24          Bill 221 there obviously were two provisions  
25          provided; one, a market-rate option, and a second is

1 to file an ESP that was a more cost-based regulated  
2 type option, and that AEP Ohio was again asked to not  
3 take its generation to market.

4 For all those reasons of fairness over a  
5 decade or more of providing low-cost electricity to  
6 our customers, what we're asking for is a fair  
7 transition to go and respond to what is now a change  
8 in policy from the Public Utility Commission to  
9 certainly advocate a more rapid movement to market.

10 We think that in the spirit of fairness  
11 and the reality, again, I'm a businessperson, reality  
12 is we were asked not to go to market for a long time,  
13 we respect the Public Utility Commission of Ohio's  
14 desire to go to market now, but we ask that in  
15 response and in fair consideration for being asked  
16 not to go to market for over a decade, a fair and  
17 reasonable transition.

18 MR. RANDAZZO: I move to strike the  
19 answer. Not responsive to the question.

20 MR. SATTERWHITE: Your Honor, this  
21 witness is sponsoring the overall plan, and he asked  
22 a question on what's in the plan, and he was trying  
23 to give the context of what's being proposed and why  
24 it's being proposed. I think it's absolutely  
25 relevant.

1 EXAMINER TAUBER: The motion to strike is  
2 denied. He is going towards the balance.

3 Q. Well, let me try again, Mr. Powers. Do  
4 you agree that in the modified ESP proposal that AEP  
5 is presenting you're asking the Public Utilities  
6 Commission of Ohio to approve a wholesale capacity  
7 price that applies to a competitive retail electric  
8 supplier serving retail customers in the distribution  
9 service area of AEP Ohio?

10 A. I believe what AEP Ohio is asking in the  
11 ESP is that for a utility, AEP Ohio, that is not at  
12 market, is operating under an FRR contract, that we  
13 ask the Commission to consider a fair and reasonable  
14 transition to market with discounted capacity, early  
15 auction, and a number of other features that provide  
16 benefit to both CRES providers, customers, and is  
17 reasonably sensitive to the circumstance of AEP Ohio,  
18 that's what we believe we're asking for.

19 MR. RANDAZZO: I'd move to strike and ask  
20 the witness be instructed to answer the question.

21 MR. SATTERWHITE: Your Honor, I believe  
22 he said it includes discounted capacity. He's --  
23 just because he's saying what else is in the plan  
24 isn't a reason to strike. The question is are we  
25 providing a wholesale capacity price, and he said we

1 are providing, or asking for the Commission to  
2 provide discounted capacity as part of this.

3 EXAMINER TAUBER: The motion to strike is  
4 denied.

5 Q. Do you know what a wholesale price is?

6 A. Generally speaking.

7 Q. Is a wholesale price subject to the  
8 jurisdiction of the Federal Energy Regulatory  
9 Commission as you understand it? And you can say you  
10 don't know if you don't know.

11 A. I know the Federal Energy Regulatory  
12 Commission has broad responsibility for wholesale  
13 power.

14 Q. Are you proposing a wholesale capacity  
15 price as part of the modified ESP proceeding?

16 MR. SATTERWHITE: Your Honor, I'll  
17 object. I think the witness has already stated the  
18 price that's being offered is an offer off of the  
19 price that we believe is the proper price from the  
20 10-2929 case; that's why he continues to say it's  
21 part of a package.

22 The question that's being asked is are we  
23 establishing a new price as if trying to replace  
24 something as the true wholesale price. The witness  
25 has multiple times repeated it's part of a package,

1 an offer off of the overall wholesale price.

2 MR. RANDAZZO: May I be heard?

3 EXAMINER TAUBER: Yes.

4 MR. RANDAZZO: Everybody in the room  
5 knows, because we just came out of the hearing, that  
6 AEP's legal position is that this Commission has no  
7 jurisdiction to approve a wholesale capacity price.  
8 It's the position that AEP has advocated at the  
9 Federal Energy Regulatory Commission, it's the  
10 position that AEP's witnesses have taken in the  
11 10-2929 case.

12 And I'm asking this witness a very simple  
13 question about what's in the modified ESP and whether  
14 or not the capacity price, as he understands it, is a  
15 wholesale capacity price. I think it's a fair  
16 question. And I've not heard an answer yet.

17 EXAMINER TAUBER: And the Bench directs  
18 the witness to answer the question.

19 A. Again, I've provided a lot of context to  
20 repeat that, however, I'll have to talk to counsel  
21 about whether it's a wholesale price or not. I'm not  
22 a lawyer so I've not described -- I don't know in  
23 direct answer to your question but I've provided a  
24 lot of context about what we're trying to accomplish.

25 Q. (By Mr. Randazzo) We'll get to the

1 quality of your knowledge with regard to the context  
2 momentarily.

3 Now, you've mentioned a couple of times  
4 already your FRR contract. Is it your understanding  
5 that AEP Ohio is an FRR entity?

6 A. I believe so.

7 Q. And what is that belief based on?

8 A. I believe based on general discussion  
9 with the AEP team that's my impression. I don't have  
10 expert knowledge on whether it was AEP Ohio or -- I  
11 believe so. I've given you my answer.

12 Q. Do you know what the reliability  
13 assurance agreement is as it relates to the PJM  
14 market structure?

15 A. I'm not familiar with that document or  
16 agreement.

17 Q. Do you know from -- when you use "FRR,"  
18 can you tell me what the initials stand for?

19 A. I believe it's "fixed resource  
20 requirements."

21 Q. And is that an option or a requirement in  
22 the PJM market structure?

23 A. I believe it's an option.

24 Q. And how long have you been an FRR entity,  
25 as you understand it?

1           A.    I don't remember the exact time we  
2 committed to --

3           Q.    2007?

4           MR. SATTERWHITE:  Objection, your Honor,  
5 if the witness could be allowed to finish his answer,  
6 we'd appreciate it.

7           EXAMINER TAUBER:  Mr. Randazzo, please  
8 let the witness finish.

9           MR. RANDAZZO:  I thought I was helping  
10 him finish.

11          A.    I was going to add, Mr. Randazzo, that I  
12 believe it was in the 2006-2007 timeframe.

13          Q.    All right.  And since 2007, am I correct  
14 that the methodology for capacity pricing to  
15 competitive retail electric suppliers that AEP Ohio  
16 has used has been the RPM-based capacity price?

17          A.    Could you repeat your question, please?

18          Q.    Sure.  Let me restate it.

19                Am I correct since the time of the  
20 election of the FRR status that AEP Ohio has priced  
21 capacity to competitive retail electric suppliers  
22 based upon the reliability pricing model pricing  
23 structure within PJM?

24          A.    What I'd say in response to your question  
25 is there was no shopping in AEP Ohio, the caveat to

1 speak of, generally speaking, no shopping until  
2 mid-year 2010, so I'm not sure we were in a position  
3 until 2010 to offer capacity at RPM.

4 What I also would add, that in 2010 when  
5 shopping started, that AEP did offer capacity at RPM  
6 but very soon afterwards sought clarification at the  
7 Federal Energy Regulatory Commission for its  
8 FRR-based capacity.

9 Q. So are you aware of other ways in which  
10 AEP Ohio advocated in favor of the use of RPM-based  
11 capacity pricing before this Commission during  
12 various proceedings commencing in 2007?

13 A. I don't remember saying we abdicated  
14 anything.

15 Q. I said "advocated" for.

16 A. Oh, "advocated."

17 Q. Supported, yes.

18 A. Supported?

19 Q. The use of RPM-based pricing for  
20 establishing the capacity pricing component for  
21 retail electric rates.

22 A. Would you like to refer me to something  
23 specific? I don't remember anything off the top of  
24 my head.

25 Q. Okay. Would it surprise you to know that

1 AEP advocated in favor of RPM-based pricing for  
2 capacity in numerous proceedings before this  
3 Commission beginning in 2007?

4 A. I don't know how to respond to whether  
5 I'd be surprised or not. I don't know what you're  
6 referring to.

7 Q. Okay. Sitting here today you're unaware  
8 of any circumstances in which AEP Ohio supported the  
9 use of RPM-based capacity pricing for purposes of  
10 establishing retail electric rates in Ohio.

11 A. You've provided no context or no  
12 examples, I --

13 Q. For ratemaking purposes.

14 A. Off the top of my head I don't recall.

15 Q. Would that have been something that you  
16 would have looked at for purposes of preparing your  
17 testimony? In other words, as part of the context  
18 that you provided earlier would you have looked to  
19 see whether or not AEP's position today is consistent  
20 with the position that AEP Ohio has advocated in the  
21 past?

22 MR. SATTERWHITE: I'll object, your  
23 Honor. I think the questions earlier were support  
24 and advocate; there's no way to tell what  
25 Mr. Randazzo means by that. Now he's asking if it's

1 consistent with support or advocate from before. The  
2 numbers could have appeared in something before, a  
3 different pleading, it doesn't mean they were  
4 supported or advocated, they could have just been  
5 used by the company and Mr. Randazzo is trying to  
6 make a comparison to a document he hasn't produced,  
7 just an assertion out there.

8 EXAMINER TAUBER: Would you clarify your  
9 question, Mr. Randazzo?

10 MR. RANDAZZO: We'll get -- I'll withdraw  
11 it.

12 EXAMINER TAUBER: Thanks.

13 Q. Now, let's go to page 7 of your  
14 testimony. Actually, if we could go to page 9 first,  
15 at the top of page 9, and I think this is some of the  
16 context that you've enjoyed sharing with us  
17 previously in your answers today, but at the top of  
18 page 9, the first sentence that starts on that page,  
19 you say "Thus, AEP Ohio's experience during the  
20 Senate Bill 3 restructuring era was that the  
21 Commission would not move towards competition (in an  
22 apparent effort to protect customers from higher  
23 market-based rates) and acted to prevent utilities  
24 from collecting the higher market-based rates,  
25 instead pushing utilities toward a regulated

1 structure."

2 Did I read that sentence correctly?

3 A. You're a good reader. Yes, I believe you  
4 read it correctly.

5 Q. Thank you. I work at it.

6 And is the statement there, is your  
7 reasoning for that statement reflected on the prior  
8 pages, pages 7 and 8, beginning at the question at  
9 line 11 on page 7?

10 A. You've gone from page 9 to page 7 and  
11 back, so what would you like me to respond to?

12 Q. Yeah, it's not a trick question. The  
13 conclusion your offer in page 9, are the statements  
14 that you made on page 7 and 8, do those reflect the  
15 reasoning for the conclusion that you offer at the  
16 top of page 9?

17 A. Give me a second.

18 Q. Sure.

19 A. Yes, I believe the testimony starting on  
20 page 7 leading up to the lines that you read on page  
21 9 provides context for that conclusion.

22 Q. Okay. And you say on page 7 beginning at  
23 the answer on line 13 that "After the passage of  
24 Senate Bill 3 in 1999, AEP Ohio did not seek recovery  
25 of stranded investment costs for its generation

1 fleet." Do you see that sentence?

2 A. Yes, I do.

3 Q. Do you believe that's a true statement?

4 A. I believe it's true to the best of my  
5 knowledge.

6 Q. What inquiry did you make to determine  
7 whether or not AEP Ohio sought recovery of stranded  
8 investment costs for its generation fleet?

9 A. In the preparation of this testimony I  
10 gathered various members of the AEP regulatory team  
11 and legal team that had experience and involvement in  
12 the period of history that's described here, and I  
13 used my own general knowledge as an AEP executive of  
14 what happened during this period of time, and based  
15 on that collective wisdom what I was generally aware  
16 of and what those members of the regulatory and legal  
17 team were aware of came to that conclusion.

18 Q. Okay. And did you look at the  
19 application that American Electric Power-Ohio made to  
20 implement Senate Bill 3 that you referred to in line  
21 13?

22 A. I did not personally, no.

23 Q. Did you look at the case caption for the  
24 Commission proceeding dealing with the implementation  
25 of Senate Bill 3 for AEP Ohio?

1           A.    Again, I've described what I used as a  
2 resource to come to that conclusion.

3           MR. RANDAZZO: Your Honor, I'm handing  
4 out several pages from the electric transition plan  
5 order for AEP Ohio, which was then known as Columbus  
6 & Southern and Ohio Power, and ask that it be marked  
7 as IEU Exhibit 104.

8           EXAMINER TAUBER: So marked.

9           (EXHIBIT MARKED FOR IDENTIFICATION.)

10          Q.    Mr. Powers, do you have before you what's  
11 been marked for identification purposes as IEU  
12 Exhibit 104?

13          A.    I do.

14          Q.    Would you accept, subject to check, these  
15 are pages from the Commission's Docketing Information  
16 System dealing with AEP Ohio's, then-Columbus  
17 Southern and Ohio Power, implementation of Senate  
18 Bill 3?

19          A.    Let me take a minute to read it.

20                Mr. Randazzo, what was your question?

21          Q.    Would you agree to accept, subject to  
22 check, that these are pages from the Commission's  
23 Docketing Information System dealing with the  
24 Commission's opinion and order addressing the  
25 electric transition plan for Columbus Southern and

1 Ohio Power associated with the implementation of  
2 Senate Bill 3?

3 A. What's the "subject to check" mean?

4 Q. It means -- it's a convention we use,  
5 Mr. Powers. It is designed to streamline the process  
6 of cross-examination in circumstances where  
7 information is readily available for you to check the  
8 accuracy of a statement I make. And I'm suggesting  
9 to you that this is a document that's on file with  
10 the Commission and I'm simply asking you to take my  
11 word for it. Remember, you're not a lawyer.

12 A. Yeah, I remember that.

13 Q. Let me withdraw the question.

14 Mr. Powers, do you see on page Roman  
15 Numeral ii of what has been marked for identification  
16 purposes as IEU Exhibit 104 --

17 A. I'm sorry, Mr. Randazzo?

18 Q. Roman numeral ii, double i.

19 MR. SATTERWHITE: Sam, if this helps, we  
20 can stipulate with the mark of the Commission on here  
21 that this is from the Commission's docket.

22 MR. RANDAZZO: Thank you.

23 Q. Mr. Powers, would you turn to small i,  
24 double i, which is the second page on IEU Exhibit  
25 104?

1           A.    I think I'm with you.

2           Q.    Okay.  Do you see the third numbered item  
3 on that page?

4           A.    Could you read what you're referring to?

5           Q.    Yes.

6           A.    Or restart the sentence.

7           Q.    Well, are you aware that the electric  
8 transition plan that implemented Senate Bill 3 for  
9 Ohio Power and Columbus & Southern was adopted by the  
10 Commission through a stipulation and recommendation  
11 that was presented to the Commission?

12          A.    I don't recall.

13          Q.    Okay.  The third numbered item that I was  
14 referring to is "Commit AEP to absorb certain costs  
15 associated with transitioning to a competitive  
16 marketplace."  Do you see that line just --

17          A.    Yes, I do.

18          Q.    Okay.  Are you aware of what costs AEP  
19 committed to absorb as part of the transition to a  
20 competitive marketplace?

21          A.    No, I'm not.

22          Q.    Okay.  Would you turn to the table of  
23 contents page which is the next page.  Under Roman  
24 numeral III in the table of contents and A,  
25 "Unbundling Plan and Transmission Costs," do you see

1 No. 4, "Generation Transition Charges and Stranded  
2 Generation Benefits"? Do you see that line?

3 A. Just to show I'm paying attention, I  
4 think you said "Unbundling Plan and Transmission  
5 Costs." I do see the line that says "Unbundling Plan  
6 and Transition Costs."

7 Q. Yes, I am -- thanks for the correction  
8 and now I know --

9 A. I forgot what you asked me.

10 Q. Do you see the line that says "Generation  
11 Transition Charges and Stranded Generation Benefits"?

12 A. Is that line No. 4 that you're referring  
13 to?

14 Q. That is correct.

15 A. Yes, I see that.

16 Q. On page 15, according to the table of  
17 contents.

18 A. I believe that's right.

19 Q. And do you know what "transition  
20 revenues" refer to for purposes of the implementation  
21 of Senate Bill 3?

22 A. From discussion with the team, I  
23 understand there was a specific definition but I  
24 don't know the detail.

25 Q. Would you turn to the last page in what

1 has been marked for identification purposes as IEU  
2 Exhibit 104 and the case caption. Do you see the  
3 case caption?

4 A. I don't know what a "case caption" is.

5 Q. A case caption is the -- on the left-hand  
6 side is the title of the case and on the right-hand  
7 side you'll see case numbers. It's right beneath  
8 "The Public Utilities Commission of Ohio." Right at  
9 the top of the page.

10 A. Okay.

11 Q. Do you see in that an indication that  
12 Columbus Southern Power Company and Ohio Power  
13 Company sought approval for the receipt of transition  
14 revenues?

15 A. I see words that describe this. I can  
16 read them.

17 Q. Okay. So you wouldn't know whether or  
18 not that case caption that I've just directed you to  
19 describes what Columbus Southern and Ohio Power were  
20 seeking for purposes of implementing Senate Bill 3;  
21 is that correct?

22 A. Again, I've described what I relied on  
23 for the statement you referred to back on page 7, so  
24 I wouldn't have any more detailed knowledge.

25 Q. Okay.

1 MR. RANDAZZO: Your Honors, I'm handing  
2 out some pages from Columbus & Southern Power FERC  
3 Form 1 from 2001 beginning at page 123, and I would  
4 ask that it be marked for identification purposes as  
5 IEU Exhibit 105.

6 EXAMINER TAUBER: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. Mr. Powers, do you have what is before  
9 you -- before you what has been marked for  
10 identification purposes as IEU Exhibit 105?

11 A. Yes, I do.

12 Q. Would you accept, subject to check, that  
13 these are pages from the Federal Energy Regulatory  
14 Commission Form 1 for the year 2001 for Columbus &  
15 Southern Power? Or will your counsel stipulate that  
16 they are.

17 MR. SATTERWHITE: Yeah, we'll stipulate  
18 that's authentic.

19 Q. Okay. Mr. Powers, are you familiar with  
20 what the FERC Form 1 is?

21 A. Only generally.

22 Q. And what's your understanding?

23 A. Beyond it's a required report to FERC, I  
24 really don't have a -- it's not something I deal with  
25 on a day-to-day basis.

1 Q. Okay.

2 A. And certainly not back in 2001.

3 Q. All right. Looking at the first page of  
4 IEU Exhibit 105 in the fourth paragraph under  
5 "Significant Accounting Policies," which appears at  
6 the top of that page, the fourth paragraph begins "As  
7 a cost-based rate regulated entity...."

8 A. Okay.

9 Q. Do you see that paragraph?

10 A. I do see that paragraph.

11 Q. Do you see the last sentence of that  
12 paragraph that indicates the "Application of SFAS 71  
13 for the generation portion of the business was  
14 discontinued in Ohio and the Federal Energy  
15 Regulatory Commission"?

16 A. I see that sentence.

17 Q. And then it directs you to note 3,  
18 "Customer Choice and Industry Restructuring" for  
19 additional information, correct?

20 A. That's what it says, certainly.

21 Q. All right. Would you turn to page, it's  
22 the second page of IEU Exhibit 105, and FERC Form 1  
23 numbering is sometimes confusing, but at the bottom  
24 of the page it has page 123.5. It's the second page  
25 of IEU Exhibit 105.

1           A.    I see that page.

2           Q.    And do you see there the description of  
3 what happened in Ohio as a result of Ohio's  
4 restructuring legislation?

5           A.    No, I don't know what you're referring  
6 to.

7           Q.    Do you see the note 3, "Customer Choice  
8 and Industry Restructuring" that begins at the bottom  
9 of the page?

10          A.    Okay, it's item No. 3.

11          Q.    Yeah.

12          A.    The note that you're referring to.

13          Q.    Yeah. "Customer Choice and Industry  
14 Restructuring." Do you see that, the text that  
15 begins under item 3?

16          A.    I see it.

17          Q.    Would you read the text to yourself that  
18 begins on the bottom of page 123.5 and continues  
19 through the second full paragraph on page 123.6.

20          A.    Besides reading are you going to ask me  
21 questions about it?

22          Q.    I certainly am.

23          A.    Then I think I'd like to take the time to  
24 read the whole document.

25          Q.    It's your choice.

1 MR. SATTERWHITE: Your Honor, the witness  
2 has been up for two hours, do you want to give  
3 everyone a break and read the document then or do it  
4 while he's on the stand? At some point I'm going to  
5 ask for a break soon.

6 EXAMINER TAUBER: Let's keep rolling for  
7 now.

8 MR. SATTERWHITE: Okay. Thank you.

9 A. What does it mean when the page numbers  
10 go from 123 to 123.5?

11 Q. That's the way the FERC Form 1 numbering  
12 system works, FERC specifies certain information be  
13 reported on certain pages.

14 MR. SATTERWHITE: Just to be clear,  
15 Mr. Randazzo, are you stating there are not missing  
16 pages, just the number --

17 MR. RANDAZZO: There are not missing  
18 pages in the portion to which I have referred the  
19 witness.

20 MR. SATTERWHITE: So what we're talking  
21 about is that when you start at note 3, there's a --  
22 not missing pages between the front pages of the  
23 document and when note 3 starts, right?

24 MR. RANDAZZO: That's correct.

25 MR. SATTERWHITE: Okay.

1           A.    Well, I thought getting a senior reactor  
2 operator's license was hard.

3           MR. RANDAZZO:   Could I have his statement  
4 read back?

5           (Record read.)

6           Q.    Well, I actually, Mr. Powers, I admire  
7 people that read documents very carefully, and I'm  
8 sure you exercise the same degree of care in other  
9 portions of your testimony.  Let's get to the  
10 questions now.

11           Is the text at the bottom of page 123.5,  
12 continuing to the top of page 123.6 and ending with  
13 the first sentence, full sentence, on that page that  
14 ends with the word "services," is that consistent  
15 with your understanding of what happened in Ohio with  
16 regard to Senate Bill 3?

17           A.    I'm sorry, I lost you as to what section  
18 of text you're referring to.

19           Q.    The text that begins under "Customer  
20 Choice and Industry Restructuring," note 3, are you  
21 with me?  Bottom of page 123.5.

22           A.    123.5, oh.

23           Q.    Yes.

24           A.    Okay.

25           Q.    Do you need to read it again?  Page

1 123.5.

2 A. I'm on page 123.5.

3 Q. Do you see the note 3, "Customer Choice  
4 and Industry Restructuring"?

5 A. Correct. I see it.

6 Q. Do you see it? Do you see the text that  
7 begins under that heading and continues on to the top  
8 of page 123.6 ending with the word "services," the  
9 first full sentence on page 123.6?

10 A. Uh-huh.

11 Q. Is that description and the text to which  
12 I've referenced you consistent with your  
13 understanding of Senate Bill 3 and its effect on  
14 electric restructuring in Ohio?

15 A. Mr. Randazzo, I'm neither a regulatory  
16 accountant nor a regulatory attorney, so my answer is  
17 I really -- as I read this document that deals with a  
18 lot of regulatory accounting, I can't agree with your  
19 statement. And I've described the input from the  
20 team that I used to generally arrive at perspectives  
21 on the period of time and my own observations as an  
22 executive.

23 Q. All right. Let's do this the hard way.

24 Do you agree that prior to 2001 customer  
25 choice/industry restructuring legislation was passed

1 in Ohio allowing retail customers to select  
2 alternative generation suppliers?

3 A. I believe if that's referring to Senate  
4 Bill 3 that would be directionally correct.

5 Q. "Directionally correct."

6 A. Yeah.

7 Q. Okay. And do you agree customer choice  
8 began on January 1, 2001, in Ohio?

9 A. I can't confirm --

10 Q. At least directionally.

11 A. I can't confirm that specific date.

12 MR. SATTERWHITE: Objection, your Honor,  
13 if witness can give his answer without having  
14 Mr. Randazzo give the adjectives for his answer, we'd  
15 appreciate it.

16 MR. RANDAZZO: I'm sorry.

17 Q. You cannot of your own knowledge  
18 determine whether or not it's correct that customer  
19 choice in Ohio began on January 1, 2001; is that your  
20 statement?

21 A. That's correct.

22 Q. If you'd turn to the next page, 123.6, is  
23 it your understanding Senate Bill 3, otherwise  
24 referred to as the Ohio Act in this document,  
25 provided for a five-year transition period to move

1 from cost-based rates to market pricing for electric  
2 generation supply services? Do you agree with that  
3 statement?

4 A. I believe I recall that.

5 Q. Do you agree that Senate Bill 3 granted  
6 the Public Utilities Commission of Ohio broad  
7 oversight responsibility for promulgation of rules  
8 for competitive retail electric generation service,  
9 approval of transition plans for each electric  
10 utility company, and addressed certain major  
11 transition issues, including unbundling of rates and  
12 the recovery of stranded costs including regulatory  
13 assets and transition costs?

14 A. At the time of this document in 2001 I  
15 was either chief nuclear officer, or late in 2001,  
16 this is December 2001, I would have moved to Columbus  
17 in December of 2001. I was a member of AEP executive  
18 management so I had some general knowledge about what  
19 the Ohio issues were, but I can't confirm the detail  
20 that you just referred to in this document.

21 Q. Okay.

22 A. In any level of detail.

23 Q. You understand these are Columbus &  
24 Southern's representations in IEU --

25 A. That's fine, but you asked me if I could

1 confirm.

2 Q. I tried to do it the easy way, all right,  
3 and -- do you have any reason to disagree with the  
4 statements that I've just read from what has been  
5 marked as IEU Exhibit 105?

6 A. I have no personal reason to, but I refer  
7 you to Tom Mitchell, regulatory accountant, that  
8 could give you more perspective on that.

9 Q. Okay. Now, in your testimony you say  
10 AEP Ohio did not seek recovery of stranded investment  
11 costs for its generation fleet, back at page 7.  
12 Would you turn to -- would you turn to page 123.7.

13 A. 123.7. I'm there.

14 Q. And would you look at the next to -- the  
15 last paragraph on that page before the heading  
16 "Commitments and Contingencies," which is No. 4.

17 A. I'm sorry, the paragraph before that?

18 Q. The paragraph right before the heading  
19 "Commitments and Contingencies," the paragraph begins  
20 with "Prior to 1999...."

21 A. Okay.

22 Q. Do you have any reason to disagree with  
23 the statement in that paragraph that says that "As a  
24 result of deregulation of generation, the application  
25 of SFAS 71 for the generation portion of the business

1 in Ohio was discontinued"?

2 MR. SATTERWHITE: At this point I'll  
3 object, your Honor. I believe the witness stated  
4 he's not familiar with the accounting terms.

5 MR. RANDAZZO: I'll withdraw the  
6 question.

7 MR. SATTERWHITE: Thank you.

8 Q. Let's jump forward one sentence, the  
9 sentence that begins with "Management." In that same  
10 paragraph. Am I correct that in 2001 Columbus &  
11 Southern's FERC Form 1 stated that "Management  
12 believes that substantially all generation-related  
13 regulatory assets and stranded costs will be  
14 recovered under the terms of the transition plans"?

15 A. I see that sentence.

16 Q. Do you have any reason to disagree with  
17 it?

18 A. I don't know what happened from this date  
19 forward, so I don't know whether that statement was  
20 borne out or not.

21 Q. If future events -- do you see the next  
22 sentence, it says "If future events were to make  
23 their recovery no longer probable, the Company would  
24 write off the portion of such regulatory assets and  
25 stranded costs deemed unrecoverable as a noncash

1 extraordinary charge to earnings"? Do you see that  
2 sentence?

3 A. I do see that sentence.

4 Q. Do you have any reason to disagree with  
5 it?

6 A. I'd answer it the same way that I  
7 answered in response to your last reference to the  
8 previous sentence.

9 Q. Having looked at the Form 1 from 2001 for  
10 Columbus & Southern and the references to which I've  
11 directed your attention and we've just discussed, do  
12 you believe that the statement in your testimony at  
13 page 7 that "AEP Ohio did not seek recovery of  
14 stranded investment costs for its generation fleet"  
15 is a true statement?

16 A. Based on the input I received from my  
17 team and legal, I would say yes.

18 Q. All right. On page 7 beginning at line  
19 14 of your testimony you say that "AEP Ohio has  
20 provided below-market generation rates for the past  
21 decade, using its low-cost generating assets." And  
22 tell me what you mean by "low-cost generating  
23 assets."

24 A. Through the period of time that I've  
25 previously referred to, 1999 on, a combination of

1 AEP's large and efficient coal units, the low price  
2 of coal, the availability of that generation is what  
3 I'm referring to.

4 Q. Are those generation assets still low  
5 cost?

6 A. Would you define "low cost"?

7 Q. As you use the term.

8 A. Those generating assets, many of those  
9 generating assets, would be online today keeping the  
10 lights on in this building, so from that perspective  
11 I would conclude that they are low-cost assets.

12 Q. Are they competitive?

13 A. Could you define "competitive"?

14 Q. Well, strike the question.

15 Now, at the bottom of page -- or, toward  
16 the bottom of page 7 at line 20, and again this is  
17 some of the context that you shared with us earlier,  
18 you say "...the Commission ordered EDUs to avoid  
19 market-based rates and provide rate stabilization  
20 plans," and in parentheses you have "(RSPs)." And  
21 you have a footnote No. 1.

22 Is the footnote that you have there the  
23 basis for your statement that the Commission ordered  
24 EDUs to avoid market-based rates and provide rate  
25 stabilization plans?

1           A.     Footnote, Mr. Randazzo, is I think an  
2     excellent example of the Commission's opinion on this  
3     issue, but it's an example.

4           Q.     Well, is the example there that you  
5     provide the basis for your statement that the  
6     Commission ordered EDUs to avoid market-based rates  
7     and provide rate stabilization?

8           A.     I'm sorry, is there a question in there?

9           Q.     Yeah.

10          A.     I missed it.

11          Q.     Is the footnote the basis for your  
12     statement? You were kind enough to give us a  
13     citation, I assume that the citation had something to  
14     do with the statement, being a lawyer, my problem,  
15     but at page 20 you have essentially attributed to the  
16     Commission an order directed at EDUs to avoid  
17     market-based rates and provide rate stabilization  
18     plans.

19                 My question is: Is the footnote designed  
20     to provide us with the source of information for your  
21     conclusion?

22          A.     It's one of the sources, and also if you  
23     note at the top of page 8, in AEP Ohio's own RSP  
24     case, great quote from the Commission, it says at the  
25     outset, we'll note AEP's proposed a rate

1     stabilization plan because we asked for it, requested  
2     it.

3             Q.     Yeah.

4             A.     So, I mean, it is a good example.  There  
5     are other examples cited.

6             Q.     Did you read the opinion and order in the  
7     Dayton Power & Light case that's referenced in your  
8     footnote No. 1?

9             A.     I read the specific citation.  I did not  
10    read the full order.

11            Q.     Okay.  So you did at least read page 29.

12            A.     I did.

13            Q.     All right.  And you're not relying on  
14    some member of your team to advise you with regard to  
15    what that order said; this is based upon your  
16    personal knowledge, correct?

17            A.     I looked at the specific citation on the  
18    page.

19            Q.     You read page 29, you're not relying on  
20    any member of your team, you read page 29.

21                   MR. SATTERWHITE:  I'll object to the form  
22    of the question.  I don't know what the basis of this  
23    is.

24                   MR. RANDAZZO:  I'll withdraw that  
25    question.

1           Your Honor, I would ask to have marked  
2       for identification IEU Exhibit 106.

3           EXAMINER TAUBER:   So marked.

4           (EXHIBIT MARKED FOR IDENTIFICATION.)

5           MR. RANDAZZO:   This is the opinion and  
6       order in the case to which the witness referred.

7           Q.   Mr. Powers, do you have before you what's  
8       been marked for identification purposes as Exhibit  
9       106?

10          A.   Yes.

11          Q.   IEU Exhibit 106?

12          A.   Yes.

13          Q.   Is that the order that you reference in  
14       your footnote on the bottom of page 7?

15          A.   Looks like it.

16          Q.   Okay. Do you see that this proceeding  
17       dealt with numerous cases, and you can tell that by  
18       looking at the front pages and seeing all the case  
19       numbers? Or will you accept that subject to check?  
20       Or will your counsel stipulate?

21               MR. SATTERWHITE: I'm sorry, what was the  
22       question?

23               MR. RANDAZZO: This order dealt with a  
24       number of cases before the Commission. Will you  
25       stipulate to that?

1           MR. SATTERWHITE: I think the document  
2 can speak for itself.

3           Q. Now, do you know whether or not this  
4 order dealt with a circumstance in which Dayton Power  
5 & Light's market development period was scheduled to  
6 end on December 31st, 2003? If you know.

7           A. What I know, and I think the footnote was  
8 helpful in describing, is that during this period the  
9 Public Utility Commission of Ohio, when market prices  
10 were high, asked utilities whose rates were below  
11 market to file RSPs to stable our market, and the  
12 citation was useful in illustrating that point.

13          Q. Well, do you know whether or not this  
14 case, the case that you cite in the footnote, was  
15 initiated by Dayton Power & Light to avoid the early  
16 termination of its market development period?

17          A. Mr. Randazzo, as a senior executive at  
18 AEP during this period I knew everybody in the state  
19 of Ohio knew what was being asked for during that  
20 period. Market prices were high, RSPs were asked for  
21 from the utilities to keep the rate impact of  
22 flashing to market -- to abate that.

23               I'm citing this case as an example of the  
24 Commission using the RSP, the request for the RSP, to  
25 follow that public policy. I haven't studied the

1 case in any more detail than that.

2 Q. Okay. So the answer to my question would  
3 be you don't know.

4 A. Could you repeat your question.

5 Q. Yeah. Are you aware of whether or not  
6 this case that you cite in footnote 1 was initiated  
7 by Dayton Power & Light to avoid the early  
8 termination of its market development period?

9 A. I'd have to answer I don't know.

10 Q. Now, let's go to page 13 of IEU Exhibit  
11 106. Top of the page. Are you there?

12 A. Top of the page.

13 Q. Page 13.

14 A. Page 13.

15 Q. Do you see title "Summary of  
16 Stipulation"?

17 A. I see that language.

18 Q. Does that suggest to you that maybe the  
19 case was resolved by a settlement?

20 A. It would suggest that.

21 Q. Would you look at the fourth full  
22 paragraph on that page, page 13.

23 A. The big, long paragraph?

24 Q. It's the fourth paragraph. It's the  
25 longest paragraph on the page, if it helps.

1           A.    Okay.

2           Q.    Now, do you see there, again in the first  
3 line a reference to the stipulation?

4           A.    The fourth line.

5           Q.    First line, fourth paragraph.

6           A.    I'm sorry, first line, fourth --

7           Q.    First line, fourth paragraph, do you see  
8 the word "stipulation"?

9           A.    Yes.

10          Q.    Do you see that the description offered  
11 by the Commission of the stipulation called for  
12 Dayton Power & Light to provide a market-based  
13 standard service offer to its customers during the  
14 RSP, or rate stabilization period?

15          A.    I see the words.

16          Q.    Do you know what the words mean?

17          A.    In the context of this case and  
18 stipulation, no, I don't have a context in which to  
19 understand what the words mean.

20          Q.    Do you know what the statutory  
21 requirements were at the point in time when this case  
22 was resolved through a settlement?

23          A.    Mr. Randazzo, again, as a senior  
24 executive at AEP I have relied -- in addition to the  
25 citation in the footnote, my general knowledge of

1     what was going on in Ohio and it was obvious to me  
2     and my colleagues at AEP that during this period the  
3     Public Utility Commission of Ohio didn't want  
4     utilities to go to market, to have rates below  
5     market. I think what was going on during that period  
6     of time is well established.

7             Q.     Well, I've heard you say that several  
8     times, Mr. Powers, and I don't have any problem with  
9     you saying it, but what I'm asking you about is your  
10    representation that this order is an example of the  
11    Commission ordering EDUs to avoid market-based rates  
12    and provide rate stabilization plans, all right? So  
13    that's the purposes of my questions.

14            Now, would you turn to -- would you turn  
15    to page 25. We're almost at 29. In the second full  
16    paragraph with the heading "2. Rate Stabilization  
17    Period," do you see -- do you see the second full  
18    paragraph?

19            A.     I see the section labeled "2. Rate  
20    Stabilization Period," yes.

21            Q.     Right. And do you see the sentence that  
22    begins towards the middle of that paragraph with the  
23    words "These rates will be the generation rates...."?  
24    Do you see that sentence?

25            A.     Not yet.

1           Q.    I believe it's the fourth sentence in the  
2 paragraph.  "These rates will be the generation  
3 rates...."?

4           A.    I'm sorry, I'm just not picking it out.  
5 Which line are we talking about?

6           Q.    I believe it's the fourth sentence in the  
7 second paragraph --

8           A.    Do you know which line?

9           Q.    It doesn't have --

10           MR. SATTERWHITE:  I think it's the sixth  
11 line down, the first word on it is "parties."

12           MR. RANDAZZO:  The first word in the  
13 line, that's correct.

14           A.    Then I'm in a different space, I've got  
15 bidding in the next line down.

16           MR. SATTERWHITE:  Next paragraph.

17           THE WITNESS:  Next paragraph?

18           Q.    Second paragraph.  Second full paragraph.

19           A.    Okay.

20           Q.    Fourth sentence that begins with "These  
21 rates will be the generation rates...."  Do you see  
22 that sentence?

23           A.    Yes.

24           Q.    Now, would you review the text starting  
25 with that sentence to the end of the paragraph,

1 that's paragraph 2.

2 A. Could you repeat again what you'd like me  
3 to review?

4 Q. Well, let's try coming up four lines from  
5 the bottom of that paragraph.

6 A. Is that the line that has "DP&L" --

7 Q. That's correct. Do you see the reference  
8 to "competitive bidding process"?

9 A. I see the words "competitive bidding  
10 process."

11 Q. Do you know how the competitive bidding  
12 process was employed for purposes of resolving the  
13 issues in this case?

14 A. I do not.

15 Q. So you don't know whether or not the  
16 Commission established a competitive bidding process  
17 to test to determine whether or not the rates  
18 produced during the rate stabilization plan were  
19 market based; is that correct?

20 A. Based on a quick review of this and  
21 thinking back to 2001, no, I just -- I'm not aware.

22 Q. All right. Would you look at the  
23 paragraph that starts at the bottom of page 25 and  
24 continues to the top of page 26. Do you know what  
25 the voluntary enrollment program was?

1 MR. SATTERWHITE: Your Honor, at this  
2 point I'll object. I think the witness testified  
3 that he relied on his general knowledge at the time,  
4 he relied on a citation on page 29, and going page by  
5 page through the document which, you know, we'll  
6 stipulate into the record, in fact, all of the  
7 footnotes that reference documents we can stipulate,  
8 we can even file those as exhibits and Mr. Randazzo  
9 can make whatever arguments he wants on brief, but I  
10 don't know what the utility in the time of this case  
11 of going through beyond what the witness said he  
12 relied upon within the order does for the record.

13 EXAMINER TAUBER: Mr. Randazzo.

14 MR. RANDAZZO: Yes, your Honor, I think  
15 the purpose of the cross-examination is to test the  
16 basis for the conclusion that this witness provides  
17 on page 7 of his testimony beginning at line 20 that  
18 says that "...the Commission ordered EDUs to avoid  
19 market-based rates and provide rate stabilization  
20 plans."

21 He cites an order. Apparently the only  
22 thing he read was page 29 and I'm trying to go  
23 through the order to identify places that are  
24 inconsistent with that conclusion.

25 MR. SATTERWHITE: And, your Honor, I

1 believe what he stated was this was one of the  
2 examples from his knowledge at the time and the  
3 language he cited supported that, and he also cites  
4 to other examples of that as merely examples.

5 And, as I said before, we're happy to  
6 make these documents exhibits and Mr. Randazzo can do  
7 whatever he wants to do with those on brief. I just  
8 don't know that we need to take up valuable hearing  
9 time going on page by page in each of these when the  
10 witness has testified to what he relied upon already  
11 and it wasn't these pages.

12 MR. RANDAZZO: I'll withdraw the  
13 question.

14 Q. (By Mr. Randazzo) Turn to page 26,  
15 Mr. Powers. The last paragraph that begins on page  
16 26, do you see the sentence "The Commission finds  
17 that the procedure set forth in the proposed  
18 stipulation does provide consumers with market-based  
19 rates"?

20 A. I see that sentence.

21 Q. Is that consistent with your  
22 understanding of what the Commission ordered in this  
23 case?

24 A. I have no basis to either agree with you  
25 or disagree with you.

1           Q.    Let's go to page 29.  Now, can you show  
2   me anywhere on this page where the Commission ordered  
3   EDUs to avoid market-based rates and provide rate  
4   stabilization plans or RSPs?  Take your time.

5           A.    I will, thank you.

6                    I believe it's in the paragraph starting  
7   "Although the Commission."

8           Q.    Okay.  And what words do you believe  
9   you've interpreted to reach the conclusion that the  
10   Commission ordered EDUs to avoid market-based rates?

11          A.    Starting with "...establish a plan for  
12   the continuation of the market development period for  
13   an additional two years as well as a plan for rate  
14   stabilization period and a market-based standard  
15   service offer."

16          Q.    Well, that relates to the stipulation  
17   that the Commission approved, doesn't it?

18          A.    I'm not a regulatory attorney, I just, I  
19   don't know whether stipulation or an order.

20          Q.    Well, you're an educated man.  Doesn't  
21   the language there say that although the Commission  
22   is approving the stipulation with certain  
23   modifications, "...we support the efforts of the  
24   stipulating parties to establish a plan for the  
25   continuation of the market development period...."?

1       Isn't the Commission there referring to the work that  
2       was done by the stipulating parties?

3             A.     That's a question?

4             Q.     Yes.

5             A.     As a lay person I understand it's  
6       referring to a stipulation.

7             Q.     Okay. So where on page 29 should we find  
8       the information that you relied upon to reach the  
9       conclusion that the Commission ordered EDUs to avoid  
10      market-based rates and provide rate stabilization  
11      plans?

12            A.     In my mind's eye the approval of a  
13      stipulation by the Commission is an endorsement of  
14      that policy.

15            Q.     Okay. Is there anything in the language  
16      on page 29 other than the Commission endorsing the  
17      efforts of the stipulating parties that causes you to  
18      believe that the Commission ordered EDUs to avoid  
19      market-based rates and provide rate stabilization?

20            MR. SATTERWHITE: Your Honor, I think  
21      we've beaten this horse. I think the witness has  
22      stated he relied on this entire paragraph here for  
23      the citation in his testimony. I think we're just  
24      reasking the same question.

25            MR. RANDAZZO: I'll withdraw the

1 question.

2 Q. Now --

3 MR. SATTERWHITE: Sam, if I can, if we're  
4 moving on off of this document is this a good time,  
5 the witness has been up for about three hours.

6 MR. RANDAZZO: We can break any time, I'm  
7 fine. Thank you. Thanks for asking.

8 EXAMINER TAUBER: At this time we'll take  
9 a lunch break for 30 minutes and we'll come back at  
10 1:35 -- 1:30. Let's go off the record.

11 (Thereupon, a lunch recess was taken at  
12 12:57 p.m.)

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1 Thursday Afternoon Session,

2 May 17, 2012.

3 - - -

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

6 Mr. Randazzo.

7 MR. RANDAZZO: Thank you, your Honors.

8 - - -

9 ROBERT P. POWERS

10 CROSS-EXAMINATION (Continued)

11 By Mr. Randazzo:

12 Q. Mr. Powers, before we broke we were  
13 talking about, we were discussing the opinion and  
14 order which is cited in your footnote No. 1. Can you  
15 tell me for purposes of preparing your testimony, was  
16 your testimony reviewed by others within AEP to check  
17 the accuracy of the statements in the document?

18 A. Yes, I think that's fair to say.

19 Q. Okay. Now, were you aware that there was  
20 a rehearing process associated with the Dayton Power  
21 & Light case that you reference on the bottom of the  
22 page? Page 7 in the footnote 1.

23 A. No, I'm not aware that there was a  
24 rehearing.

25 MR. RANDAZZO: Your Honors, prior to the

1 lunch break I distributed what I would like to have  
2 marked as -- to the Bench and to the reporter and to  
3 the witness, on the corner of the podium to the  
4 witness, what I would like to have marked as IEU  
5 Exhibit 107.

6 EXAMINER TAUBER: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. Mr. Powers, you should have a copy at  
9 your desk. Do you have a copy?

10 A. Yes, I do.

11 Q. Thank you.

12 I assume that you're aware, Mr. Powers,  
13 of the rehearing process associated with proceedings  
14 in Ohio before the Public Utilities Commission of  
15 Ohio.

16 A. Generally. In no detail.

17 Q. Now, will you turn to page 4 of what has  
18 been marked for identification purposes as IEU  
19 Exhibit 107. Let me know when you're there.

20 A. I'm on page 4.

21 Q. Now, with regard to what has been marked  
22 as IEU Exhibit 107, will you either accept subject to  
23 check or will your counsel stipulate that this is the  
24 entry on rehearing in the case that you cite on the  
25 bottom of page 7 at footnote 1?

1 MR. SATTERWHITE: Are you asking if this  
2 is the same case?

3 MR. RANDAZZO: It's the entry on  
4 rehearing in that case, yes. Will you stipulate to  
5 that?

6 MR. SATTERWHITE: I think we can  
7 stipulate that the docket can speak for itself. I  
8 don't know if there's multiple entries on rehearing  
9 but it's certainly the same case number.

10 MR. RANDAZZO: Will you stipulate that it  
11 is an entry on rehearing in the case that Mr. Powers  
12 cites at footnote No. 1?

13 MR. SATTERWHITE: Yeah, I think the  
14 document speaks for itself for that, so yes.

15 MR. RANDAZZO: Thank you.

16 Q. (By Mr. Randazzo) Now, Mr. Powers,  
17 turning to page 4, at the bottom of the page you see  
18 the paragraph that's labeled No. 11?

19 A. Yes, I see No. 11.

20 Q. Will you read the first two sentences in  
21 paragraph (a) underneath the paragraph 11.

22 A. Would you like me to read the first two  
23 sentences of section A?

24 Q. Yeah, to yourself.

25 A. Oh, thank you.

1 I've read the two sentences.

2 Q. Okay. As a layperson would you read  
3 those two sentences to indicate that the Commission's  
4 determination that the settlement we discussed  
5 previously with regard to the opinion and order you  
6 cite at the bottom of page 7 produced market-based  
7 rates was contested? Constellation and Strategic  
8 contested the Commission's determination that the  
9 rate stabilization plan produced market-based rates.

10 A. As a layperson I can't conclude that.

11 Q. Okay. Will you turn to page 6. Will you  
12 look at paragraph (e) and the bottom third of that  
13 paragraph. Do you see the sentence that says  
14 "Finally, the Commission also points out that it did  
15 not, in the opinion and order, require that all  
16 electric utilities adopt an identical RSP, regardless  
17 of their situations, but merely encouraged its  
18 consideration." Do you see that sentence?

19 A. I see the sentence.

20 Q. Is that consistent with your statement on  
21 the bottom of page 7 of your testimony that the  
22 Commission ordered EDUs to avoid market-based rates  
23 and provide rate stabilization plans, in your  
24 opinion?

25 A. My opinion, can you ask me questions to

1 parse the words about whether the Commission ordered,  
2 instructed, or encouraged. What happened in reality  
3 is the utilities were asked not to go to market and  
4 to file rate stabilization plans.

5 Sam, I'm surprised at your line of  
6 questioning, you were among some of the participants  
7 in those discussions as an intervening party  
8 representing the firms that you represent in saying  
9 that we shouldn't go to market because it's going to  
10 kill us. So we all know what happened.

11 I've cited examples to show what happened  
12 in the Duke case, I cited examples of what happened  
13 in the AEP Ohio case, I cited examples where AEP was  
14 also asked to not have Mon Power go to market, so  
15 ordered, suggested, encouraged. I know that there  
16 was discussion with staff, I know there was  
17 discussion with Commissioners about the direction  
18 Ohio wanted to take.

19 Q. Okay. So for purposes of your testimony  
20 we can substitute the word "encouraged" for "ordered"  
21 at line 20, page 7, and it wouldn't change the  
22 meaning much your statement there, correct?

23 A. I've provided the meaning in my statement  
24 the best I could provide it.

25 Q. Okay. Would you turn to page 10 of the

1 IEU Exhibit 107. Now, were you aware that in the  
2 opinion and order that we discussed previously in the  
3 Dayton Power & Light case the Commission addressed  
4 the question of whether to remove the residential  
5 discount because the discount was interfering with  
6 the development of a competitive market?

7 A. No, I was not.

8 Q. Do you know whether the Commission  
9 removed the residential discount that was provided by  
10 Senate Bill 3 based upon the Commission's view that  
11 it would interfere with the development of a  
12 competitive market?

13 MR. SATTERWHITE: Objection, your Honor.  
14 I think the witness just testified he wasn't aware of  
15 that. He testified earlier, before lunch, the extent  
16 of the knowledge that he had of this case and the  
17 things he relied upon and using these as language as  
18 examples of what the Commission has done in the past  
19 for a historical viewpoint and I object to going  
20 through and trying to bring up issue by issue in this  
21 case when the witness has already established he's  
22 not aware of these issue-by-issue comments.

23 EXAMINER TAUBER: And the objection is  
24 sustained.

25 Q. Okay, Mr. Powers, let's turn to the next

1 footnote. At the bottom of page 7 continuing to the  
2 top of page 8 you say that "The RSPs were to promote  
3 rate certainty, financial stability, and allow for  
4 the competitive market -- allow for a competitive  
5 market development prior to changing -- charging  
6 customers marked based rates"; excuse me. Do you see  
7 that statement?

8 A. Yes, I see that statement.

9 Q. And there you cite to an Ohio Edison  
10 decision in footnote 2; is that correct?

11 A. Yes, that's correct.

12 Q. And you also reference specific pages in  
13 that decision; am I correct?

14 A. That's correct.

15 MR. RANDAZZO: Your Honors, at this time  
16 I would ask that a document entitled "Entry" be  
17 marked as IEU Exhibit 108.

18 EXAMINER TAUBER: It will be so marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 Q. Now, you have before you what's been  
21 marked for identification purposes as IEU Exhibit  
22 108, Mr. Powers?

23 A. I do.

24 Q. And is this the entry that you cite at  
25 the bottom of page 8, footnote 2?

1           A.    I believe so.

2           Q.    And am I correct that this entry is  
3 responsive to an application that FirstEnergy filed  
4 to reduce shopping credits?

5           A.    I'm sorry. Could you repeat the  
6 question?

7           Q.    Yes. Am I correct that this entry is  
8 responding to an application that FirstEnergy filed  
9 to reduce shopping credits during the market  
10 development period?

11          A.    I cite the case as an example of where  
12 the Public Utility Commission encouraged/ordered the  
13 establishment of rate stabilization plans.

14          Q.    I know the purpose for which you've cited  
15 it. I'm asking you if you're aware of the purpose of  
16 the application that FirstEnergy submitted that  
17 produced this entry. Are you aware --

18          A.    As I've stated before, I didn't review  
19 these in any broader context than to cite examples of  
20 what we all know happened in the state of Ohio during  
21 this period.

22          Q.    Okay. Did you just review the pages 4  
23 and 5 that you reference in footnote 2?

24          A.    That's correct.

25          Q.    And how is it that you started at page 4

1 and 5 for purposes of drawing the meaning of this  
2 order?

3 A. I'm not sure I understand your question.

4 Q. Okay. So you don't know what the nature  
5 of the application was by FirstEnergy that produced  
6 this entry; is that correct?

7 A. The point of my testimony is to provide  
8 some context in history in what happened in Ohio  
9 following Senate Bill 3 and during the period up to  
10 the current time, the submission of our ESP. Simply  
11 describing what history is, that utilities in the  
12 state of Ohio were encouraged, ordered, to establish  
13 RSPs during a period of time in which market rates  
14 were high. That's the purpose of the citation.

15 Q. Okay. And the --

16 A. History is history.

17 Q. Some might think so.

18 Now, you used the words at line 8 of  
19 your -- excuse me, line 1 of your testimony, page 8,  
20 "prior to charging customers market-based rates."  
21 Can you show me anywhere in the order or the entry  
22 that you cite in footnote 2 where the entry says what  
23 you cite it for?

24 A. I'm sorry. What page of my testimony are  
25 you referring to?

1 Q. Page 8.

2 A. What lines?

3 Q. Same footnote we've been working on, page  
4 8, lines 1 and 2, where you cite to the Ohio Edison  
5 case that we've just been discussing.

6 A. And the question is?

7 Q. Can you show me where in the entry that  
8 you cite in footnote 2 the Commission said that it  
9 was going to allow for competitive market development  
10 prior to charging customers market-based rates.

11 A. I'll be doing a little bit of reading.

12 Q. Well, page 4 and 5 is what you referred  
13 to, so hopefully we can look at page 4 and 5.

14 A. I think certainly starting at question  
15 (9) on page 4 to the -- to page 5, "...further  
16 encourage FirstEnergy to file its plan before  
17 December 31, 2003, in a separate document," and  
18 prior to that, "...encourage FirstEnergy to consider  
19 and develop plans beyond 2005 -- encourage  
20 FirstEnergy to consider and develop plans for 2005  
21 and beyond, which balance three objectives: rate  
22 certainty, financial stability for the electric  
23 distribution utilities, and further competitive  
24 market development."

25 Further competitive market development

1 was certainly determined today, as I recall it, for  
2 the fact that market prices were high and the  
3 utilities were encouraged to file rate stabilization  
4 plans to avoid the rate shock that that represented.

5 Q. Okay. Where do you get from this entry  
6 the conclusion that -- strike that.

7 Do you see the sentence on page 4 in  
8 paragraph 9 that begins "The Commission"? It's  
9 towards the middle of the -- or about a third down  
10 from the beginning of the paragraph.

11 A. And in Section 9.

12 Q. In Section 9. "The Commission also...."  
13 Do you see that?

14 A. Yes.

15 Q. Now, as a layperson do you get the sense  
16 from that sentence that the Commission was  
17 encouraging utilities to go back to a regulatory  
18 structure? Or a cost-based regulation structure?

19 A. Based on my awareness of the history as a  
20 senior executive at AEP and hearing what was  
21 occurring along with the citation, I would say the  
22 clause, while at the same time encouraging  
23 competitive markets to further develop, was a  
24 euphemism for "Market rates are too high. Let's  
25 wait."

1           Q.    Okay.  But that's your interpretation,  
2   correct?

3           A.    I think everybody -- that's what  
4   happened, Mr. Randazzo.  I think anybody who was here  
5   would agree that that was the history and the  
6   experience.

7           Q.    So did AEP Ohio charge market-based rates  
8   during the rate stabilization plan period?

9           A.    Boy --

10          Q.    And if you don't know, you can say so.

11          A.    I know that -- during which period of  
12   time are you talking about, please?

13               MR. SATTERWHITE:  I'll just object to the  
14   extent it's asking for the legal basis of it versus  
15   his understanding, to get that clarification.

16               MR. RANDAZZO:  I'm not asking for a legal  
17   conclusion.  I'm asking for the witness to be  
18   responsive based upon his use of "market-based  
19   rates."

20          Q.    Did AEP, beginning in 2006, or the  
21   commencement of its rate stabilization plan period,  
22   charge market-based rates?

23          A.    No, I don't believe it did.

24          Q.    And what is that based on?  What is that  
25   conclusion based on?

1           A.    It seems somewhat circular, but the  
2   Commission asked, ordered, encouraged utilities,  
3   including AEP Ohio, to file rate stabilization plans  
4   that did not represent competitive-based rates and  
5   would be more cost based.

6           Q.    Okay.  When you say "competitive-based  
7   rates," are you saying -- is that synonymous with  
8   "market-based rates"?

9           A.    In this case, yes.

10          Q.    Okay.  So it's your understanding that in  
11   the case of Columbus & Southern and Ohio Power  
12   beginning in 2006, their generation supply prices  
13   were not markets with based rates; is that correct?

14               MR. SATTERWHITE:  Objection, your Honor.  
15   I think this is what we just established, we walked  
16   through it and answered these questions, we're  
17   retreading the exact same ground we've been on with  
18   these documents.  The witness has described what his  
19   understanding was at the time and just described what  
20   his understanding was of the rates at the time.

21               EXAMINER TAUBER:  Mr. Randazzo.

22               MR. RANDAZZO:  Yeah, I think, your  
23   Honors, that this is a pretty fundamental point.  The  
24   witness asserts that utilities were not permitted to  
25   charge market-based rates, those are his words, and I

1 just want to confirm that that's his understanding.

2 EXAMINER TAUBER: And the objection is  
3 overruled.

4 Q. (By Mr. Randazzo) Do you understand the  
5 question?

6 A. I didn't realize there was a question on  
7 the table.

8 Q. Yes. Yes. Let me try it again.

9 Am I correct, Mr. Powers, that it's your  
10 understanding that beginning in 2006 Columbus  
11 Southern and Ohio Power were not permitted to  
12 establish market-based rates for the generation  
13 supply service they made available as part of the  
14 standard service offer? Is that correct?

15 A. I'm not going to agree with your  
16 statement because I can't remember whether you used  
17 the word "prevented" or -- but what AEP Ohio was  
18 encouraged to do is to file a rate stabilization  
19 plan. AEP Ohio filed a rate stabilization plan and  
20 it was approved. That's what I can comment to.

21 Q. Okay. And my question, as a witness, the  
22 way this works is I ask the questions and you have an  
23 obligation to truthfully answer if you know the  
24 answer.

25 MR. SATTERWHITE: Objection, your Honor.

1 Can we get a question? If he needs the Bench to  
2 address the witness to explain to him how the process  
3 works, I'd appreciate that happening if there's a  
4 concern.

5 MR. RANDAZZO: I withdraw the statement.  
6 I apologize. I thought it might shorten things.

7 Q. Do you know or not know, Mr. Powers,  
8 whether Columbus Southern and Ohio Power, commencing  
9 in 2006 as part of their rate stabilization plan,  
10 charged market-based rates for the generation supply  
11 service that was part of the standard service offer?  
12 Do you know or not know?

13 A. I believe I know.

14 Q. And tell me what you know.

15 A. I believe that AEP Ohio did not provide  
16 market-based generation rates.

17 Q. Okay. And when you say "AEP Ohio,"  
18 you're now referring to both Columbus Southern and  
19 Ohio Power, correct?

20 A. That's correct.

21 Q. And that view is part of the context that  
22 you have considered for purposes of forming the  
23 opinions that are reflected in your testimony; is  
24 that correct?

25 A. I don't understand the linkage that you

1 just suggested.

2 Q. Okay.

3 MR. RANDAZZO: Your Honors, at this point  
4 in time I'd like to distribute that document that's  
5 entitled "Columbus Southern Power Company's and Ohio  
6 Power Company's Application for Approval of a Post  
7 Market Development Period Rate Stabilization Plan,"  
8 and ask that it be marked for identification purposes  
9 as IEU Exhibit No. 109.

10 EXAMINER TAUBER: It shall be so marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. Mr. Powers, do you have what has been  
13 marked as IEU Exhibit No. 109?

14 A. Yes, I do.

15 Q. And will you or your counsel -- will your  
16 counsel stipulate or will you accept, subject to  
17 check, that this is the application that Columbus &  
18 Southern and Ohio Power filed to seek approval of a  
19 rate stabilization plan?

20 MR. SATTERWHITE: Again, it's docketed,  
21 it's a record of the Commission, to the extent that  
22 can be validated by the Commission.

23 MR. RANDAZZO: Well --

24 MR. SATTERWHITE: I don't have it to  
25 compare page by page to see if it was the exact thing

1 that was filed in the docket.

2 Q. Okay. Mr. Powers, will you turn to page  
3 1 of IEU Exhibit No. 109.

4 A. That's this page?

5 Q. Yes. For purposes of expressing the  
6 opinions that are reflected in your testimony in this  
7 proceeding, did you review the application that  
8 Columbus & Southern and Ohio Power filed to seek  
9 approval of a rate stabilization plan?

10 A. I did not. But I believe our witness  
11 Phil Nelson was around in that period of time and may  
12 be a good witness to ask questions regarding this  
13 application.

14 Q. Okay. You see the line that has a number  
15 2 beside it? First of all, do you have any question  
16 about whether or not this document is the application  
17 that was submitted by Columbus Southern and Ohio  
18 Power? For a rate stabilization plan approval?

19 A. I'd refer to what my counsel said. Other  
20 than that, no, I don't have any reason to --

21 Q. Okay. Now, am I correct that Columbus  
22 Southern and Ohio Power were seeking approval of a  
23 rate stabilization plan to facilitate a competitive  
24 market for generation component of electric utility  
25 service?

1           A.    My understanding as a senior executive at  
2   AEP at the time, not directly involved with the case  
3   but an interested executive nonetheless, is that the  
4   word "facilitate" would have the context of  
5   competitive market was high and, therefore,  
6   euphemistically did not exist.  So in that context,  
7   yes, I believe that statement is reflective of the  
8   circumstance.

9           Q.    Now, did Columbus Southern and Ohio Power  
10  at the time take the position that the competitive  
11  market anticipated by Senate Bill 3 had not developed  
12  as anticipated at the time that this rate  
13  stabilization plan application was submitted?

14          A.    Again, I can give you general impressions  
15  and then I'd refer you to Witness Nelson for more  
16  specifics.  But my general recollection as an  
17  executive was that market rates were high and,  
18  therefore, utilities like AEP Ohio were not  
19  encouraged to go to market.

20          Q.    So you don't think that there was any  
21  connection between rate stabilization plans and the  
22  extent to which the competitive market envisioned by  
23  Senate Bill 3 had actually occurred; is that correct?

24          A.    I'm sorry, you're going to have to ask  
25  your question again.

1 Q. Sure.

2 You've discussed to this point with me  
3 the fact that the Commission encouraged utilities to  
4 seek rate stabilization plans, correct?

5 A. Yes.

6 Q. Based upon your knowledge, was there any  
7 connection between that encouragement and the fact  
8 that competitive markets had not developed as  
9 anticipated at the time that Senate Bill 3 was  
10 enacted?

11 A. What I'm aware of, generally speaking, is  
12 that there appeared to be a concern that if market  
13 prices were high and utilities were to go immediately  
14 to market, there would be rate shock, which was not  
15 what the Commission wanted to see happen. And that  
16 the terms of "let's let the market develop" is a  
17 euphemism for "let's see if we don't reach a point in  
18 which market prices and regulated prices are close,"  
19 and that would be at some point in the future a good  
20 point for Ohio to consider to go to market.

21 And that's a general executive  
22 perspective, not with any detail of this  
23 application -- detailed knowledge of this application  
24 per se.

25 Q. Okay. Now, if you look -- do you have

1 some sense of the time at which this rate  
2 stabilization application was filed with the  
3 Commission, and I'll give you a hint, there's a date  
4 stamp on the first page, would have been in  
5 early-2004. Would you accept that, subject to check?

6 A. I see a received docketing stamp of looks  
7 like February 9th of 2004.

8 Q. Okay. What -- prior to 2004, am I  
9 correct that AEP had been actively pursuing an energy  
10 trading business model?

11 A. Prior to what date?

12 Q. Prior to 2004.

13 A. I think that's fair to say.

14 Q. And is it fair to say that it didn't go  
15 well?

16 MR. SATTERWHITE: Objection, your Honor,  
17 on relevance. We keep getting further and further  
18 away from the modified ESP we're here to talk about  
19 today.

20 EXAMINER TAUBER: I agree. The objection  
21 is sustained.

22 Q. Did AEP change its business model and  
23 rededicate itself to a regulated utility model in  
24 2004?

25 MR. SATTERWHITE: Objection, your Honor.

1 We're going down the exact same path.

2 EXAMINER TAUBER: The objection is  
3 sustained.

4 Q. Mr. Powers, in the advocacy that has come  
5 from AEP concerning the issues in this case and in  
6 your testimony, you suggest that the Commission has  
7 encouraged AEP to move away from a regulated utility  
8 model and to accelerate the introduction of  
9 competition; is that a fair statement?

10 A. Could you say that again, please.

11 MR. RANDAZZO: Could I have it read back,  
12 please.

13 (Record read.)

14 A. I think that's a fair statement.

15 Q. Prior to 2004 were you engaged in the  
16 pursuit of a regulated utility business model?

17 MR. SATTERWHITE: Objection, your Honor.  
18 I don't think the prior question laid any foundation  
19 for this. I think, you know, the entire line of  
20 questioning we have here is a bit inappropriate. The  
21 section that we're talking about and going line by  
22 line, footnote by footnote, as it states in the  
23 testimony, is to provide, looking back, generally  
24 where was the state of the Commission at the time.  
25 That's what he's provided here.

1           Now we're going into individual dates,  
2       individual lines, year by year, different points of  
3       view. That's not the point of the testimony of this  
4       witness. This witness is to provide an overall  
5       here's where we were, here's where the Commission was  
6       telling us to be, and here's where we are changing  
7       now. Getting into what happened in 2001, 2002, 2003  
8       really doesn't add anything right now to this case.  
9       I think we should move on.

10           EXAMINER TAUBER: Mr. Randazzo.

11           MR. RANDAZZO: May I be heard.

12           EXAMINER TAUBER: Yes.

13           MR. RANDAZZO: Both in this hearing room  
14       in the capacity charge case, in the halls of the  
15       State House, and in our places, we have repeatedly  
16       heard from AEP that it was engaged continuously the  
17       pursuit of a regulated utility model and all of a  
18       sudden the Commission flip-flopped and changed its  
19       mind and all of a sudden is interested in promoting  
20       competition.

21           I believe that is a incorrect statement,  
22       but that is the position that is expressed in the  
23       witness's testimony, and I believe I'm entitled to  
24       pursue the basis for that opinion and to also  
25       demonstrate that there is no basis for that opinion

1 based upon positions that have previously been  
2 articulated by AEP.

3 And it may be tedious, but this gentleman  
4 took the stand and has characterized what happened  
5 historically and I am entitled to ask questions to  
6 determine whether or not his characterizations of  
7 history, at whatever level of management he may  
8 reside, are an accurate indication of the history  
9 that we lived through.

10 MR. SATTERWHITE: And, your Honor, we've  
11 already -- sorry, were you done? Sam, are you done?

12 Okay, I'll take that as a yes.

13 We've already offered to offer as  
14 exhibits all of the orders that he relied upon and we  
15 can make legal arguments and Mr. Randazzo can assert  
16 whatever he wants about what happened in the halls of  
17 the state house, but going through this line by line  
18 for the general what happened at the time, this  
19 witness has provided his view of where he was and  
20 where the company was at the time and how we got to  
21 the point we're at now, and going through in more  
22 detail individual lines what was said on this date  
23 versus this date is contrary to the point of the  
24 overall testimony, which is to give a bird's-eye view  
25 looking back generally where the Commission had

1 guided utilities at the time.

2 The footnotes are offered as references  
3 so the Commission can look and the Bench can look to  
4 those dockets to see what the language was of the  
5 Commission at the time.

6 Obviously, the Commission hadn't moved to  
7 a full competitive market, there were barriers in the  
8 way, and the Commission asked for rate stabilization  
9 plans and other items in the interim, that's what  
10 this refers to overall.

11 Mr. Randazzo's trying to get very  
12 specific and use very specific legal terms of was it  
13 the exact competitive market that he has in his mind.  
14 This witness isn't testifying to that level of degree  
15 of exactly what those terms were. He's testifying  
16 overall to where the company has gone and where the  
17 industry has gone in Ohio with the guidance of the  
18 Commission. Those orders and entries can speak for  
19 themselves; he just cites them as examples.

20 EXAMINER TAUBER: And the objection is  
21 sustained. We're going to move on.

22 MR. SATTERWHITE: Thank you.

23 Q. (By Mr. Randazzo) Mr. Powers, would you  
24 turn to IEU Exhibit No. 109, please, and page 6. And  
25 the last paragraph before the heading "The Plan." Do

1     you agree that Columbus & Southern and Ohio Power  
2     supported the Commission's efforts at encouraging  
3     Ohio electric utility companies to propose rate  
4     stabilization plans which would be implemented at the  
5     conclusion of the market development period?

6             MR. SATTERWHITE: Your Honor, at this  
7     point I'll object, again, I believe you sustained and  
8     said we should move on through the parsing of the  
9     individual orders at that time and just move to what  
10    the witness has relied upon.

11            EXAMINER TAUBER: The objection is  
12    sustained.

13            MR. RANDAZZO: So that I understand the  
14    ruling from the Bench, I am going to be precluded  
15    from asking questions of this witness about  
16    statements that AEP made contemporaneously with the  
17    cases that he references in his testimony.

18            EXAMINER TAUBER: No; that's incorrect.  
19    At this point in time we're going to try to stay out  
20    of the weeds and move along, you're able to ask  
21    questions that relate to the testimony and  
22    Mr. Powers, his prefiled direct testimony --

23            MR. RANDAZZO: Can you help me understand  
24    what you regard as "weeds"?

25            EXAMINER TAUBER: Going off track into

1 Commission ordered documents that are --

2 MR. RANDAZZO: I am questioning this  
3 witness about an application that was submitted by  
4 Columbus Southern and Ohio Power.

5 EXAMINER TAUBER: And you'll be able to  
6 ask him questions that relate directly to testimony,  
7 but to go into footnote citations and pull this out,  
8 I don't think that's appropriate for the record at  
9 the time. Please move on, Mr. Randazzo.

10 MR. RANDAZZO: Okay.

11 Q. (By Mr. Randazzo) You reference on page 8  
12 of your testimony at lines 3 and 4 a particular  
13 sentence out of the Commission's order in the rate  
14 stabilization plan case for Columbus Southern and  
15 Ohio Power; is that correct?

16 A. On lines 3 and 4?

17 Q. Yes.

18 A. That's correct.

19 Q. Did you read the order?

20 A. The basis for this --

21 Q. Did you read the order, sir?

22 MR. SATTERWHITE: Objection, your Honor.  
23 If witness can answer his question before being cut  
24 off by counsel.

25 MR. RANDAZZO: If he is going to be

1 allowed to answer questions which relates to the  
2 basis of the statement when I ask questions whether  
3 he read the order, I need to be entitled to pursue  
4 the basis of his statements in his testimony. This  
5 is unfair, your Honor.

6 EXAMINER TAUBER: Mr. Powers, the Bench  
7 does direct you to answer questions with "yes," "no,"  
8 or "I don't know." You'll be allowed to provide a  
9 brief context but you need to respond to  
10 Mr. Randazzo's questions.

11 Q. (By Mr. Randazzo) Did you read the order?

12 A. I read the section on the order in  
13 footnote 3.

14 Q. At page 13?

15 A. That's correct.

16 Q. Did you read anything else in the order?

17 A. I did not.

18 Q. Did you read the briefs and positions  
19 that were taken by AEP Ohio in the case?

20 A. No.

21 Q. Did the Commission find that the rates  
22 resulting from that decision were market-based rates,  
23 if you know?

24 A. I don't believe so.

25 Q. Did the Commission in that proceeding

1 reject the notion that the earnings of AEP Ohio  
2 should be taken into account for purposes of setting  
3 market-based rates?

4 MR. SATTERWHITE: Objection, your Honor.

5 Q. If you know.

6 MR. SATTERWHITE: Sorry, are you done,  
7 Sam?

8 Q. If you know.

9 MR. SATTERWHITE: The witness has already  
10 established what he relied upon in this cases and  
11 what he referred to in this case and now we're just  
12 asking cumulative questions.

13 EXAMINER TAUBER: The witness is able to  
14 answer "I don't know" if he needs to.

15 MR. SATTERWHITE: Thank you.

16 A. What was the question?

17 Q. Do you know whether or not the Commission  
18 determined in your rate stabilization plan case that  
19 the level of earnings produced by the market-based  
20 rates were irrelevant based upon Ohio's deregulation  
21 of the generation service, if you know?

22 A. I don't know.

23 Q. Now, you say at, beginning at line 6 that  
24 the Commission -- page 8, line 6, "The Commission  
25 found a competitive bidding process would not be

1 effective...."

2 Do you know whether or not Columbus &  
3 Southern and Ohio Power asked the Commission to waive  
4 the competitive bidding process requirement?

5 A. I don't know.

6 Q. You say beginning at line 8 with the word  
7 "that," with a reference to the "finding was based on  
8 the fact that the market prices for generation were  
9 higher and more volatile than the stable, low prices  
10 that AEP Ohio was providing through its regulated  
11 generation rates."

12 Can you show me anywhere in the  
13 Commission's order that you reference that statement  
14 can be found?

15 MR. SATTERWHITE: For clarification, I  
16 don't think the witness has the order. Were you  
17 going to mark that?

18 MR. RANDAZZO: Pardon?

19 MR. SATTERWHITE: I don't think you  
20 presented him with a document that you're asking him  
21 to identify it.

22 MR. RANDAZZO: I didn't know I was  
23 allowed to. I thought it spoke for itself.

24 MR. SATTERWHITE: You've asked him to  
25 identify something within the order that the witness

1 doesn't have in front of him.

2 MR. RANDAZZO: He cited the order. I'm  
3 asking him to identify anyplace in that order where  
4 the finding that he references on lines 8 and 9 can  
5 be found in the order.

6 MR. SATTERWHITE: And, your Honor, I'll  
7 reiterate my earlier offer to the Bench at this time,  
8 it sounds like IEU Counsel doesn't want to respond to  
9 it, but if it makes it easier, he cited the footnote  
10 about what he relied upon in the order and the  
11 footnotes are that as well and we're more than happy  
12 to make each of those Commission orders and entries  
13 as exhibits in the case, if it pleases the Bench. If  
14 not, we would at least request that the --

15 EXAMINER TAUBER: One second, please.

16 We're going to continue, let's just take  
17 notice of the orders, please.

18 MR. SATTERWHITE: Can the witness at  
19 least have the order put in front of him if he's  
20 going to be asked questions of what's specifically in  
21 the order?

22 MR. RANDAZZO: This sentence does not  
23 have a cite. And I was asking him if he can identify  
24 anyplace in the order that contains the finding that  
25 he identifies in his testimony.

1 EXAMINER TAUBER: Please answer the  
2 question.

3 A. No.

4 Q. (By Mr. Randazzo) On line 19, page 8 --  
5 well, before we get there, you talk on page 8 about  
6 the Monongahela Power circumstance; am I correct?

7 A. Yes.

8 Q. And you cite again to an opinion and  
9 order -- did you read the opinion and order?

10 A. As footnoted.

11 Q. So you read page 10 of the opinion and  
12 order; is that correct?

13 A. That's correct. And I used other input.

14 Q. What other input?

15 A. Again, as I described earlier,  
16 discussions with staff, I also had access to a former  
17 executive of Allegheny Power who was an executive  
18 during that period of time that provided context for  
19 that circumstance.

20 Q. Are you aware of how the cost of power  
21 supply was determined for purposes of serving the  
22 former Monongahela Power customers?

23 A. I don't recall.

24 Q. So you're not aware of whether or not a  
25 competitive bidding process was used to establish the

1 cost of that power supply?

2 A. I don't recall. Again, Witness Nelson  
3 was around at that time, I believe he would be a good  
4 witness to ask for that detail.

5 Q. And you don't recall whether or not AEP  
6 asserted at the time that it didn't have generation  
7 resources to serve the former Monongahela Power  
8 customers?

9 A. I don't, no.

10 Q. Now, on page 8, line 19, you say "Even  
11 after the passage of Senate Bill 221, the Commission  
12 adopted 'exclusive supplier' provisions inserted into  
13 the Ormet and Eramet special contracts over  
14 AEP Ohio's objection." And that is your  
15 understanding of history?

16 A. Reasonably speaking, yes.

17 Q. Are you aware of whether or not AEP Ohio  
18 previously entered into a settlement with Ormet that  
19 contained the exclusive supplier requirement?

20 A. I don't recall that specifically. I  
21 recall that the interface of AEP Ohio and Ormet has  
22 been a long and interesting journey.

23 MR. RANDAZZO: Your Honors, I would ask  
24 that the stipulation and recommendation in Case No.  
25 05-1057-EL-CSS be marked for identification purposes

1 as IEU Exhibit No. 110.

2 EXAMINER TAUBER: It shall be so marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 Q. Mr. Powers, do you have before you what's  
5 been marked for identification purposes as IEU  
6 Exhibit No. 110?

7 A. Yes, I do.

8 Q. Would you turn to page 15, and the  
9 question I'm going to ask you is will you accept,  
10 subject to check, that Ohio Power Company and  
11 Columbus Southern Power Company submitted this  
12 document to the Commission to resolve issues related  
13 to Ormet in the 05-1057-EL-CSS case?

14 A. I don't know how to determine that from  
15 page 15.

16 Q. Do you know who Marv Resnik is?

17 A. I do.

18 Q. Was he the attorney for Ohio Power and  
19 Columbus & Southern?

20 A. Yes.

21 Q. Let's turn to page 7, paragraph No. 6,  
22 middle of the paragraph, sentence that begins "Prior  
23 to January 1, 2009...." Do you see that sentence?

24 A. I do.

25 Q. Do you think that that sentence fairly

1 read states that "...Ormet shall not switch to  
2 service from a Competitive Retail Electric Service  
3 Provider"?

4 MR. SATTERWHITE: Your Honor, I'm going  
5 to object to the premise of the question. I believe  
6 when we started this we were talking about a -- even  
7 after the passage of Senate Bill 221, and the witness  
8 even on the next page in footnote 7 cites the  
9 appropriate Ormet case that dealt with all of these  
10 issues after the passage of Senate Bill 221, which  
11 was a whole new law and a whole new set of issues.

12 What's been presented now is something  
13 from '05 prior to the passage of Senate Bill 221  
14 under a different law which was challenged all the  
15 way to the Supreme Court, the '09 case.

16 EXAMINER TAUBER: Mr. Randazzo?

17 MR. RANDAZZO: Your Honor, the witness's  
18 testimony states that the Commission adopted  
19 exclusive supplier provisions inserted into an Ormet  
20 and Eramet special contract over AEP Ohio's  
21 objection, again suggesting that the Commission's  
22 responsible for doing something that AEP Ohio  
23 resisted.

24 And the point of my question is that  
25 AEP Ohio had previously submitted a settlement to

1 this Commission that contained the exclusive service  
2 supply arrangement between AEP Ohio and Ormet.

3 MR. SATTERWHITE: Your Honor, that's like  
4 saying AEP decided to drink whiskey during  
5 prohibition, so today they shouldn't be allowed to  
6 drink whiskey and shouldn't be allowed to challenge  
7 that.

8 EXAMINER TAUBER: The objection is  
9 overruled.

10 Do you need the question read back?

11 A. Is there a question on the table?

12 Q. (By Mr. Randazzo) Do you read the  
13 sentence that I referenced to you on page 7,  
14 paragraph 6, as indicating that this settlement  
15 included a provision that precluded Eramet from  
16 switching to a competitive retail electric service  
17 provider?

18 A. I'm still not sure I understand your  
19 question. Sorry.

20 Q. What don't you understand about it?

21 A. I don't understand your question.

22 Q. What don't you understand about it?

23 A. The whole thing.

24 Q. If I told you -- well, let's back up.

25 What did you mean on page 8, line 19,

1 when you used the words in quotes, "exclusive  
2 supplier"?

3 A. Generally, I think the term is referring  
4 to the fact that there was a special contract,  
5 special arrangement that was set up for Ormet.

6 Q. Okay. Other than that, the words  
7 "exclusive supplier" have no meaning to you?

8 A. Other than that, no.

9 Q. All right. Let's turn to page 9 of IEU  
10 Exhibit 110. Is it correct, sir, that for purposes  
11 of establishing the cost of generation supply, that  
12 AEP procured to serve Ormet, that a competitive  
13 bidding process was used?

14 MR. SATTERWHITE: Your Honor, I'm going  
15 to object. Based on the earlier ruling from the  
16 Bench, I believe this is even beyond the weeds as the  
17 testimony is about post-Senate Bill 221 and now we're  
18 talking about 2005, three years prior to Senate Bill  
19 221, and the agreements that aren't even referenced  
20 by this witness.

21 EXAMINER TAUBER: Mr. Randazzo.

22 MR. RANDAZZO: Your Honors, I believe  
23 that this witness has asserted in his testimony  
24 explicitly and implicitly that the notion that a  
25 competitive bidding process would apply to establish

1 pricing for default generation supply is foreign to  
2 AEP Ohio until recently.

3 As the Commission knows, the generation  
4 supply cost for Ormet was determined through a  
5 competitive bidding process, and I'm entitled to  
6 inquire of this witness, based upon the historical  
7 circumstances that he frequently references in his  
8 testimony to create a one-sided view of the world  
9 which I think reflects upon his credibility as a  
10 witness.

11 MR. SATTERWHITE: If I may, your Honor.

12 EXAMINER TAUBER: I'll allow it. Let's  
13 keep on track, though.

14 Q. (By Mr. Randazzo) Do you recall the  
15 question?

16 A. No, I do not.

17 Q. Is it correct, sir, that the power supply  
18 costs for Ormet as it returned to AEP Ohio's service  
19 territory was determined through a competitive  
20 bidding process?

21 A. You referred me to page 9.

22 Q. Yes.

23 A. And then didn't refer me to anything  
24 specific, so was there something specific you're  
25 referring to?

1           Q.    Do you see the first sentence in  
2 paragraph 11?

3           A.    I do.

4           Q.    And do you see the reference to "...a  
5 market rate for generation service to Ormet's  
6 Hannibal facilities for 2007"?

7           A.    I see the sentence.

8           Q.    Will you agree with me that the market  
9 rate that was established for generation service to  
10 Ormet's Hannibal facilities was established through a  
11 competitive bidding process?

12          A.    I agree as I see the sentence, I see the  
13 words "market rate." Again, as I've described, I  
14 have only a general context as a senior executive of  
15 AEP at this time, so any detail I don't recall and  
16 I'd refer you to Witness Nelson.

17          Q.    Okay. Do you know how the market price  
18 was developed?

19          A.    I'm sorry, sir, the market price for  
20 what?

21          Q.    For Ormet.

22          A.    Off the top of my head no, I do not. So.

23          Q.    So you don't know whether AEP used  
24 RPM-based capacity to establish the capacity portion  
25 of the market-based price for Ormet?

1 MR. SATTERWHITE: Again, your Honor, I'll  
2 object we're getting cumulative, he's already said he  
3 isn't aware.

4 EXAMINER TAUBER: The objection's  
5 sustained.

6 Q. Did you review the applications that were  
7 made by AEP Ohio for purposes of establishing the  
8 market-based price for Ormet during the portion of  
9 the -- during the term of the contract that's  
10 referenced in this document that I mentioned to you?

11 A. I think I've already answered the  
12 question. No.

13 Q. Now, on page 8 of your testimony where  
14 you take issue or mention AEP Ohio's objection,  
15 what's the basis -- and the objection is referenced  
16 on page 8 at line 20 and 21. What is the basis for  
17 the statement "over AEP Ohio's objection"?

18 A. My recollection at this time was that AEP  
19 was publicly supporting statements that would  
20 ultimately move AEP Ohio to market and that,  
21 generally speaking, the long-term contracts that  
22 would be associated with a special agreement would  
23 lock up generation for a period of time that would  
24 make that ultimate move to market more difficult and  
25 less successful.

1                   At the end of the day I recall the  
2 Commission deciding that special arrangements were  
3 needed for Ormet for a variety of reasons, no small  
4 among them the -- to allow the continued operation of  
5 the facility and the hundreds of jobs it represents.  
6 But that is an indication that during this period of  
7 time AEP Ohio was preparing itself as the Commission  
8 had asked to get to market and it's simply that  
9 context.

10               Q.    When did AEP Ohio stop preparing itself  
11 to get to market?

12               A.    I'm sorry?

13               Q.    You indicated that the statement was made  
14 during a period of time when -- or the exclusive  
15 supplier provision was inserted during a period of  
16 time when AEP Ohio was preparing to get to market.  
17 Has AEP Ohio stopped preparing to get to market?

18               A.    No, it has not.

19               Q.    And approximately when was the exclusive  
20 supplier provision inserted as you used the term in  
21 line 20, page 8? Do you know?

22               A.    I don't know.

23               Q.    Isn't it true, sir, that AEP Ohio's  
24 objection to the exclusive supplier provision in the  
25 Ormet and Eramet contracts was related to the

1 Commission's determination that it would be  
2 inappropriate to include the POLR charge in the delta  
3 revenue computation?

4 A. I don't know, and I refer you to Witness  
5 Nelson.

6 Q. Now, page 9, top of the page --

7 A. Of my testimony, sir?

8 Q. Yes, sir. Page 9, top of the page, the  
9 sentence that begins with "Thus." Well, before we  
10 get there, you have a footnote No. 7. Can you tell  
11 me what you're referring to in footnote No. 7  
12 relative to Case No. 09-119?

13 A. I don't have that citation in front of  
14 me. Do you have it?

15 Q. It's footnote 7 in your testimony. You  
16 refer to Case No. 09-119-EL-UNC, no reference to an  
17 opinion and order or anything. I was wondering if  
18 you knew what you were referring to there.

19 A. I believe that was, well, I don't have it  
20 in front of me, but I believe it was either the  
21 Eramet or the Ormet general docket.

22 Q. Just the general docket?

23 A. I believe so.

24 Q. Did you review the general docket?

25 A. I've reviewed the first page of the

1 general docket. I didn't review it in any detail.

2 Q. When you say "first page of the general  
3 docket," what are you referring to?

4 A. I believe the first page.

5 Q. What are you call -- can you describe for  
6 me what it is you're referring to when you use the  
7 term, words, "general docket"?

8 A. The docket is a collection of filings in  
9 a case. This was a summary page, first page of the  
10 various filings in the case.

11 Q. Okay. So it would -- my guess is that  
12 you were referring to the screen that you see in the  
13 Docketing Information System when you look at a  
14 particular case number that shows an inventory of all  
15 the pleadings that have been filed in that  
16 proceeding, correct?

17 A. Again, this is not in front of me, but I  
18 believe that's the case, yes. That's the best of my  
19 recollection.

20 Q. And how, from looking at that screen, did  
21 you tell that the load associated with these  
22 customers was equivalent to the load of more than  
23 500,000 residential homes, which is what you say at  
24 the bottom of page 8, top of page 9?

25 A. I used my own knowledge of the load of

1 those customers to help support that particular  
2 statement.

3 Q. So that was not something that came from  
4 the Docketing Information Systems screen? Is that  
5 correct?

6 A. To the best of my recollection that's  
7 correct.

8 Q. Now, top of page 9 beginning with the  
9 sentence that starts "Thus," you indicate that  
10 "...the Commission would not move towards competition  
11 (in an apparent effort to protect customers from  
12 higher market-based rates) and acted to prevent  
13 utilities from collecting higher market-based rates,"  
14 which we've discussed previously.

15 And it's your understanding that Ohio  
16 Power and Columbus & Southern were precluded from  
17 charging market-based rates beginning in 2006 and  
18 thereafter; is that correct?

19 A. I think it's fair to say during the  
20 period of time following Senate Bill 3, including the  
21 period of time that we talked about, the rate  
22 stabilization plans, and including the period of time  
23 with the first ESP filed under Senate Bill 221, that  
24 the Commission had a more regulated basis for the  
25 rates for AEP Ohio. I'm sorry, the answer is yes.

1           Q.    Okay.  And you cite on page 9 at lines 8  
2   and 9 the ESP 1 order from March 18, 2009, at page  
3   72.

4           A.    I'm sorry.  Where are you at?

5           Q.    At line 8 and 9 of your testimony, page  
6   9, you cite the ESP 1 March 18th, 2009, opinion and  
7   order at page 72; is that correct?

8           A.    Yes.

9           Q.    Did you review the entire order?

10          A.    No, I did not.

11          Q.    Did you commence and end your analysis of  
12   that order at page 72?

13          A.    I think I just answered your question.

14          Q.    Different question.  I want to know if  
15   you only reviewed page 72.

16          A.    For the purposes of preparing this  
17   testimony -- I do recall reviewing an order back  
18   years ago, 2009, but in preparing this testimony,  
19   yes, I only reviewed that section.

20          Q.    I'm curious, Mr. Powers.  How is it that  
21   you go directly to page 72 for purposes of drawing  
22   meaning from the Commission's order?  I mean, it just  
23   strikes me as analytically interesting.

24          A.    I find it eminently practical and  
25   reasonable.  I've provided I think a reasonable

1 description of the history, the circumstance in Ohio.  
2 I think, again, as a businessperson I'm living in the  
3 real world: This is what it felt like, this is what  
4 happened, and these are I think useful and  
5 appropriate citations to help confirm the reality of  
6 what most people -- most of the people in this room  
7 know.

8 Q. Okay. Are you aware of how the prices  
9 were established in ESP 1 that you reference on lines  
10 8 and 9 of your testimony at page 9? Are you aware  
11 of how the generation supply prices were established  
12 in that proceeding?

13 A. Generally speaking.

14 Q. Would your knowledge of that include the  
15 fact that the generation supply prices were  
16 determined based upon a comparison to a competitive  
17 benchmark price?

18 A. Well, if you're referring to the market  
19 test that has to occur in an ESP, then I'm aware that  
20 the rates that were established would have to compare  
21 favorably to a market-based rate.

22 Q. And are you aware of how AEP Ohio  
23 developed the market-based rate to compare for  
24 purposes of that test?

25 A. Again, at that level of detail I'd refer

1 you to Witness Nelson or Witness Dias.

2 Q. I'll just ask you straight out. Do you  
3 know if AEP Ohio used RPM as the basis of  
4 establishing the capacity price that was embedded in  
5 the competitive benchmark test used to test the  
6 generation supply prices approved in ESP I?

7 A. I don't recall specifically.

8 Q. Do you recall generally?

9 A. No, sir.

10 Q. You've never seen anything written or  
11 said about AEP's use of RPM-based capacity for  
12 purposes of conducting the MRO versus ESP test; is  
13 that correct?

14 MR. SATTERWHITE: Objection, your Honor.  
15 I think he answered specifically and generally that  
16 he's not aware of what was in there.

17 EXAMINER TAUBER: Objection sustained.

18 Q. On page 9 of your testimony, line 17, and  
19 I asked you about this earlier, and the reason I  
20 asked you about it earlier was because of the  
21 sentence that begins on line 17 and continues on to  
22 line 18. There you say "As an FRR entity, AEP Ohio  
23 must self-supply its capacity to serve its load...."  
24 Is it your understanding that AEP Ohio is an FRR  
25 entity?

1           A.    I believe that I answered that earlier,  
2   but, yes, that's my belief.

3           Q.    Okay.  And by the word "capacity" in line  
4   18 can you tell me what you mean there?

5           A.    Maximum generating power that's necessary  
6   to serve peak load.

7           Q.    What peak load?

8           A.    Peak load of the customers of AEP Ohio.

9           Q.    And how is that capacity calculated for  
10  purposes of an FRR entity?

11          A.    I'm sorry, could you repeat the question?

12          Q.    Yes.  How is that capacity calculated for  
13  purposes of an FRR entity?

14          A.    How is what aspect of that capacity?

15          Q.    The capacity that you just described.  As  
16  you use it in line 18.  How is it calculated.

17          A.    I have general knowledge of how it's  
18  calculated.

19          Q.    Please share that with me.

20          A.    My general understanding is, is that the  
21  RTO, in this case PJM, establishes requirements for  
22  reserve capacity based on an analysis of the load  
23  that's seen in the particular electric service area  
24  and then establishes a need for the amount of power  
25  that should be available.  Generally speaking.

1           Q.    Okay.  And do you know what types of  
2 resources qualify as a capacity resource in the PJM  
3 system?

4           A.    Probably not comprehensively but  
5 generally.

6           Q.    And what's your general understanding?

7           A.    My general understanding is that both  
8 supply-side resources and demand-side resources could  
9 qualify as capacity.  Again, I'm not saying that's an  
10 exclusive list but that's what comes to mind.

11          Q.    And if you know, is AEP Ohio using  
12 demand-side resources to satisfy its FRR capacity  
13 obligation?

14          A.    I believe so.

15          Q.    And so it's clear for the record, the  
16 type of demand-side resources that would be available  
17 to satisfy PJM capacity obligation would include the  
18 customers that are served under the interruptible  
19 arrangements; is that correct?

20          A.    That's part of what I was thinking about  
21 in response to your last question, but, again, I'd  
22 refer you to Witness Nelson to get into more detail  
23 on that sort of question.

24          Q.    Now, is it your understanding that an FRR  
25 entity has to own generation?

1           A.    I'm not sure if I can parse my  
2 understanding of FRR. I understand that FRR is a  
3 self-supply option, so I haven't cataloged what all  
4 the options are to achieve that self-supply.

5           Q.    Within your general understanding of FRR  
6 status would it be consistent with that general  
7 understanding to say that the -- an FRR entity has  
8 the ability to satisfy its capacity obligation  
9 through bilateral purchases of supply-side resources  
10 as well as arrangements for demand-side resources?

11           MR. SATTERWHITE: Objection, your Honor.  
12 I think the witness just testified in the previous  
13 answer he's given his understanding of FRR and  
14 referred us to the table on page 5 and 6 of his  
15 testimony to Witness Nelson who describes the FRR  
16 capacity obligation.

17           EXAMINER TAUBER: The objection is  
18 overruled. The witness testified that he understands  
19 the self-supply option which relates.

20           THE WITNESS: So can we reread the  
21 question, please.

22           EXAMINER TAUBER: Yes.

23                   (Record read.)

24           A.    You know, I can't answer yes to all  
25 aspects of that so I'd refer you to Witness Nelson.

1 I just don't know.

2 Q. Okay. And that's fair, if you don't  
3 know, that's a fair answer. And actually when you  
4 don't know, that's the right answer.

5 On the bottom of page 9, lines 22, 23,  
6 you say "...AEP Ohio is contractually committed to  
7 FRR capacity supply through May 31, 2015." Now, we  
8 earlier discussed the fact that AEP has been an FRR  
9 entity since approximately 2007, correct?

10 A. I think we agreed 2006 or '7, I don't  
11 recall exactly, but that timeframe.

12 Q. All right. And since AEP Ohio became an  
13 FRR entity, according to your understanding, it has  
14 nonetheless used RPM-based priced capacity to charge  
15 CRES suppliers for capacity while it was  
16 contractually committed to FRR status; is that  
17 correct?

18 A. That's correct, but contested.

19 Q. And the -- well, strike that.

20 Now, on page 10, line 11, beginning of  
21 the sentence that starts "In March 2012," page 10,  
22 line 11, you say "AEP Ohio was ordered by the  
23 Commission to provide for market-based pricing for  
24 SSO customers in a more expeditious manner than  
25 originally proposed in a modified ESP II plan."

1 Correct?

2 A. That's correct. That's what the words  
3 say.

4 Q. And you cite to an AEP Ohio case 10-2376  
5 at page 6, correct?

6 A. That's correct.

7 Q. Can you show me anywhere on page 6 or  
8 read to me anywhere on page 6 that AEP Ohio was  
9 ordered by the Commission to provide for market-based  
10 pricing for SSO customers in a more expeditious  
11 manner than originally proposed in a modified ESP II  
12 plan?

13 A. I don't have the footnote in front of me.

14 Q. You have the footnote. The footnote is  
15 footnote 8. Do you need the entry?

16 A. You asked me if I could cite some more  
17 specifically so -- what would you like me to do,  
18 Mr. Randazzo?

19 Q. Well, first of all, do you need the entry  
20 to refresh your recollection?

21 A. Sure do.

22 MR. RANDAZZO: Your Honors, I would ask  
23 that the entry that Mr. Powers references in the  
24 footnote be marked as IEU Exhibit No. 111.

25 EXAMINER TAUBER: It shall be so marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. Mr. Powers, do you have what has been  
3 marked for identification purposes as IEU Exhibit 111  
4 before you?

5 A. I do.

6 Q. Would you turn to page 6.

7 A. I'm at page 6.

8 Q. Can you tell me where on that page you  
9 find any indication that the Commission ordered  
10 AEP Ohio to provide for market-based pricing for SSO  
11 customers in a more expeditious manner?

12 A. Yes, I can.

13 Q. And where is that?

14 A. "The Commission further expects that  
15 AEP Ohio will look into recent Commission precedent  
16 for guidance in formulating its modified ESP and  
17 considering how to best ensure its customers have  
18 market-based standard service offer pricing in an  
19 efficient and expeditious manner."

20 Q. Anything else on that page that you  
21 believe supports your view that AEP Ohio was ordered  
22 by the Commission to provide for market-based  
23 pricing?

24 A. I believe that's what I want to refer to.

25 Q. All right. Now, page 10, line 16, you

1 refer to a "prospective alteration of past Ohio  
2 policy favoring a regulated structure." When is it  
3 that you believe that the alteration of the past Ohio  
4 policy favoring a regulated structure occurred?

5 A. I think there was a marked change in the  
6 Commission's public statements regarding the movement  
7 to market starting 2011.

8 Q. Okay. That's not quite the question.  
9 The question I asked you is when was there an  
10 alteration of the past Ohio policy favoring a  
11 regulated structure? Can you tell me when you're  
12 referring to when you used the word "past" on line 16  
13 in conjunction with the Ohio policy favoring a  
14 regulated structure?

15 Was that 1999? Was it 2001? Was it --  
16 when did that Ohio policy favoring a regulated  
17 structure that you reference there occur?

18 A. I'm sorry, are you -- specific lines in  
19 my testimony? What are you referring to?

20 Q. Page 10.

21 A. Page 10.

22 Q. Lines 16 and 17. You say there that  
23 "...AEP Ohio understands the prospective alteration,"  
24 and then you say "of a past Ohio policy." I'm asking  
25 you what past Ohio policy are you referencing that

1     you believe favored a regulatory structure?

2             A.     I think we've spent a lot of time on that  
3     this morning and this afternoon.   RSPs, the fact that  
4     Senate Bill 221 allows for and prescribes the  
5     availability of ESPs, the citations that we've spent  
6     a lot of time talking about and which at the end of  
7     the day the Ohio Commission favored more market-based  
8     rates remaining in place to avoid high market prices,  
9     that's the general context in which I'm referring to  
10    de facto Ohio policy.

11            Q.     Okay.   And I take it from your  
12    statements, then, that you would disagree if I were  
13    to characterize the history that you describe in your  
14    testimony as one where the Commission was continuing  
15    attempting to move to a market-based pricing  
16    structure as quickly as was possible given the  
17    Commission's judgment about the circumstances.

18            MR. SATTERWHITE:   Objection, your Honor.  
19    I think that's more testifying in a question than  
20    really asking a question.   This witness has provided  
21    testimony and discussed today his vision and version  
22    of what's happened in the past to show the history  
23    and now Mr. Randazzo wants to supply --

24            MR. RANDAZZO:   I'll withdraw the  
25    question.

1 MR. SATTERWHITE: Thank you.

2 Q. Page 11, line 2, similar question. You  
3 referred to Ohio's new policy directive. When did  
4 the new policy directive issue, in your mind?

5 A. The de facto policy started in 2011 in  
6 which the original ESP that we filed in 2011, which  
7 suggested a continuation of more traditional  
8 regulated cost-based level of service went nowhere in  
9 discussions with staff or other parties at the table.

10 In addition, in 2011, it's clear from  
11 public comments from members of the Commission,  
12 including the Chairman, that there was a desire and  
13 an interest in moving more quickly to market. So,  
14 you know, I live in the real business world, those  
15 are the sorts of signals that we take to say there's  
16 a change in policy in Ohio.

17 Q. Okay. So you're basically interpreting  
18 statements that have been made by regulators as the  
19 equivalent of changing the policy direction in Ohio;  
20 is that a fair statement?

21 A. We take the partnership with the Public  
22 Utility Commission of Ohio in terms of what's in the  
23 best interests for the customers and AEP seriously,  
24 and when those discussions start hanging in the  
25 direction saying we want to go to market faster, we

1 also have an ability to talk to staff and when staff  
2 provides us input that says we want to move to market  
3 faster, it seems pretty evident that the Public  
4 Utility Commission of Ohio wants to move to market  
5 faster.

6 Q. But you see that as a new policy  
7 directive, according to page 11, line 2; is that  
8 correct?

9 A. Well, I sure do. Particularly with the  
10 practical context of when Senate Bill 221 was  
11 promulgated it sure seemed that a lot of the  
12 provisions in Senate Bill 221 and the fact that ESP  
13 existed seemed to be set up specifically to not allow  
14 AEP to go market.

15 Q. Do you think Senate Bill 221 was focused  
16 on AEP?

17 A. From a general executive experience I  
18 think one of the biggest challenges that the period  
19 of 2008 represented was if AEP went to market, what  
20 would the impact to AEP customers be because AEP  
21 rates were well below market at the time.

22 Q. Okay. And that's consistent with your  
23 understanding that AEP at the time was not charging  
24 market-based rates; is that correct?

25 A. I believe up until the time of the ESP we

1 would have been operating in an RSP, so I think the  
2 answer to that question is yes.

3 Q. Well, in the ESP were you charging  
4 market-based rates?

5 A. I don't believe so.

6 Q. Do you believe that the current ESP rates  
7 are above or below market?

8 A. Could you define specifically what you're  
9 referring to as "current ESP rates"?

10 Q. The rates that are currently in effect.  
11 And more specifically, the generation supply prices,  
12 do you believe they're above or below market?

13 A. I think depending on customer class there  
14 could be arguments that they're at market or below  
15 market or in some cases slightly above.

16 Q. Okay. We had a discussion earlier on  
17 about AEP Retail. Are you aware of the residential  
18 generation supply price that AEP Retail recently  
19 negotiated with Upper Arlington?

20 MR. SATTERWHITE: Objection, your Honor.  
21 This witness is here on behalf of AEP Ohio and I'll  
22 strongly object to asking questions that he might  
23 have knowledge of in his capacity --

24 MR. RANDAZZO: I'll withdraw the  
25 question.

1 MR. SATTERWHITE: Thank you.

2 Q. Are you aware of offers that are  
3 available from AEP Retail for residential customers?

4 A. I'm aware that AEP Retail offers to  
5 customers, yes.

6 Q. And would it be your view that AEP Retail  
7 is -- the offers of AEP Retail are indicative of  
8 market prices?

9 A. I think, generally speaking, they're  
10 indicative of one supplier, one CRES supplier's  
11 ability to offer market-based rates.

12 Q. Okay. On page 14 of your testimony you  
13 refer to the PJM reliability pricing model on line 7.  
14 RPM market. Do you regard the reliability pricing  
15 model structure to be market based?

16 A. Since there's an auction involved I  
17 would, generally speaking, say it's market based.

18 Q. On page 15, line 5, you use the words  
19 "cost-based." Page 15, line 5. What type of costs  
20 are you referencing here? Would it be embedded cost?

21 A. What do you mean by "embedded cost"?

22 Q. You don't know, you don't have at least a  
23 general understanding of what embedded cost --

24 A. No. Sorry.

25 Q. When you used the word "cost" what are

1     you referring to?

2             A.     Well, again, in detail I'd refer you to  
3     Witness Nelson to get into the cost basis for FRR  
4     capacity, but my understanding is it has -- it  
5     involves the book basis of the plant, it involves a  
6     number of factors that establish the cost of that  
7     generation. And I believe Witness Nelson can get  
8     into the details of how that cost is calculated.

9             Q.     Okay. But you didn't, for purposes of  
10    your testimony when you used the word "cost," you  
11    didn't have any particular methodologies or --

12            A.     They're generation-related costs and I  
13    believe established under the FRR process.

14            Q.     On page 16 --

15                   THE WITNESS: By the way, can we take a  
16    restroom break soon.

17                   MR. RANDAZZO: I second the motion.

18                   THE WITNESS: We agree on something,  
19    that's great.

20                   MR. RANDAZZO: We actually agree on a  
21    lot.

22                   EXAMINER TAUBER: Okay. Let's take a  
23    ten-minute recess and we'll come back at 3:27. Let's  
24    go off the record.

25                             (Recess taken.)

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

3 Mr. Randazzo.

4 MR. RANDAZZO: Just a few more questions,  
5 I believe.

6 EXAMINER TAUBER: We'll hold you to it.

7 MR. RANDAZZO: Thank you. As you have  
8 been.

9 Q. (By Mr. Randazzo) Page 17, Mr. Powers,  
10 line 10, you indicate there that AEP Ohio will be  
11 left with no choice but to substantially curtail  
12 spending. I just want to ask you, do you have -- do  
13 you appreciate what happens to cost-based rates when  
14 you substantially curtail spending?

15 A. I'm sorry, could you repeat the question?

16 Q. Well, would you agree that if you  
17 substantially curtailed spending and you have  
18 cost-based rates, the rates go down?

19 A. I believe in the context of the ESP  
20 that's filed we've offered to provide balance between  
21 benefits to the CRES providers, customers, and AEP,  
22 so we are asking for a transition period between the  
23 rates that have been established in the ESP and a  
24 fully competitive environment in June of 2015.

25 So since this is a transition that's

1 described in the ESP that's filed, I don't know that  
2 I can agree with your question.

3 Q. Okay. You're not aware in a cost-based  
4 ratemaking process whether a substantial reduction in  
5 spending would result in a reduction in rates?

6 A. Again, what I can describe is we're into  
7 a, what we consider a very unique period of time with  
8 a policy stated by the Commission that they'd like to  
9 move to market more quickly, and I think I've spent a  
10 lot of time this morning and this afternoon  
11 describing the history that in the big picture  
12 suggests to any reasonable person that AEP Ohio was  
13 encouraged or prohibited from going to market over a  
14 long period of time, so we've asked for a fair and  
15 reasonable transition that tries to balance CRES  
16 providers' desires, have access to our customers to  
17 mitigate rate shock to our customers, and to be  
18 considerate of AEP's financial circumstance, and so I  
19 stand by that answer.

20 Q. Yeah. I've heard that several times  
21 today and I appreciate your perspective on it, but  
22 that wasn't my question.

23 My question was: In a cost-based  
24 regulatory model that establishes prices based upon  
25 cost, would you agree that if you substantially

1 reduced spending, you are going to reduce rates?

2 MR. SATTERWHITE: I'll object to the  
3 question, your Honor. I think it's under a false  
4 assumption that rates would automatically decrease.

5 EXAMINER TAUBER: Mr. Randazzo?

6 MR. RANDAZZO: I asked him if he would  
7 agree. Mr. Satterwhite answered the question.

8 EXAMINER TAUBER: Objection's overruled.

9 A. So what's poor witness supposed to do?

10 Q. Answer the question.

11 EXAMINER TAUBER: Would you like the  
12 question repeated?

13 THE WITNESS: Yes, please.

14 (Record read.)

15 A. If I were truly in a cost-fixed service  
16 venue like one of our other operating companies, then  
17 if I went in for a rate case, rates would go down. I  
18 think Ohio is in a particularly unique circumstance.

19 Q. All right. On page 18, line 11, you  
20 provide the company's perspective on the need for an  
21 RSR and you say there that "...the need for the RSR  
22 charge stems largely from the financial harm to  
23 AEP Ohio that would otherwise result from the  
24 modified ESP package as a whole." Correct?

25 A. Yes.

1           Q.    Okay.  So would another way to be saying  
2   what you've said there be that the RSR is designed to  
3   compensate AEP Ohio for the harm that AEP Ohio would  
4   experience as a result of the proposal that it's  
5   presented to the Commission?

6           A.    I wouldn't -- I wouldn't characterize it  
7   that way, no.

8           Q.    Okay.  You referenced the pool agreement  
9   on line 15, page 18.  The pool agreement that you  
10   reference there, can you tell me what agreement  
11   you're referring to?

12          A.    The pool agreement is the Eastern  
13   generating pool contract that was established in the  
14   1950s and has been in place ever since.

15          Q.    Otherwise known as the system  
16   interconnection agreement?

17          A.    I believe that's the case.

18          Q.    And during the life of the pool  
19   agreement, am I correct that AEP Ohio has charged  
20   CRES suppliers for capacity based upon RPM pricing?

21          A.    Again, regarding the pool in general, I'd  
22   refer you to Mr. Nelson for more detail, but I think  
23   you've asked that question before and I believe I  
24   indicated that, yes, we have charged CRES providers  
25   RPM and it's also a contested issue.

1           Q.    Now, on page 21 you end the discussion of  
2   the competitive auction bid process that you  
3   described beginning on page 19, and at line 4 and 5  
4   you say "Details concerning the auction will be  
5   addressed immediately following the issuance of final  
6   orders."

7           A.    I'm sorry, Sam, where are you?

8           Q.    It's page 21, line 4 and 5, the sentence  
9   that begins with "Details." The last sentence. You  
10   say "Details concerning the auction will be addressed  
11   immediately following the issuance of final orders."

12                  Has there been any further work on the  
13   details concerning the auction that you reference on  
14   page 21 at line 5?

15           A.    Well, since the details of those auctions  
16   would involve discussions with staff and with other  
17   impacted and interested parties who all seem to be  
18   consumed with our capacity case and this ESP case, I  
19   think it's fair to say there hasn't been a lot of  
20   work that's been done.

21           Q.    Okay.

22                  MR. RANDAZZO: That's all I have. Thank  
23   you.

24                  Thank you, Mr. Powers.

25                  EXAMINER TAUBER: Thank you.

1 We'll just start working our way around.

2 Mr. Poulos?

3 MR. POULOS: I have no questions, your  
4 Honor, thank you.

5 EXAMINER TAUBER: Ms. Grady?

6 MS. GRADY: Thank you, your Honor.

7 - - -

8 CROSS-EXAMINATION

9 By Ms. Grady:

10 Q. Good afternoon, Mr. Powers.

11 A. Good afternoon.

12 Q. Now, you indicate in the very beginning  
13 of your testimony that you are employed by the AEP  
14 Service Corporation, correct?

15 A. I believe that's correct.

16 Q. And you are the Chief Operating Officer  
17 of AEP.

18 A. That's correct.

19 Q. And as part of your responsibility for  
20 AEP you are responsible for the overall operations of  
21 the AEP utilities which includes both AEP East and  
22 AEP West; is that correct?

23 A. There's no legal entity East and West,  
24 but geographically that's correct.

25 Q. And your reference there is on page 2

1 where you say "...both West and East Utilities....,"  
2 are we talking about the same thing?

3 A. Yes, we are.

4 Q. Okay. Now, from late-2006, starting in  
5 2007, you were directly involved in utility matters  
6 as the Executive Vice President of the East  
7 Utilities; is that correct?

8 A. Yes, that's correct.

9 Q. Do you have any responsibility at all for  
10 AEP Retail operations?

11 A. Yes; as Mr. Randazzo asked this morning,  
12 the AEP Retail organization is embedded as a separate  
13 entity within Commercial Operations, and Commercial  
14 Operations works for me.

15 Q. Will you have any responsibility with  
16 respect to the new GenCo, AEP GenCo that will be  
17 created as a result of corporate separation?

18 A. The GenCo doesn't exist, but in  
19 conversations with Mr. Akins that's directionally  
20 what I understand to be the company's desire.

21 Q. And when we talk about the GenCo, we're  
22 talking about the to-be formed affiliate of AEP to  
23 which the generation assets currently owned by  
24 AEP Ohio will be transferred?

25 A. Again, remember, and I apologize, I'm not

1 a lawyer, but the only thing in response to your  
2 question I can't confirm is the exact structure of  
3 your question. We expect to have a separate  
4 generating company for the AEP Ohio -- current  
5 AEP Ohio generation assets.

6 Q. Thank you.

7 Now, turning to your testimony on page 6,  
8 line 3, you mention direction by the Commission in  
9 their February 23rd, 2012, order. Do you see that  
10 reference?

11 A. On page 6, lines 2 and 3?

12 Q. Yes.

13 A. Yes, I see those lines.

14 Q. Can you specifically tell me what the  
15 direction is there that you're referencing?

16 A. I'm sorry, I don't understand your  
17 question.

18 Q. Well, Mr. Powers, you indicate in your  
19 testimony that "The riders that the witnesses are  
20 sponsoring help ensure that the SSO will provide rate  
21 certainty and stability as directed by the  
22 Commission....," and I guess I'm a little confused as  
23 to what was directed by the Commission.

24 A. I believe the Commission directed us to  
25 take a look post-stipulation at providing a balance

1 of rate certainty, minimizing rate impact to our  
2 customers, encouraging shopping, balance considering  
3 mitigation of financial harm to AEP, that's the  
4 balance I think I've referred to throughout my  
5 testimony, so that's what I'm referring to.

6 Q. So you are not saying that the Commission  
7 directed you to file riders; is that correct?

8 A. I think the Commission -- I think we all  
9 recognize this is a complicated circumstance, and the  
10 Commission asked us to work on the balance that they  
11 obviously must have felt did not entirely exist in  
12 the stipulation or else they wouldn't have decided to  
13 unapprove it, and so I'm referring to the general  
14 balance of benefit to the CRES provider, benefit to  
15 the customer, and mitigation of harm to AEP.

16 Q. The Commission did not direct you to file  
17 riders, did they?

18 A. Nor did the Commission not tell us to  
19 file riders.

20 Q. Now, we're going to talk for a moment  
21 about something that Mr. Randazzo touched upon this  
22 afternoon and this morning and that is your testimony  
23 with respect to the exclusive supplier provisions  
24 inserted into the Ormet and the Eramet special  
25 contracts. I would direct your attention to page 8,

1 lines 19 through 23. Do you have that reference?

2 A. Let me take a minute to read it, please.

3 Q. Thank you.

4 A. 19 through 23?

5 Q. Yes.

6 A. I've read it.

7 Q. Is this testimony that you wrote based on  
8 your own personal knowledge of the Ormet and Eramet  
9 special contracts?

10 A. Did you ask about detailed knowledge or  
11 general knowledge?

12 Q. Let's start with general knowledge.

13 A. Based on general knowledge, yes.

14 Q. Can you tell me -- you testify on line 20  
15 that exclusive supplier provisions were inserted into  
16 the Ormet contract. Can you tell me who inserted  
17 those exclusive supplier provisions, if you know?

18 A. I think, as I described in my answer to  
19 Mr. Randazzo, I'm giving you the extent of my  
20 detailed knowledge on those contracts, and I'd refer  
21 you to Witness Dias for more detail.

22 Q. So you don't know who inserted the  
23 exclusive supplier provisions into the special  
24 contracts?

25 A. Based on my last answer I guess I have to

1 say no.

2 Q. Now, when you talked about exclusive --  
3 the term "exclusive supplier," you indicated to  
4 Mr. Randazzo that that means, to you, a long-term  
5 contract that locks up generation making the move to  
6 market more difficult. Do you recall that  
7 characterization?

8 A. I believe in response to the question of  
9 what did I believe "exclusive supplier," if I  
10 understand your question, I think I referred to the  
11 euphemism of special contract to deal with unique  
12 business -- business development or jobs-related  
13 concerns that the Commission might have about a  
14 particular customer.

15 Q. Is it your understanding that "exclusive  
16 supplier" means a long-term contract which locks up  
17 generation making the move to market more difficult?

18 A. I think in part my general recollection  
19 of this contract or these contracts has an element in  
20 it of that concern or that issue that you just  
21 stated.

22 Q. And is it your general knowledge that  
23 AEP, with respect to at least the Ormet contract, was  
24 the sole source of generation supply to Ormet as  
25 opposed to a market supply or the customer being able

1 to shop?

2 A. And, again, I think my testimony says  
3 that -- refers to the fact, on line 21, that Ormet  
4 and Eramet were not permitted to shop, so I think my  
5 testimony is self-evident. With regard to another  
6 part of your question, I'm sorry, could you repeat  
7 it?

8 Q. I think you've answered my question.

9 Now, you indicated to Mr. Randazzo that  
10 you didn't know when AEP opposed these provisions.  
11 Do you recall that testimony?

12 A. Generally, yes.

13 Q. Do you know how AEP opposed the exclusive  
14 supplier provisions?

15 A. No. I would refer you to Witness Dias.

16 Q. Let's focus a little bit on the Ormet  
17 contract and the case number I take it is the  
18 09-119-EL-UNC that you reference in your footnote  
19 No. 7?

20 A. I believe that's the case but, again, I  
21 don't believe I have that in front of me.

22 Q. Is it your understanding or your  
23 general -- let me strike that.

24 Is it your understanding generally that  
25 Ormet filed an application seeking approval of its

1 special arrangement contract with the Commission?

2 A. Again, for that level of detail I'd refer  
3 you to Witness Dias.

4 Q. So you don't have general knowledge that  
5 that's how the process worked?

6 A. Again, I'm hesitant. I have some general  
7 knowledge, it's sort of flickering through my mind,  
8 but I'd refer you to Witness Dias for more detail.

9 Q. And would you understand that that  
10 application, if one was filed, would have been in  
11 09-119-EL-UNC, the case that you footnote 7?

12 A. Again, I would refer you to Witness Dias.

13 Q. Are you generally aware, Mr. Powers, of  
14 whether or not when Ormet submitted its application  
15 it proposed a power agreement between itself and Ohio  
16 Power?

17 MR. SATTERWHITE: Objection, your Honor,  
18 I think the witness has already described both to  
19 Mr. Randazzo and now to OCC's counsel that what he  
20 understands, what he remembers from that case, was  
21 his general knowledge, now we're getting into details  
22 that he already said he doesn't recall.

23 EXAMINER TAUBER: The objection's  
24 sustained.

25 Q. Mr. Powers, are you aware of two ten-year

1 exclusive supplier contracts that the company entered  
2 into with Solsil and Global Metallurgical shortly  
3 after the passage of Senate Bill 221?

4 A. I can generally recall something in that  
5 regard but no specific detail.

6 Q. Are you aware that it was the company  
7 that sought initial approval of both of those  
8 contracts?

9 MR. SATTERWHITE: I object to the  
10 question. The contracts that she's referring to were  
11 entered into before the effective date of Senate Bill  
12 221, therefore, I think the foundation of the  
13 question is incorrect.

14 EXAMINER TAUBER: Ms. Grady.

15 MS. GRADY: I made no assumption about  
16 the date that those contracts were entered into. I  
17 asked the witness if he was aware that the company  
18 sought approval of these exclusive -- two exclusive  
19 ten-year supplier contracts. That was my question.

20 EXAMINER TAUBER: And the objection is  
21 overruled.

22 A. Again, I think I answered your question.  
23 I had general awareness of contracts. I'd refer you  
24 to Witness Dias for any details regarding those  
25 contracts.

1           Q.    Let's move along to your testimony on the  
2 corporate separation. I think -- I believe that's  
3 found on pages 21 through 24 of your testimony. Do  
4 you have that, Mr. Powers?

5           A.    I have pages 21 through 24.

6           Q.    You testify there as to an overview of  
7 the corporate separation, correct?

8           A.    There's a section entitled "Corporate  
9 Separation Overview," yes.

10          Q.    And is this an area you have general  
11 knowledge and not specific knowledge of?

12          A.    I have general knowledge, and I'd refer  
13 you to Witness Nelson for more detailed knowledge.

14          Q.    Now, you indicate in your testimony that  
15 AEP Ohio will ask in a FERC filing to transfer its  
16 generation assets at net book value to AEP GenCo. Do  
17 you see that reference in your testimony?

18          A.    Could you give me a line number and a  
19 page?

20          Q.    That would be lines 13 through 14 on page  
21 21.

22          A.    Yes, I see that.

23          Q.    Is it your understanding that the  
24 transfer of value of the generation assets is a  
25 matter that FERC has authority over instead of the

1 PUCO?

2 A. Sounds like a legal conclusion but based  
3 on discussions with our attorneys, being regulatory  
4 attorneys, I would generally describe it as my  
5 understanding, yes.

6 Q. And is it your understanding that that  
7 FERC filing has not been made yet?

8 A. I believe that FERC filing is pending the  
9 outcome of this case.

10 Q. It's not been made at the FERC; is that  
11 what your testimony is?

12 A. That would be my understanding, but I  
13 refer you to Witness Nelson.

14 Q. You said that the FERC filing is pending  
15 the outcome of this proceeding. Is it your  
16 testimony, then, that the filing will be made after  
17 there is a final order in this proceeding?

18 A. That would be my understanding, yes.

19 Q. Now, Mr. Powers, do you recall any  
20 business discussions within AEP corporate about the  
21 appropriate transfer value of the AEP Ohio assets?

22 A. Yes, I recall general discussions.

23 Q. And did those discussions include areas  
24 such as using the net book value versus the market  
25 value of the assets?

1           A.    I recall the discussions to be what are  
2           the precedents here and the discussions indicating  
3           that net book value was a standard that FERC had used  
4           in the approval of assets and it was a standard that  
5           the Public Utility Commission of Ohio had used  
6           including, interestingly, on assets that we co-own  
7           with Duke so, therefore, if a portion of the asset  
8           had been transferred by Duke at net book value and we  
9           end up somewhere else, that would be kind of strange.

10                   And also the discussion indicating that  
11           net book value was the value that FirstEnergy used in  
12           the transfer of assets. But, again, for more detail  
13           I'd refer you to Mr. Nelson.

14           Q.    Now, you mentioned that the net book  
15           value assets co-owned by Duke. Were you referring to  
16           the Duke stipulation that was approved by the  
17           Commission where the net book value was agreed upon  
18           as the transfer value of their assets?

19           A.    I'd refer you to Witness Nelson. I don't  
20           know whether it was their stipulation or in some  
21           other proceeding.

22           Q.    Do you recall discussions about what was  
23           appropriate and fair to the members of the pool in  
24           terms of unwinding the pool as it relates to the  
25           transfer of assets?

1           A.    Generally speaking, that was another  
2    element of the discussion.

3           Q.    And with whom would those discussions  
4    have been?

5           A.    It would have included Mr. Nelson,  
6    Mr. Munczinski, regulatory attorneys, AEP Ohio team,  
7    would have been a broad group, that's the way we tend  
8    to discuss and decide these matters.

9           Q.    Now, moving back away from the transfer  
10   of assets generally to a more broad area, that is the  
11   corporate separation, can you tell me, would the  
12   board of directors of AEP have to approve corporate  
13   separation, the corporate separation plans of  
14   AEP Ohio?

15          A.    Oh, I'd have to seek counsel from the  
16   attorneys to know whether or not that was an absolute  
17   requirement.

18          Q.    Do you have authority to approve the  
19   corporate separation plan of AEP Ohio?

20          A.    Boy, I got a boss, at least -- that's  
21   Mr. Akins, and I'd certainly seek his input and,  
22   again, as I've answered, I'd have to seek the input  
23   from the attorneys as to what I procedurally actually  
24   have to do.

25          Q.    So you don't know and I take it you have

1 not sought approval of your corporate -- of the  
2 AEP Ohio corporate separation plan.

3 A. I can't recall the board of directors  
4 ever being presented with a plan and asked for their  
5 approval.

6 Q. Do you know who made the decision within  
7 AEP to corporately separate, whose decision that was?

8 A. As I've described our decision-making  
9 process, we had a lot of, you know, our smart people  
10 together to talk about what are the consequences of  
11 moving to market, and in the course of those  
12 discussions, again, remember this ESP represents a  
13 balanced transition to market over a three-year  
14 period, clearly one of the issues that came out of  
15 that discussion was the need for separation of the  
16 generation.

17 To go beyond the functional separation I  
18 previously described with Mr. Randazzo to the fact if  
19 we were going to competition as described in this  
20 morning and this afternoon's discussion, that that  
21 would be a requirement, so.

22 Q. So is your response that you don't know  
23 who ultimately made the decision to file for  
24 corporate separation with the PUCO?

25 A. It was an executive management decision

1 of which I was part.

2 Q. And when you say --

3 A. It involved a broader AEP executive  
4 management team.

5 Q. And when you say "a broader AEP executive  
6 management team," can you tell me who that management  
7 team was?

8 A. I've described some of the members, you  
9 know, at a reasonably senior level, but it included  
10 the highest levels of AEP managements.

11 Q. And who are at the highest levels of AEP  
12 management?

13 A. Mr. Akins, the CEO; Mr. Tierney, the CFO;  
14 Mr. Feinberg, the Chief Counsel; Mr. Powers, the  
15 Chief Operating Officer. And I don't mean to exclude  
16 anybody, but that's an example of executive  
17 management.

18 Q. Thank you.

19 Mr. Powers, can you tell me how much of  
20 the AEP East generating fleet will be transferred  
21 when AEP Ohio transfers its generating assets?

22 A. Again, I'd refer you for more detail, but  
23 generally speaking, in the range of greater than  
24 2,000 megawatts, but I believe less than  
25 2,500 megawatts.

1 Q. And what is the total --

2 A. That's transferred to other operating  
3 companies, if I understand your question, just for  
4 clarification.

5 Q. I'm sorry, I don't mean to interrupt.

6 Can you tell me what the 2,000 megawatts,  
7 what portion of the AEP East fleet that represents?

8 A. I'd refer you to Mr. Nelson, but I  
9 believe the Eastern fleet is somewhere between ten  
10 and twelve-thousand megawatts, somebody can do the  
11 math.

12 Q. Thank you. Now we're going to move along  
13 to the retail stability rider testimony that you  
14 present, and I'll direct your attention to page 18,  
15 and you talk in general about the retail stability  
16 rider. Is that, again, is your testimony indicative  
17 of your general understanding of the rate stability  
18 rider and not a specific understanding of how the  
19 rate stability rider functions?

20 MR. SATTERWHITE: Just for clarification,  
21 to the retail stability rider?

22 MS. GRADY: I'm sorry, retail stability  
23 rider. Thank you.

24 A. I have general knowledge of the RSR, as  
25 described in my testimony, and I'll refer you to

1     Witness Allen for more detail.

2             Q.     Now, you indicate on page 18 that the  
3     need for the retail stability rider charge stems  
4     largely from the financial harm to AEP Ohio, and I  
5     think Mr. Randazzo focused on that part of your  
6     testimony earlier today; do you recall that?

7             A.     I recall that I described the ESP that  
8     AEP Ohio has proposed offers balanced benefit between  
9     CRES providers, customers, and mitigation of  
10    financial harm, so our principal concern in filing  
11    the ESP was to try to be responsive to feedback from  
12    the Commission on what didn't hit the mark in the  
13    stipulation that was approved in December and  
14    subsequently withdrawn or unapproved in February.

15            And so we've tried to be responsive to  
16    that balance. One of those points of balance being  
17    financial harm to AEP Ohio.

18            Q.     Now, Mr. Powers, you believe that the  
19    modified ESP that the company is offering provides a  
20    discounted capacity as well as early auction,  
21    correct?

22            A.     That's what we're offering in the ESP,  
23    among other benefits, yes.

24            Q.     And when I refer to discounted capacity,  
25    I mean that discount from the company's embedded cost

1 of capacity which it maintains is 355 a megawatt-hour  
2 day. Is that your understanding of discounted --

3 A. If I understand your question, AEP Ohio  
4 believes that, knows that it has an FRR contract,  
5 that FRR cost of capacity is \$355 a megawatt-day, a  
6 discounted capacity is anything less than that. And  
7 since the ESP offers \$255 a megawatt-day and \$146 a  
8 megawatt-day, that that's discounted capacity.

9 Q. Now, when I mentioned early auctions, I'm  
10 referring to those earlier than those required under  
11 an MRO approach; is that a fair characterization of  
12 your terminology "early auctions"?

13 A. No. Early auctions in this context would  
14 be auctions that would occur prior to the full  
15 transition period that's described in the ESP which  
16 would end in May 31st of 2015.

17 Q. So the early auction that you refer to is  
18 at least -- one of them is the 5 percent auction,  
19 correct, where you're auctioning energy only?

20 A. That's correct.

21 Q. Let me back up for a moment. There are  
22 two early auctions under your modified ESP; is that  
23 correct?

24 A. Yes, that's correct.

25 Q. And one early auction is the 5 percent

1 auction which will occur six months after the  
2 Commission approves the modified ESP?

3 A. That's what we've described in the ESP,  
4 yes.

5 Q. And the second early auction is the  
6 energy-only auction that is to occur in January 2015.

7 A. Yes, that's correct also.

8 Q. And then the modified ESP also has a full  
9 auction in June of 2015, correct?

10 A. Yes; if by "full auction" you mean both  
11 energy and capacity, that's my understanding, yes.

12 Q. Now, to the extent that the ESP is  
13 offering both discounted capacity and early auctions,  
14 it's your testimony that the retail stability rider  
15 is designed to make AEP financially whole?

16 A. Again, I'd refer you to Witness Allen for  
17 more detail on the RSR, but by offering a discount to  
18 an established contractual basis for capacity, there  
19 is financial harm to AEP, and in part the RSR does  
20 mitigate some of the financial harm associated with  
21 offering that discounted capacity.

22 Q. Would you agree with me, Mr. Powers, that  
23 the RSR deals with a subset of the entire harm and  
24 equates to financial harm based on the discounted  
25 capacity in the early auctions?

1           A.    Could you state your question again?

2           Q.    Sure.  Would you agree with me,  
3   Mr. Powers, that the rate -- or, retail stability  
4   rider deals with a subset of the entire financial  
5   harm of AEP and is financial harm based on the  
6   discounted capacity in the early auctions?

7           A.    Sort of a compound question there.  I'm  
8   not sure I'm following your question because it seems  
9   like you've asked it and I've answered it.

10          Q.    Do you recall being deposed, Mr. Powers?

11          A.    Oh, yes, I do.

12          Q.    And I'm going to -- I'm going to refer to  
13   you, well, I'm going to ask your counsel to provide  
14   you with a copy of that transcript from that  
15   deposition, and I'm going to read a question and then  
16   I'm going to read the answer and I want to make sure  
17   that -- all I'm asking you is if I read it correctly.

18               MR. SATTERWHITE:  Your Honor, at this  
19   point I'd object.  I don't think -- I assume this is  
20   for impeachment purposes.  The last response from the  
21   witness is it sounds like a compound question.  I'm  
22   not sure what your question is, so I don't know what  
23   we're impeaching unless it's a process question from  
24   the deposition.

25               MS. GRADY:  Let me try to rephrase it.

1 MR. SATTERWHITE: Okay. Thanks.

2 Q. Would you agree, Mr. Powers, that the RSR  
3 is simply describing a subset of the entire harm  
4 that's to occur to AEP and that it is the financial  
5 harm based on the discounted capacity and early  
6 auctions that AEP is providing as part of a response  
7 to the Commission's desire for an accelerated  
8 movement to market?

9 A. I'd say generally that's correct.

10 Q. Thank you.

11 Would you agree with me, Mr. Powers, that  
12 the financial harm from the early auctions would be  
13 the lost revenues associated with those auctions?

14 A. Repeat the question, please.

15 Q. Yes. Would you agree with me,  
16 Mr. Powers, that the financial harm from early  
17 auctions would be the lost revenues associated with  
18 those auctions?

19 A. Yes, generally speaking that would be,  
20 again, on the auction side of things, yes.

21 Q. And you would define "lost revenues" as  
22 what?

23 A. I think, again, I'd refer you to  
24 Mr. Allen for the details of the RSR, but in general  
25 I can comment that it's set up to establish a

1 potential to achieve a level of revenue, and that to  
2 the extent that the auctions diminish that level of  
3 revenue that is potentially achievable, that the RSR  
4 would work to make up those differences and, again,  
5 Witness Allen can talk about that process in a lot  
6 more detail.

7 Q. And would you agree with me that the  
8 financial harm from the discounted capacity would be  
9 the difference between the 355 megawatt-hour day and  
10 the tiered discounted prices under your modified ESP?

11 A. Yes.

12 Q. Would you agree, Mr. Powers, that the  
13 financial harm to AEP, if it did occur, would affect  
14 retail customers?

15 A. Yes, I believe ultimately it would.

16 Q. And would you also agree, Mr. Powers,  
17 that serious financial harm would occur to AEP from  
18 the weakening of one of the most viable competitors  
19 in the state of Ohio?

20 A. What I can say as an executive in a big  
21 picture, that when RPM rates are heading to \$20 a  
22 megawatt-day, that represents over \$600 million a  
23 year in revenue to AEP Ohio. That's harm in any  
24 reasonable businessperson's sense.

25 So the RSR and the whole body of the ESP

1 is presented to provide a balance, again, to offer  
2 CRES providers an opportunity to attract AEP  
3 customers, mitigate rate impact to customers, and  
4 mitigate financial harm to AEP which could be, as I  
5 mentioned, 600 or more million dollars a year.

6 Q. Mr. Powers, would you agree that serious  
7 financial harm would occur to AEP from weakening one  
8 of the most viable competitors in the state of Ohio?

9 A. Ultimately, yes. And I think it would  
10 also impact the customers as well.

11 Q. When you're speaking of financial harm to  
12 AEP, are you speaking of the Commercial Operations  
13 group's -- Commercial Operations group of AEP which  
14 is the group that's able to bid into the auctions?

15 A. Speaking of the fact that without the  
16 RSR, or speaking to the fact that without the RSR the  
17 revenues available to AEP Ohio to continue to support  
18 the appropriate operation and maintenance of those  
19 assets or, following corporate separation during the  
20 period of transition for the GenCo, to support those  
21 assets appropriately diminishes the ability of those  
22 assets to be available to compete successfully and,  
23 therefore, causes financial harm not only to AEP but  
24 ultimately to the customers because those assets in  
25 any competitive market, I don't know of anyone who

1 would advocate a weakening of the operation or  
2 operational viability of those assets and for those  
3 reasons I believe there's harm to both AEP and its  
4 customers.

5 Q. Would you agree that there's financial  
6 harm to AEP's Commercial Operations group?

7 A. It's possible there could be financial  
8 harm to AEP's Commercial Operations group, yes.

9 Q. And the Commercial Operations group is  
10 the group that's able to bid into auctions; is that  
11 correct?

12 A. Which auctions are you referring to?

13 Q. Bid into others -- auctions made in other  
14 service territories of other EDUs.

15 A. Yes, Commercial Operations can bid into  
16 those auctions.

17 Q. And the Commercial Operations group of  
18 AEP is a group that is not part of AEP Ohio but is  
19 part of AEP Service Company; is that correct?

20 A. Yeah, that's correct.

21 Q. You also would agree, would you not,  
22 Mr. Powers, that there's financial harm potentially  
23 to AEP Retail Energy? Correct?

24 MR. SATTERWHITE: Objection, your Honor.  
25 I think the witness is not here representing AEP

1       Retail today. He's representing AEP Ohio.

2                   MS. GRADY: Let me rephrase the question.

3               Q. We've been talking now for a while about  
4       the financial harm, and we started off on this line  
5       of questioning about -- with respect to a statement  
6       or a statement that you agree that retail customers  
7       would be adversely impacted if there was serious  
8       financial harm to AEP. Do you recall those  
9       questions?

10              A. Sorry, I didn't follow your line of  
11       questioning of what I'm supposed to recall. Do you  
12       want to try again?

13              Q. I will.

14                   In your testimony you refer to serious  
15       financial harm on page -- let's go to page 15 of your  
16       testimony. You refer to serious financial harm that  
17       will occur to the company.

18              A. Do you have some specific lines you'd  
19       like me --

20              Q. Yes, that would be lines 6 and 7.

21              A. Okay.

22              Q. Now, you indicated earlier that serious  
23       financial harm could affect retail customers. Do you  
24       recall that statement?

25              A. Yes, I do recall it.

1           Q.    And do you recall saying that retail  
2 customers would -- could be adversely impacted if  
3 there was serious financial harm to AEP Ohio?

4           A.    I believe you just asked me that; yes.

5           Q.    My question is going to determining how  
6 AEP Ohio retail customers would be adversely impacted  
7 if AEP Ohio incurs serious financial harm.

8           A.    I believe if we go back a couple  
9 questions, I answered that question.

10          Q.    Yes. Now, my question is: Would you  
11 agree that there will -- if AEP Ohio incurs serious  
12 financial harm, that there will be financial harm to  
13 AEP Retail Energy who is the CRES provider operating  
14 in the state of Ohio?

15               MR. SATTERWHITE: Your Honor, I'd object  
16 just to the extent she's asking, if you look at the  
17 testimony she's citing on page 7, serious financial  
18 harm to AEP Ohio. If she's not asking him as an AEP  
19 Retail expert but just as a CRES provider in general,  
20 you know, I'll withdraw my objection. But if she's  
21 asking from the point of view of this case being an  
22 affiliate under the AEP umbrella, then I would object  
23 on that basis.

24               EXAMINER TAUBER: Ms. Grady.

25               MS. GRADY: Your Honor, he testifies that

1     there's serious financial harm to AEP.  He's  
2     testifying that there's -- retail customers would be  
3     adversely impacted.  I am trying to determine how  
4     retail customers would be adversely impacted was the  
5     line of questioning that we did in the deposition, so  
6     we can certainly read the deposition answers in if we  
7     have a problem.

8                 MR. SATTERWHITE:  And, your Honor,  
9     deposition questions, that's pretty broad, it doesn't  
10    mean it's relevant in the scope of the case.  And the  
11    testimony that I referred to was to AEP Ohio.  She  
12    just described it as generally AEP.

13                So, again, my point is if they're asking  
14    the witness to talk about the industry as a whole  
15    versus personal information in his job for AEP  
16    Retail, there's a distinction there.  He's here on  
17    behalf of AEP Ohio; that's what his testimony says  
18    here.

19                EXAMINER TAUBER:  Ms. Grady, could you  
20    rephrase your question, please?

21                MS. GRADY:  Yes.

22                EXAMINER TAUBER:  Thank you.

23                Q.     (By Ms. Grady) Would you agree with me,  
24    Mr. Powers, that retail customers would be adversely  
25    impacted if there was financial harm to AEP Retail

1 Energy?

2 MR. SATTERWHITE: Objection, your Honor.  
3 That's irrelevant. His testimony is about financial  
4 harm to AEP Ohio and now they're asking him to  
5 testify for another party in the case.

6 MS. GRADY: His testimony is also, your  
7 Honor, that retail customers would be adversely  
8 impacted. I believe I'm entitled to determine how  
9 retail customers would be adversely impacted.

10 MR. SATTERWHITE: And I believe she can  
11 ask that question. What she's asking is harm to AEP  
12 Retail, not to just -- if she's saying retail  
13 customers are AEP Retail, if that's the reference,  
14 that's inappropriate. If it's just retail customers  
15 in general, she can ask that question without probing  
16 this witness of his knowledge of AEP Retail the  
17 entity.

18 EXAMINER TAUBER: Ms. Grady?

19 MS. GRADY: I don't know how much more I  
20 can respond. He testifies there's serious financial  
21 harm. He testifies there will be adverse harm to  
22 retail customers. I'm asking him if retail customers  
23 would be seriously harmed if there was -- if there  
24 was financial harm to AEP Retail Energy as a CRES  
25 provider in the state of Ohio.

1 EXAMINER TAUBER: Okay. The objection is  
2 overruled. If you can answer the question, probably  
3 the most recent one which Ms. Grady just asked, and  
4 I'll have it read back for you.

5 THE WITNESS: Thank you.

6 EXAMINER TAUBER: Yeah.

7 (Record read.)

8 THE WITNESS: One more time, please.

9 (Record read.)

10 A. I'll try and answer your question. AEP  
11 Retail is one of many CRES providers in Ohio. I  
12 believe it's a healthy thing to have many  
13 competitors. To the extent a competitor is harmed,  
14 generally speaking, that would be the case where --  
15 harm of either AEP Retail or any other CRES provider,  
16 to the extent that harm occurs, I'm speaking in a  
17 broad generality. That's the best I can answer your  
18 question.

19 Q. (By Ms. Grady) Now, Mr. Powers, would you  
20 also agree that financial harm to AEP would affect  
21 retail customers where there was -- where there was  
22 harm to the ability of the GenCo to provide  
23 competitive generation assets?

24 A. I think I answered your question several  
25 questions ago --

1 Q. So the answer is --

2 A. -- in a lot of detail.

3 Q. -- yes.

4 A. State the question again.

5 Q. You would agree, would you not, that  
6 there is -- that the harm -- that AEP Ohio financial  
7 harm would affect retail customers under  
8 circumstances where there was harm to the ability of  
9 the GenCo to provide competitive generation assets.

10 A. Yes, I think I -- yes.

11 Q. Would harm to the GenCo affect AEP Retail  
12 and its ability to provide competitive retail  
13 electric service in the state of Ohio to retail  
14 customers?

15 MR. SATTERWHITE: Your Honor, I'll object  
16 again. We're getting back into what the outcome of  
17 the case is going to be on AEP Retail when he's here  
18 testifying on behalf of AEP Ohio.

19 EXAMINER TAUBER: Ms. Grady.

20 MS. GRADY: Your Honor, again, we're  
21 going to that statement that he said he believes that  
22 retail customers would be adversely impacted by  
23 financial harm to AEP Ohio and I'm just trying to  
24 determine how that all plays out.

25 EXAMINER TAUBER: With that clarification

1 the objection is overruled.

2 A. You know, as an executive assessing the  
3 Public Utility Commission of Ohio's desire to go to  
4 market more quickly, and as an executive that's spent  
5 his career having responsibility for generation in  
6 some form or fashion, and as an executive that has  
7 observed the rollout of markets in the state of  
8 Texas -- part of Texas, I'd simply comment on the  
9 part that we, the citizens of the state of Ohio, want  
10 as much generation available as possible in the  
11 circumstance of having a fully competitive market.

12 And my answer, therefore, has been to the  
13 extent during this period that there isn't sufficient  
14 revenue to maintain those assets as they should be  
15 maintained, that at the end of the day that weakens  
16 the overall physical health of those assets to be  
17 available to supply electricity capacity in the state  
18 of Ohio, ultimately that does not support broad  
19 competition in the state of Ohio.

20 Q. The retail stability rider that you  
21 discuss in your testimony, do you have an  
22 understanding of where the revenues collected from  
23 that rider go to? Do they go to AEP Ohio or do they  
24 go to AEP -- the new AEP GenCo, if you know?

25 A. I believe I'd refer you to Witness Allen,

1 but I can give you a perspective that it depends  
2 because the GenCo doesn't exist at this point in  
3 time.

4 Q. When the GenCo exists, are the retail  
5 stability riders going to the GenCo as opposed to  
6 AEP Ohio, if you know, Mr. Powers?

7 A. My impression is that those revenues  
8 could go to the GenCo, but, again, I'd refer you to  
9 Witness Allen for more detail.

10 Q. Thank you.

11 MS. GRADY: That's all the questions I  
12 have, your Honor.

13 EXAMINER TAUBER: Thank you.

14 Mr. Smalz?

15 MR. SMALZ: Thank you, your Honor.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Smalz:

19 Q. Mr. Powers, my name is Michael Smalz, and  
20 I represent the Appalachian Peace and Justice  
21 Network. I would direct your attention to page 18,  
22 lines 4 to 5 of your testimony.

23 A. Page 18, lines 4 and 5?

24 Q. Yes. Specifically you state "By  
25 contrast, the proposed modified ESP promotes many

1 policy objectives of SB 221...." Do you see that?

2 A. Yes, I do.

3 Q. And are you referring to the state policy  
4 objectives that are included in statute as a result  
5 of SB 221?

6 A. As I've indicated in that testimony, our  
7 Company Witness Dias provides a lot of testimony on  
8 the policy objectives of the state, so certainly in  
9 discussions with the team and with Selwyn Dias I  
10 understand that the ESP does promote those policies,  
11 but I'd refer you to Witness Dias for a more detailed  
12 discussion.

13 Q. So is it your testimony that you do not  
14 know what those policy objectives are?

15 A. Oh, I have reviewed those policy  
16 objectives in general, but I wouldn't want to take a  
17 test right now and get scored. I'd like to get an A  
18 and I don't believe I could get an A on reciting each  
19 and every one of those policy objectives; there are  
20 quite a few, if I remember.

21 Q. I see. Well, are you aware that one of  
22 those policy objectives is to protect at-risk  
23 customers?

24 A. Again, from my previous review, generally  
25 speaking, I'd say that that was an objective of state

1 policy, but, again, I'd refer you to Witness Dias to  
2 absolutely support that.

3 Q. And, to your knowledge, are there any  
4 provisions in the proposed ESP that provided any  
5 protections for at-risk customers?

6 A. Again, as I think I've had an opportunity  
7 to describe this morning and this afternoon, this is  
8 an incredibly complex circumstance; balancing the  
9 needs of CRES providers, customers, and AEP. We  
10 think the ESP that's been presented here does a good  
11 job in that.

12 So to the extent that the customers are  
13 clearly one of the constituents that we designed this  
14 ESP to try and provide balance and fairness to, I  
15 believe the ESP is directionally correct with that  
16 policy, but I'd refer you to Witness Dias for more  
17 detail.

18 Q. And do you know if the proposed ESP  
19 provides any funding specifically for the benefit of  
20 low-income customers?

21 A. I'd refer you to Witness Dias. I don't  
22 recall off the top of my head.

23 Q. I see.

24 In your earlier testimony upon  
25 cross-examination by Mr. Randazzo you referred to the

1 spirit of fairness, quote/unquote. Is it your  
2 testimony that the proposed ESP embodies a,  
3 quote/unquote, spirit of fairness?

4 A. I think very much so. I mean, it  
5 balances rate mitigation for the customers, early  
6 access to market, providing discounted capacity to  
7 CRES providers, mitigate some financial harm to AEP,  
8 recognizes, in our opinion, a history in Ohio where  
9 the Public Utility Commission of Ohio asked AEP not  
10 to go to market, now it's encouraging it to go to  
11 market. Looking at all those factors and others I  
12 think it provides a great deal of balance.

13 Q. And in determining whether the proposed  
14 ESP embodies a spirit of fairness, would it be proper  
15 to consider whether the proposed ESP provides any  
16 benefits for at-risk or vulnerable customers? Would  
17 that be a relevant factor?

18 A. What I can say to your line of  
19 questioning is the ESP as submitted is not the  
20 stipulation that was approved in December, and to the  
21 extent that with -- at the direction of the  
22 Commission to consider this complex issue and to  
23 balance rate impact along with access to discounted  
24 capacity for CRES providers, reasonable financial  
25 mitigation or recovery for AEP Ohio, we think the ESP

1 does a good job of that but it is not the stipulation  
2 that occurred in December.

3 Q. Mr. Powers, I appreciate your answer, but  
4 my question simply is would it be proper for the  
5 Commission to consider whether there are any  
6 provisions for the benefit of at-risk or vulnerable  
7 customers?

8 A. Again, I think I've tried to provide you  
9 context for my answer. I've referred you to our  
10 Witness Dias for more detail, and I also wouldn't  
11 want to speak for the Commission.

12 Q. Do you think it's a relevant factor?

13 A. I think the Commission has to consider  
14 all of those factors that if we could catalog each  
15 and every one of the policy issues, but to what  
16 extent the Commission ultimately considers and  
17 accepts, considers and decides how much, or considers  
18 and rejects, I think that's what we're here talking  
19 about as a complicated case in which there are many,  
20 many, many factors.

21 MR. SMALZ: Thank you, Mr. Powers. I  
22 have no further questions.

23 EXAMINER TAUBER: Thank you.

24 Mr. Lang?

25 MR. LANG: Thank you, your Honor.

1                                   - - -

2                                   CROSS-EXAMINATION

3       By Mr. Lang:

4                   Q.     Good afternoon, Mr. Powers.

5                   A.     Good afternoon.

6                   Q.     I've been busy crossing out questions  
7       from my outline, so hopefully I won't repeat too much  
8       from what's gone on today.

9                             You were asked about your position with  
10       American Electric Power. Is it true that you do not  
11       have a title or position with AEP Ohio?

12                   A.     I think you asked me that in my  
13       deposition, and to the best of my knowledge no, I  
14       don't have a, certainly not an officer title with  
15       AEP Ohio. Generally speaking, they take my phone  
16       calls.

17                   Q.     Good to know.

18                             Now, you were also asked about your  
19       responsibilities as the Executive Vice President and  
20       Chief Operating Officer of American Electric Power.  
21       Is it correct that in exercising those  
22       responsibilities there are times when you have to  
23       balance the interests between the different operating  
24       companies?

25                   A.     I recall in my deposition there were 11

1 different states, 7 different operating companies  
2 involved, there's always a variety of issues that  
3 come up.

4 Q. So yes?

5 A. I think in fairness, yes.

6 Q. And this may not be too surprising but  
7 I'm going to ask you a lot of the same questions that  
8 I asked you in the deposition, since all these folks  
9 weren't there, so there will be a fair amount of  
10 repetition.

11 Now, in, I think you said you came to  
12 Ohio in late-2001; is that correct?

13 A. Yeah, I think the specific move date was  
14 December of 2001.

15 Q. And you came to Ohio to work for AEP and  
16 your position at the time was Executive Vice  
17 President of Nuclear and Technical Services; is that  
18 right?

19 A. Yes, that's correct.

20 Q. And prior to that time your employment in  
21 the utility world had been exclusively in nuclear  
22 operations; is that correct?

23 A. Yes, that's correct.

24 Q. So --

25 A. Other than when I had a paper route and

1 mowed lawns and stuff like that.

2 Q. Same here.

3 So when you came to Ohio in late-2001,  
4 that was your first position in which you had  
5 responsibilities beyond the nuclear area; is that  
6 right?

7 A. That's right.

8 Q. And that position also made you a member  
9 of the executive AEP management, correct?

10 A. Yes; I was an Executive Vice President  
11 and I reported to the Chief Executive Officer.

12 Q. So from late-2001 through late-2006 you  
13 were -- you described in your deposition as you were  
14 an interested observer in the utility matters as a  
15 member of the executive management; is that fair?

16 A. I think that's fair.

17 Q. But during that time you continued to  
18 focus on the nuclear and the fossil operations; is  
19 that right?

20 A. Only broadening it to nuclear and all  
21 generation activities.

22 Q. Now, AEP Ohio today in the AEP Ohio  
23 service territory is not a competitor against CRES  
24 providers; is that right?

25 A. Say the question again, please.

1           Q.    Sure.  That AEP Ohio today in the  
2   AEP Ohio service territory is not a competitor  
3   against CRES providers.

4           A.    That would be my understanding, yes.

5           Q.    There are other AEP entities that  
6   participate in competitive markets elsewhere in Ohio,  
7   correct?

8           A.    That's correct.

9           Q.    And earlier today you've already talked  
10  about AEP Retail Energy, which is a CRES provider.

11          A.    That's correct.

12          Q.    And you've also answered questions about  
13  the Commercial Operations group, which is part of the  
14  AEP Service Corporation.  So I want to ask you about  
15  the Commercial Operations group.  When it bids into  
16  wholesale auctions in Ohio, where does the energy  
17  come from?

18          A.    It's come certainly from the market, and,  
19  you know, of any competitor -- in Ohio, any auctions  
20  I'm aware of with any level of detail would be  
21  auctions that occurred with FirstEnergy when  
22  FirstEnergy was in MISO and not PJM, and I believe  
23  those auction would have been serviced from the  
24  market.

25          Q.    So as far as you know there's no

1 particular agreement between the Commercial  
2 Operations group and AEP Ohio or any of the other AEP  
3 East utilities for provision of generation.

4 A. What I can say is that AEP's Commercial  
5 Operations group does try and optimize excess  
6 generation, generation that's not needed on a  
7 particular day, to the benefit of the operating  
8 companies, as well as have a trading organization  
9 that can take -- participate in auctions as you've  
10 described or take speculative positions.

11 Q. Now, when the Commercial Operations group  
12 is bidding the wholesale auctions in Ohio, what is  
13 your understanding of where the capacity comes from  
14 for those bids?

15 A. Again, for the auctions I would have a  
16 reasonable level of understanding, again, I stated I  
17 believe the energy and capacity was secured from the  
18 market.

19 Q. Okay. Yeah, I wanted to be clear, the  
20 first question was about energy, so -- but both  
21 energy and capacity, your understanding is it's  
22 coming from the market, so in that case the capacity  
23 would be coming from the RPM market; is that your  
24 understanding?

25 A. Yeah, now you're getting down to a level

1 of detail that I just don't -- I don't recall.

2 Q. Okay. Now, on page 15 of your  
3 testimony --

4 A. Page 15?

5 Q. 15.

6 A. Okay.

7 Q. Here you're describing the two-tiered  
8 capacity pricing for non-SSO load that's part of the  
9 modified ESP proposal. Do you know whether it's the  
10 same customers that qualified for tier 1 pricing last  
11 year that would qualify under the modified ESP?

12 A. Can you state the question again?

13 Q. Let me try it a different way. You  
14 understand that under the previous ESP stipulation  
15 there was a two-tiered pricing structure created.

16 A. That's correct.

17 Q. Do you understand that?

18 A. Yes, I do.

19 Q. Okay. And so under that previous  
20 stipulation for at least some period of time there  
21 were customers that qualified for tier 1 pricing and  
22 part of that qualification was based on whether  
23 customers were shopping as of September 7th of last  
24 year. Do you understand that?

25 A. I remember those -- there were dates that

1 were involved, and I believe Witness Nelson can give  
2 a lot more detail on this, but I do recall that there  
3 was a, quote/unquote, grandfathering sort of  
4 provision for those that had already shopped.

5 Q. Do you know whether, on page 15 of your  
6 testimony here where you're talking about the tier 1  
7 pricing under the modified ESP proposal, is it going  
8 to be the same customers that qualify for tier 1  
9 pricing last year that are -- that qualify for tier 1  
10 pricing this year?

11 A. I'm going to refer you to Witness Nelson.

12 Q. Okay. Now, with regard to having the  
13 two-tiered pricing structure, this would result in  
14 different customers paying different prices for the  
15 same capacity product, correct?

16 A. I think we talked about this in my  
17 deposition and I think to the extent that their CRES  
18 provider, whoever they chose, was able to take  
19 advantage of a tiered pricing or not, tier 1 pricing  
20 or not, those customers by way of their CRES  
21 providers could see different capacity rates, yes.

22 Q. And so it's clear, the qualification for  
23 the tier 1 or tier 2 pricing is not based on who the  
24 CRES provider is but is based on who the customer is,  
25 correct?

1           A.    I'm sorry, you lost me on that one.

2           Q.    Well, do you know whether qualification  
3   for the two-tiered pricing or qualification for the  
4   lower price tier 1, do you know whether that's based  
5   on who the CRES provider is or who the customer is?

6           A.    No. I'd have to refer you to Witness  
7   Nelson to answer that question.

8           Q.    Well, taking the example hypothetical of  
9   two dry cleaners across the street from each other,  
10   right, which I also asked you in your deposition, but  
11   going back to this again, you have these two dry  
12   cleaners, it's the AEP East pool that's providing  
13   capacity to meet the load of both of those customers,  
14   right?

15          A.    I'm sorry. I remember the dry cleaners,  
16   I don't remember the next part. Could you repeat  
17   your question?

18          Q.    Sure. Two customers across the street  
19   from each other in, let's say here in Columbus, the  
20   capacity for the load of both customers is being  
21   provided by the AEP East pool under the FRR  
22   obligation that you've talked about today, correct?

23          A.    Yes, that's -- yes, that's correct.

24          Q.    And so if both of those dry cleaners are  
25   non-SSO customers, if they're shopping customers, the

1 capacity is the same and the AEP East pool obligation  
2 is the same; is that right?

3 A. And you're trying, you know, you're  
4 parsing an example in which you described a  
5 complicated circumstance in this ESP with the need to  
6 offer some capacity prices that encourage shopping,  
7 which we believe the ESP does, to mitigate rate  
8 impact and to mitigate financial harm to AEP.

9 So to the extent that these tiered  
10 capacities are below our cost but also not RPM, to  
11 the extent that there are limits on the access over  
12 the period of the transition, then there could be  
13 different capacity charges offered by CRES providers  
14 to customers. Beyond that I'm not sure I understand  
15 any nuance beyond that you're trying to drive at and  
16 I'd refer you to Witness Nelson

17 MR. SATTERWHITE: Just so the record's  
18 clear, I think -- so no other parties start asking  
19 Mr. Nelson some of these questions --

20 MR. RANDAZZO: Too late.

21 MR. SATTERWHITE: I guess it's not  
22 working.

23 -- the table refers to Mr. Allen for the  
24 two tier, I just don't want to --

25 THE WITNESS: I apologize. Mr. Allen.

1 MR. SATTERWHITE: I apologize for  
2 interrupting.

3 Q. (By Mr. Lang) So, Mr. Powers, with regard  
4 to those different charges, you do agree that even  
5 though the charges are different, the capacity that's  
6 being provided is the same and the AEP East pool's  
7 obligation under the FRR agreement is the same.

8 A. I believe that's correct.

9 Q. Now, the members of the AEP East pool  
10 have filed notice, quite a while ago, to terminate  
11 the pool, correct?

12 A. That is correct.

13 Q. And you agree that termination of the AEP  
14 East pool agreement will occur regardless of what  
15 form the modified ESP takes, correct?

16 A. I'll think about that.

17 Yes, I believe that's correct.

18 Q. Now, you've had several questions today  
19 about AEP Ohio charging \$355 per megawatt-day for  
20 capacity. Do you know of any time in the past that  
21 AEP Ohio has charged that rate to CRES providers?

22 A. I think I answered that question for  
23 Mr. Randazzo and indicated that no, I'm not aware of  
24 a time in which that was charged, but that's a  
25 contested issue.

1           Q.    I'm sorry, if it was asked again, I've  
2    been trying hard to cross things out.

3                   Now, you are aware that AEP has benefited  
4    from the availability of RPM-priced capacity in the  
5    Duke Energy Ohio territory.

6           A.    I don't think I've ever agreed that I'm  
7    aware of that.

8           Q.    Okay.  So you're not aware.

9                   Are you aware that AEP Ohio has benefited  
10   from the competitive wholesale and retail markets in  
11   the FirstEnergy Ohio utilities' territories?

12          A.    I believe I understand that FirstEnergy  
13   has declared RPM and I believe indicated that AEP  
14   Retail has participated in the FE service territory.

15          Q.    And, also, also that Commercial  
16   Operations group?

17          A.    Also the Commercial Operations group,  
18   thank you.

19          Q.    Now, on page 18, lines 17 and 18 of your  
20   testimony --

21          A.    Page 17?

22          Q.    Page 18.

23          A.    I'm sorry.

24          Q.    Lines 17 and 18.  Here you state "...the  
25   Company must continue to meet its PJM capacity

1 obligations during the interim," and by "the interim"  
2 here you mean between now and June 1, 2015; is that  
3 right?

4 A. My answer is generally yes, perhaps I'm  
5 quibbling with whether it be May 31st or  
6 June 1st, but that's correct.

7 Q. Do you agree that AEP Ohio has sufficient  
8 capacity to meet the PJM capacity obligations between  
9 now and June 1, 2015?

10 A. As I consider the assets that are  
11 available at the moment, I would say yes.

12 Q. And is it your understanding that the  
13 capacity obligation really is the obligation of the  
14 AEP East operating companies? So it's a pooled  
15 obligation is what I'm trying to ask.

16 A. The commitment for FRR was made across  
17 the Eastern generation fleet and the pool that we  
18 referred to earlier.

19 Q. So there's not a concern in your mind  
20 that AEP East lacked sufficient capacity to meet its  
21 PJM capacity obligations between now and June 1,  
22 2015?

23 A. Is that a different question than you  
24 just asked me? I'm trying to make sure I answered  
25 the question.

1           Q.    I expanded it to AEP East, the first  
2 question was about Ohio.

3           A.    My understanding is there's sufficient  
4 capacity, yes, or believed to be sufficient capacity.

5           Q.    Now, on page 17 of your testimony, line  
6 5, you state that one of the benefits of the modified  
7 ESP is increased reliability, there at the end of  
8 line 5. Am I correct that that's a reference to the  
9 distribution-related provisions that are in the  
10 modified ESP as discussed by AEP Witness Kirkpatrick?

11          A.    Certainly Witness Kirkpatrick, but as I  
12 think about that today you could probably broaden  
13 that increased reliability to include the discussion  
14 we had on the generation assets that we previously  
15 discussed.

16          Q.    And two lines up on line 3, page 17, you  
17 describe the pricing under the modified ESP as  
18 transparent. By "transparent" do you mean that all  
19 the factors in the ESP pricing are disclosed and  
20 understood by customers?

21          A.    I'm hesitant to say that customers in  
22 general anywhere in any utility understand everything  
23 that's in pricing, but I think we believe that the  
24 ESP is a scrutable document that establishes the base  
25 for rates that is predictable that, again, it offers

1 the balance and benefits that I've previously  
2 described, so in a general sense, yes, I think it  
3 provides transparency.

4 Q. Now, you understand that the generation  
5 pricing in the modified ESP has a cost-based fuel  
6 component as part of that generation pricing, right?

7 A. I understand it has a fuel adjustment  
8 clause, yes.

9 Q. In addition to the fuel adjustment clause  
10 there's also a base generation rate that is not cost  
11 based; is that your understanding?

12 A. I'm hesitant to say that the  
13 generation-based rate is not cost based.

14 Q. Do you know what the basis is for it?

15 A. I think I'd refer you in this case to  
16 Witness Nelson to talk about the basis for that.

17 Q. Not to be unfair to him, but would  
18 Mr. Roush also be a good person? If you know.

19 A. I don't know specifically.

20 Q. Okay. Going back a page to page 16, on  
21 lines 10 through 11 you say "There will be no" --  
22 "There will be no net changes to overall generation  
23 based prices for SSO customers during this  
24 transition."

25 Now, during your deposition you didn't

1 recall what was meant by "net changes." Do you  
2 recall now what is meant by "net changes"?

3 A. I did a little studying, but not a lot.  
4 I believe in the base generation rate -- I know for  
5 certain that the base generation rate does not change  
6 over the period of the ESP, but I believe there were  
7 some environmental charges that were in the rider  
8 that were rolled into the base generation rates that  
9 would remain stable over the term of the ESP. So I'm  
10 narrowing the term, but, again, I would refer you to  
11 either Selwyn Dias or Mr. Nelson to talk about that.

12 Q. Okay. Now, with regard to the base  
13 generation prices that you're referring to here in  
14 your testimony, you do not consider the retail  
15 stability rider to be part of those base generation  
16 prices, correct?

17 A. Yes, that's correct.

18 Q. And you do not consider the phase-in  
19 recovery rider to be part of the base generation  
20 prices that you reference in your testimony, correct?

21 A. That's correct.

22 Q. Back on page 15 we were talking about the  
23 first tier capacity -- the first tier capacity rates,  
24 and on line 9 of page 15 you say that "The first tier  
25 is priced at current RPM rates of \$146 per

1 megawatt-day...." Do you know for how much longer  
2 that current rate is in effect?

3 A. Generally speaking. I believe it runs  
4 through the end of May or into June, early-June.

5 Q. Do you know whether there's been a time  
6 when the PJM RPM price has been at \$355 per  
7 megawatt-day or higher?

8 A. I don't know off the top of my head, no.

9 Q. Now, you said the current RPM rate runs  
10 through the end of this month. Do you know what the  
11 RPM rate is as of June 1 of 2012?

12 A. Generally speaking, yes, I do.

13 Q. What's your general understanding?

14 A. My general understanding is it's \$20 or  
15 so a megawatt-day. Give or take.

16 Q. Now, you've -- several times today you've  
17 referred to the FRR contract, that AEP Ohio under its  
18 FRR contract. What specifically are you referring to  
19 when you refer to the "FRR contract"?

20 A. Referring to a contract and an election  
21 by AEP with PJM to self-supply its capacity under the  
22 FRR option.

23 Q. Do you know whether that's -- that  
24 contract that you're referencing is the same thing as  
25 what's called the RAA?

1           A.    I don't know.

2           Q.    Now, your understanding is that under the  
3 FRR contract AEP Ohio is required to provide its  
4 capacity on a cost basis; is that right?

5           A.    That's my understanding, yes.

6           Q.    So is it your understanding that the FRR  
7 contract prohibits you from charging the RPM price to  
8 CRES providers?

9           A.    I'm not an attorney and I don't know --  
10 so I'd have to ask my attorneys whether there's a  
11 prohibition or not.

12          Q.    Is your understanding that under the FRR  
13 contract AEP Ohio is required to provide its capacity  
14 on a cost basis? Does that understanding come from  
15 your attorneys?

16          A.    I'm sorry, repeat the question.

17          Q.    You had answered earlier that your  
18 understanding of the FRR contract is that AEP Ohio is  
19 required to provide its capacity on a cost basis, so  
20 I wanted to know if that understanding also comes  
21 from your attorneys or is that an understanding you  
22 have separate and apart from counsel.

23          A.    My understanding is that FRR's cost  
24 based. That's the contract we're operating under.

25          Q.    In the past when AEP Ohio has charged

1 CRES providers for capacity based on RPM pricing,  
2 would you consider that a violation of the FRR  
3 contract?

4 A. I haven't considered it. Again, I'm not  
5 an attorney so I wouldn't opine on whether it was a  
6 violation or not. There were some very pragmatic  
7 issues, either no shopping or limited shopping, and  
8 when it became evident that a lot of shopping would  
9 occur, we obviously went in at both FERC and asked  
10 for clarification with the Commission on what  
11 capacity should be charged, and obviously we believe  
12 that it was FRR and cost based.

13 Q. Do you know how the decision was made at  
14 AEP Ohio to initially start charging CRES providers  
15 for capacity using the RPM market pricing?

16 A. Not specifically. I'd refer you to  
17 Witness Dias to answer that or to get into more  
18 detail on that.

19 Q. If I could ask you to turn to page 19 of  
20 your testimony. Starting at line 9 you have a  
21 heading "Competitive Auction Bid Process," so here  
22 you're stating that an auction-based SSO prior to  
23 corporate separation or pool termination would result  
24 in unacceptable financial risks for AEP Ohio; is that  
25 a fair description of your testimony on page 19?

1           A.    Yes, I think it's a fair description.

2           Q.    And, now, the energy-only auction for  
3   5 percent of SSO load that is proposed in the  
4   modified ESP, that could occur prior to corporate  
5   separation and pool termination; is that your  
6   understanding?

7           A.    Could you state your question again?

8           Q.    Sure. Asking about the particular early  
9   auction that's part of the modified ESP which is the  
10  energy-only auction for 5 percent of SSO load, is it  
11  your understanding that that could occur prior to  
12  corporate separation and pool termination?

13          A.    That's my understanding.

14          Q.    Do you have an understanding of how the  
15  purchase of energy through that 5 percent auction  
16  would be treated under the pool agreement that would  
17  still be in effect?

18          A.    No, in no detail. I'd refer you to  
19  Witness Nelson.

20          Q.    You said "in no detail." Do you have any  
21  general understanding?

22          A.    No, I do not.

23          Q.    Okay. Now, with regard to shopping rates  
24  during the modified ESP, that's something that you  
25  have not personally done an analysis of, correct?

1           A.    Not personally, no.

2           Q.    That's something you would rely on AEP  
3   Witness Allen for, correct?

4           A.    Particularly Bill Allen, that's correct.

5           Q.    Now, back on page 15, I keep going back  
6   to page 15, back on page 15, lines 12 through 16,  
7   there's discussion of governmental aggregation  
8   initiatives here, and here on these lines 12 through  
9   16 you're describing how governmental aggregation  
10   will be treated under the modified ESP and the  
11   two-tiered pricing structure, correct?

12          A.    That's correct.

13          Q.    Do you know whether, based on Mr. Allen's  
14   shopping projections, additional aggregation load  
15   approved after the November 2012 election, which you  
16   reference in your testimony, will have access to tier  
17   1 pricing in 2013?

18          A.    Where's November 2012?

19          Q.    You know, thank you for the correction.  
20   I actually meant to refer to the November 2011  
21   elections.

22          A.    Just keeping you on your toes.

23          Q.    Appreciate that.  So let me ask the  
24   question again and maybe it will be slightly more  
25   clear.

1                   Based on Mr. Allen's shopping  
2     projections, do you know whether additional  
3     aggregation load approved after the November 2011  
4     election will have access to tier 1 pricing next year  
5     in 2013?

6           A.    I'd refer you to Mr. Allen.

7           Q.    So that's a --

8           A.    That's a no.

9           Q.    Thanks.

10                   Going back to page 7 of your testimony,  
11     toward the top of the page at line 4 you refer to the  
12     Commission approving Duke Energy Ohio's ESP case  
13     which allowed for an electric services stability  
14     charge rider. Do you know whether Duke Energy Ohio  
15     is contractually committed to FRR capacity supply  
16     through May 31, 2015, the same as AEP Ohio?

17           A.    As we discussed in my deposition, no, I  
18     don't recall.

19           Q.    Do you know whether Duke Energy Ohio  
20     charges -- do you know what Duke Energy Ohio charges  
21     CRES providers for capacity?

22           A.    I do not.

23           Q.    Do you know whether Duke Energy Ohio's  
24     SSO rates are determined by a competitive auction?

25           A.    I believe Duke Energy has agreed to

1     conduct auctions. I don't know the timing or the  
2     details of those auctions.

3             Q.     And is it fair to say you also don't know  
4     the status of Duke Energy Ohio's generating assets?

5             A.     No, not specifically. No.

6             Q.     Now, you had many questions today about  
7     the electric transition plan case; I just have a few  
8     questions about that. Do you know whether in that  
9     electric transition plan case AEP Ohio sought to  
10    impose a lost revenue charge on shopping customers?

11            A.     I don't know, and I'm going to pile on  
12    Phil again and say he was I think around during that  
13    period and ask you to ask him. I don't know.

14            Q.     Now, you were aware that there was a  
15    settlement in that case; is that correct?

16            A.     I don't recall specifically.

17            Q.     So with regard to that case, again, with  
18    regard to how that case dealt with stranded cost  
19    recovery, is that not something you know?

20            A.     I didn't follow your question. I'm  
21    sorry.

22            Q.     Again, asking about the electric  
23    transition plan case, is how that case dealt with  
24    stranded cost recovery something that you know?

25            A.     Again, I think in the course of this

1 morning and this afternoon I've given my general  
2 awareness and general knowledge of that period of  
3 time, but I don't have any further detail on that so  
4 my answer is I don't know.

5 Q. Is the Ohio regulatory background history  
6 that's in your testimony starting at page 7, is that  
7 history that was prepared by members of your AEP  
8 team?

9 A. Well, it was prepared with me involved.  
10 We sat down and said, you know, this is a complicated  
11 case and a complicated circumstance and we thought  
12 that the Commission deserved some perspective on what  
13 we believed, we were trying to accomplish and provide  
14 some context for the balanced plan that we were going  
15 to suggest.

16 And so I was there, I used my general  
17 knowledge as an executive at AEP, a team was  
18 assembled, those that had specific knowledge and  
19 understanding contributed, and this history ensued  
20 and from my perspective as a member of senior  
21 executive AEP management, maps pretty well to my  
22 recollection of how things went.

23 Q. Okay. As reflected in this testimony, is  
24 it AEP Ohio's position that it negotiated a  
25 settlement in its ETP case that ended up being much

1 worse than what other Ohio utilities negotiated in  
2 their ETP cases?

3 MR. SATTERWHITE: Objection, your Honor,  
4 I think the witness already testified he wasn't sure  
5 it was a settled result or not.

6 EXAMINER TAUBER: Mr. Lang?

7 MR. LANG: I'm asking him if that's his  
8 position.

9 EXAMINER TAUBER: The objection is  
10 sustained. Please move on.

11 Q. Well, is it AEP Ohio's position that the  
12 result of the ETP case ended up being much worse than  
13 the results of the other Ohio utilities' ETP cases?

14 A. I haven't formed an opinion on that.

15 Q. Now, Mr. Randazzo asked you about the  
16 order from the DP&L case that's in footnote 1. Is it  
17 correct that you did not read that order prior to  
18 filing your testimony?

19 A. Yeah, I don't recall reading that order  
20 until, as I described. I have read the specific  
21 section of that order that I cited.

22 Q. All right. You talked this morning about  
23 reading page 29 of that order. Was that something  
24 you did following your deposition last week?

25 A. I think in my deposition I indicated to

1     you I don't recall reading the order. I've read the  
2     order. I do remember seeing the section, I just  
3     didn't recall at the time of the deposition.

4             Q.    On page 11 of your testimony, lines 3  
5     through 5, actually starting up on line 2 you're  
6     discussing that AEP Ohio has submitted notice to PJM  
7     of its intent to participate in PJM's reliability  
8     pricing model for AEP Ohio's load, and is it correct  
9     that that has now happened?

10            A.    Yes.

11            Q.    And at the end of that sentence you cite  
12     to the capacity case where we recently concluded the  
13     hearing. Do you know why you're citing to the  
14     capacity case?

15            A.    Oh, I think, first of all, I wanted to  
16     send a clear signal, as I mentioned in the course of  
17     either this morning or this afternoon, clear to us  
18     from the standpoint of smelling the coffee that the  
19     Public Utility Commission of Ohio wants us to move to  
20     market faster, and that particular citation just  
21     happens to have some good reference to the fact that  
22     we hear you, we did it. We've obviously been asking  
23     a lot of questions about FRR versus RPM, why did you  
24     go to FRR, why aren't you in RPM. It's a clear  
25     signal. You want us to go to market, we're going to

1 market. I don't think there's anything more involved  
2 in that.

3 Q. So what's the connection between the  
4 notice to PJM to participate in RPM and what's going  
5 on in the capacity case?

6 A. Could you repeat your question?

7 Q. Sure. What is the connection between the  
8 notice to PJM of participating in the RPM auction for  
9 the 2015-2016 planning year and what is going on or  
10 has been going on in the capacity case?

11 A. I don't -- I don't know the answer to  
12 your question. I don't know how to respond.

13 Q. In your testimony you have discussion of  
14 the retail stability rider. With regard to whether  
15 the retail stability rider is aligned with the state  
16 policies of Ohio, is it fair to say that in your mind  
17 that that's a legal issue for which you would seek  
18 counsel?

19 A. I direct you to Witness Dias who does  
20 provide a more detailed discussion of policy  
21 objectives, but I do know one of those policy  
22 objectives is maintaining the financial viability, I  
23 may not get the words exactly right, but considering  
24 the financial viability and stability of the  
25 utilities in the state.

1                   So to that extent, again, I'd refer you  
2 to Mr. Dias, but I would say that the RSR would be  
3 consistent with policy, in my mind anyways, in that  
4 regard.

5           Q.    On page 19 of your testimony, line 4 --

6           A.    Page 19, line 4?

7           Q.    Yes, sir. Starting at line 3 you say  
8 "The RSR will provide economic stability and  
9 certainty for AEP Ohio, our customers, and other  
10 stakeholders...." And is it true when you refer to  
11 "other stakeholders" here you're referring to CRES  
12 providers?

13          A.    Yes, I think that's fair to say.

14          Q.    Now, you're aware that the -- I'd say one  
15 of the objectives of the modified ESP and AEP Ohio's  
16 corporate separation plan is to achieve pool  
17 termination and corporate separation by January 1,  
18 2014; is that correct?

19          A.    Yes, as I think I indicated in my  
20 deposition, we would certainly try to make that  
21 happen absent the fact that we're not the final  
22 decision-maker on corporate separation. That  
23 requires a FERC decision as I understand it.

24          Q.    So assuming pool termination and  
25 corporate separation are achieved by January 1, 2014,

1 do you know whether the RSR revenues will flow to AEP  
2 Generation Resources or the GenCo after that time  
3 period?

4 MR. SATTERWHITE: Objection, your Honor,  
5 I think this was already covered by Consumers'  
6 Counsel.

7 EXAMINER TAUBER: The objection's  
8 overruled.

9 A. I believe I referred previous counsel to  
10 Mr. Allen for more detail, but I think I also recall  
11 saying that yes, some of the revenues from the RSR  
12 could flow to the GenCo during the period of the  
13 transition as described in this ESP.

14 Q. So during that time period following  
15 corporate separation and pool termination do you  
16 agree that the RSR revenue will make up the -- is  
17 intended to make up the costs of offering the  
18 discounted capacity and the costs of the early  
19 auctions?

20 A. Costs in the sense that it represents  
21 decreased revenue in either case to AEP Ohio, yes, I  
22 would agree with you.

23 Q. Now, you were asked early this afternoon  
24 about the RSR being designed to make AEP Ohio  
25 financially whole. I wanted to ask you, is your

1 understanding of how the RSR is designed, is that  
2 based on AEP Ohio's belief that it is entitled to  
3 receive cost-based capacity under its FRR contract?

4 A. Repeat the question, please.

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

7 (Record read.)

8 A. Several elements to your question. I'll  
9 try and answer the best I can. And, again, I'll  
10 refer you to Mr. Allen for more detail on the RSR.

11 AEP does believe that the contract with  
12 PJM for FRR is the way we operate and is what, you  
13 know, we are contractually obligated to get. The RSR  
14 is not designed to, quote/unquote, make us  
15 financially whole, it's designed to mitigate  
16 financial harm.

17 I think Mr. Allen describes in detail the  
18 basis for mitigating the financial harm from early  
19 auctions and the opportunity to provide discounted  
20 capacity to CRES providers.

21 Again, all offered in the spirit of  
22 trying to address the Commission's desire for  
23 AEP Ohio to move to market more quickly.

24 Q. I want to ask you about, on page 20,  
25 toward the bottom of page 20 of your testimony, on

1 line 21, and here you're talking about the partial  
2 SSO auction which is the 5 percent auction, line 21  
3 you say that "AEP Ohio must be made whole." Is it  
4 your understanding that AEP Ohio would be made whole  
5 through the RSR?

6 A. I believe that's similar to the last  
7 question you asked, so my answer would be yes, and  
8 I'd refer you to Mr. Allen for more details of the  
9 workings of the RSR.

10 Q. So as far as you know, there is no  
11 proposal for an additional surcharge in addition to  
12 the RSR to make AEP Ohio whole for the costs of a  
13 partial auction; is that fair?

14 A. I'm not aware of any other provision.

15 Q. You answered several questions today  
16 about the assets that will be transferred to the  
17 GenCo at net book value. What is your understanding  
18 of how the GenCo will recover the costs of those  
19 generating assets after May 31, 2015?

20 A. Ask your question again, please.

21 Q. Sure. And you've answered several  
22 questions about the transfer of assets from the  
23 AEP Ohio to the GenCo at net book value, which I'm  
24 not going to go over again, I just want to get your  
25 understanding of how the GenCo will recover the costs

1 of those generating resources after May 31, 2015.

2 A. The GenCo would recover those costs on  
3 the basis of what electricity sales it was able to  
4 make in a competitive sense and have the revenues to  
5 cover its operating costs or not.

6 Q. So the ability to recover those --

7 A. The assets would be at, quote/unquote,  
8 market, competitive, whatever the term would be.

9 Q. Okay. So the assets will be at market  
10 which means that the ability to recover the costs of  
11 those assets will be determined on, you know, will be  
12 determined on whether the market pricing will cover  
13 those or not cover those, correct?

14 A. Yes.

15 Q. Now, you've asked previously about what  
16 AEP Ohio has generally charged CRES providers in  
17 terms of what the capacity price has been. In terms  
18 of what AEP Ohio was providing CRES providers in 2011  
19 for capacity, are you aware that that was the RPM  
20 market price?

21 A. I'm aware it was the RPM market price,  
22 I'm also aware the issue was contested.

23 Q. And your motion is that because AEP Ohio  
24 was charging less than \$355 per megawatt-day to CRES  
25 providers in 2011, that AEP Ohio suffered serious

1 financial harm; is that correct?

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

3 Q. And you are also aware, and I think you  
4 mentioned this morning, that for 2010 AEP Ohio was  
5 also charging for capacity based on the RPM market  
6 price; is that correct?

7 A. That's correct.

8 Q. So for 2010 when AEP Ohio was charging  
9 RPM market price instead of \$355 per megawatt-day to  
10 CRES providers, as a result of that AEP Ohio in 2010  
11 also suffered substantial financial harm, correct?

12 A. What I can say is I'm sure all the  
13 attorneys in the room in their briefs will discuss  
14 this issue. As a businessperson, when shopping  
15 started to occur and capacity was being charged at  
16 RPM cost, the math started to work to say there was  
17 substantial financial harm to AEP and AEP acted as  
18 quickly as possible to get that issue resolved. And  
19 that shopping of customers in AEP started June, July,  
20 August of 2010, somewhere in that timeframe.

21 Q. With regard to the serious financial harm  
22 that you described that occurred in 2011, it's  
23 essentially the difference between the cost-based  
24 capacity revenues at the \$355 per megawatt-day and  
25 the RPM-based capacity or RPM-priced capacity

1 revenues; is that right?

2 A. The revenues that would be associated  
3 times the number of customers that shopped.

4 Q. So, Mr. Powers, what was AEP Ohio's  
5 actual return on equity for 2011?

6 A. Well, I don't know exactly but it's in  
7 the 10 percent range, and if -- I'd refer you to  
8 Witness Sever to give you more detail and confirm  
9 that.

10 Q. Do you know what the return on equity was  
11 for 2010?

12 A. The combined companies' serious financial  
13 harm are you asking?

14 Q. Either combined or separate.

15 A. Again, I refer you to Witness Sever, but  
16 directionally I would say somewhere in the 12 percent  
17 range.

18 MR. LANG: Your Honor, I'd like to mark  
19 an exhibit which -- have we decided what number we're  
20 starting with?

21 We're going to reserve the first five for  
22 our witnesses so we'd like to mark this exhibit as  
23 FES No. 106.

24 EXAMINER TAUBER: What is it?

25 MR. LANG: It's an exhibit showing return

1 on equity.

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

3 EXAMINER TAUBER: You may.

4 It shall be marked as FES Exhibit 106.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. Mr. Powers, with regard to FES Exhibit  
7 106, this reflects some return on equity information  
8 we were able to pull together from public records.  
9 I'd like to compare it to your understanding of the  
10 return on equity and I want to start -- I want to  
11 start at the bottom of this where it says 2011 --  
12 2011 actual. And the ROE shown there is actually  
13 from Mr. Allen, the 12.06 percent.

14 Is that consistent with your  
15 understanding of what the 2011 ROE is for, this would  
16 be the combined AEP Ohio?

17 A. I gave you my understanding in your  
18 previous question.

19 Q. Okay. Well, you said it was --

20 A. There are differences between what I gave  
21 you and what's on this chart. Again, I referred you  
22 to Witness Sever to get into more detail.

23 Q. Is it -- so do you have reason to believe  
24 that the 12.06 percent ROE is incorrect?

25 MR. SATTERWHITE: Your Honor, I'll

1 object. I believe the witness said what his  
2 understanding was and provided witnesses that can be  
3 followed up. He put a document in front of him that  
4 there's no foundation, said he hasn't seen it before,  
5 and asking him to compare something. I think he's  
6 provided his complete answer.

7 MR. LANG: And, again, I'm exploring his  
8 understanding and I want to know if he believes that  
9 this number that is in Mr. Allen's testimony is  
10 incorrect.

11 EXAMINER TAUBER: As it relates to this  
12 document the objection is overruled.

13 A. Can you ask your question again, please.

14 Q. (By Mr. Lang) Certainly. With regard to  
15 the 12.06 percent ROE shown in this document for  
16 2011, is there any reason that you might have to  
17 believe -- that you might have to believe that that  
18 is an incorrect statement of the return on equity?

19 A. I've given you my perspective on the --  
20 my estimated return on -- they aren't my financial  
21 documents, I've given you an estimate so, again, to  
22 the extent it was different, I'd refer you to Witness  
23 Sever to get into a deeper discussion of why there  
24 were differences. I don't know off the top of my  
25 head.

1           Q.    Is the return on equity shown for 2010  
2   for the combined companies of 12.23 percent, is that  
3   consistent with your understanding of what the return  
4   on equity was for AEP Ohio in 2010?

5           A.    Well, if I recall my answer from a few  
6   minutes ago, I think I said my understanding of 2010  
7   was in the 12 percent range, so -- other than saying  
8   that the numbers are pretty close, I'm not confirming  
9   the basis of this calculation, but --

10          Q.    All right.

11          A.    On a scale of value they're pretty close.

12          Q.    And have you had any involvement or  
13   participation or any supervisory role with regard to  
14   the significantly excessive earnings test cases filed  
15   by AEP Ohio either in 2009 or 2010?

16          A.    I'm aware that a SEET provision was  
17   established in Senate Bill 221, I understand that AEP  
18   Ohio, through either or both of its subsidiaries,  
19   Columbus Southern and Ohio Power, were involved with  
20   the SEET test, but that's my general understanding of  
21   those proceedings. I wasn't a witness in the case.

22          Q.    Are you aware that, with regard to the  
23   2009 SEET case, that that case was concluded at least  
24   at the Public Utilities Commission level with an  
25   order to determining what the return on equities were

1 for purposes of that case?

2 A. I didn't quite follow your question. It  
3 was close, but it got a little fuzzy at the end  
4 there.

5 Q. Are you aware that for that -- let me  
6 shorten it up.

7 Are you aware that for that 2009 SEET  
8 case there was a final Commission order in that case  
9 that resolved the case?

10 A. Oh, yes. I don't believe that case is  
11 pending so there was a final order.

12 Q. And is that an order that you reviewed,  
13 and are the return on equities shown on this sheet  
14 for the 2009 SEET consistent with the ROEs from 2009?

15 A. I reviewed that order a long time ago and  
16 I -- you've just put this in front of me this  
17 afternoon, I can't compare and contrast what was  
18 reviewed a long time ago and what you've placed in  
19 front of me today.

20 Q. Do you have any general understanding of  
21 what the ROE was in 2009 for the -- on a combined  
22 company basis? If you know.

23 A. Oh, higher than the 12 percent we're  
24 talking here, but, again, I'd refer you to Witness  
25 Sever to get into more detail on what those were, or

1 Witness Dias from AEP Ohio.

2 Q. When you look at the return on equity for  
3 the company on a combined basis, do you include all  
4 revenues that the company receives including  
5 off-system sales?

6 A. Off the top of my head I don't know, and  
7 I'd refer you to Witness Sever for calculation of  
8 ROEs for any operating company, including AEP Ohio.

9 Q. I'm just, I'm curious with regard to  
10 performing your function as a Chief Operating  
11 Officer, is it true that the return on equity for  
12 each of the operating companies is something that you  
13 look at as part of being a chief operating officer?

14 A. I think that's fair to say, yes.

15 Q. And when you look at that return on  
16 equity to determine whether the particular operating  
17 company is making the return, is achieving its goals,  
18 are you looking at an ROE number that includes all  
19 revenues including off-system sales, if you know?

20 A. I think it would vary depending on the  
21 operating company based on specific requirements or  
22 orders that this Commission's provided. So I would  
23 refer you to Witness Sever to get into the detail of  
24 how the calculations occur to each of the operating  
25 companies including AEP Ohio.

1           Q.    Now, with regard to the serious financial  
2   harm that you described did occur in 2011, is it  
3   correct that that did not have an impact on  
4   AEP Ohio's ability to attract capital investment from  
5   third parties?

6           A.    You know, we talked about this in the  
7   deposition and I don't believe -- referring to 2011?

8           Q.    Yes, sir.

9           A.    I don't believe in 2011 I recall AEP Ohio  
10   or its subs being downgraded by any of the rating  
11   agencies. So to that extent I don't recall there  
12   being a direct impact to the cost of capital from any  
13   decision like that. Beyond that, in terms of what  
14   financings were offered when, you know, I just don't  
15   have a catalog of all the offerings or any of the  
16   offerings that occurred in 2011.

17          Q.    Now, also talking about the harm that  
18   you've described that occurred in 2011, is it fair  
19   that you are also not aware of whether AEP Ohio's  
20   cost of debt would have increased in 2011, you know,  
21   as a result of that harm that was caused by  
22   RPM-priced capacity?

23          A.    Again, I want to make sure it's clear. I  
24   believe there were significant financial harms,  
25   revenues went down, but to your more specific

1 question about the cost of debt, again, I think I  
2 answered it in my last question.

3 I don't know that the rating agencies  
4 changed the rating of -- credit rating and,  
5 therefore, that is a driver on what the cost of  
6 capital might be. So to that extent I don't believe  
7 the cost of capital changed other than what the  
8 market suggested what the cost of capital ought to be  
9 at a given time.

10 Q. Do you also agree that --

11 THE WITNESS: By the way, if we could  
12 head to a bathroom break sometime soon, that would be  
13 great.

14 MR. LANG: I have like four or five more  
15 questions.

16 EXAMINER TAUBER: Sure. After Mr. Lang  
17 finishes, we'll take a break.

18 THE WITNESS: All right. If you see me  
19 getting fidgety . . .

20 MR. LANG: I'll try to talk fast.

21 Q. Is it also true that you do not believe  
22 that the serious financial harm AEP Ohio incurred in  
23 2011 affected its ability to provide reliable service  
24 to its customers?

25 A. Again, we talked about this in my

1 deposition and in general I would say no, but, you  
2 know, as I sit here as an executive in the big  
3 picture with the advent of customer shopping in 2010,  
4 with RPM price being offered, you know, I sit back  
5 and I look at -- I also know I was asked a question,  
6 you know, where's the RPM capacity price going a  
7 month from now or whatever, a few weeks from now.

8           You know, you look at that and you go you  
9 can see where this is going, there's lost revenues  
10 right from the start of offering of RPM versus FRR  
11 cost based, you know, capacity. The more customers  
12 that shop, the increased harm that occurs, and  
13 ultimately you can see this heading towards a  
14 situation in which you're basically giving away free  
15 capacity in a circumstance you believe you deserve  
16 cost-based capacity.

17           Q. So and when you refer to basically free  
18 capacity, you mean the --

19           A. \$20 a megawatt-day is --

20           Q. Right.

21           A. -- directionally free.

22           Q. The RPM market pricing over the next --  
23 in particular if the RPM market pricing over the next  
24 two years, that's what you're talking about by, you  
25 know, seeing where this is heading?

1           A.    I think I gave a pretty good description  
2 of where the financial harm comes from.

3           Q.    Okay.  So with regard to that, you know,  
4 looking toward the future, you do believe that the  
5 serious financial harm that would result from  
6 charging for capacity based on RPM market pricing  
7 rather than the \$355 per megawatt day, that -- your  
8 belief is that that would adversely impact retail  
9 customers, correct?

10          A.    I think we had a long discussion on that  
11 with another attorney earlier.

12          Q.    So yes?

13          A.    I believe my answer was yes.

14          Q.    And one of the results of that, your  
15 understanding is that charging market-based pricing  
16 would weaken AEP's competitive position; is that  
17 fair?

18          A.    I think we talked earlier about the fact  
19 I don't see AEP Ohio as a competitor but since this  
20 is a complicated circumstance and the generation  
21 currently that AEP Ohio has is within AEP, and if one  
22 forecasts that generation being in a GenCo, I don't  
23 see AEP Ohio being a competitor but I see the  
24 generation it currently has is needing to be  
25 competitive for Ohio to have as successful a movement

1 to competition as possible.

2 Q. To follow up on that, in a post-corporate  
3 separation the RPM market pricing would be harming  
4 the GenCo that owns the generating assets; is that  
5 correct?

6 A. To the extent that the GenCo's been  
7 established and separated from AEP Ohio, I would say  
8 yes.

9 Q. And your belief is also that if AEP Ohio  
10 is compelled to charge for capacity using RPM market  
11 pricing, it could cost thousands of Ohio jobs.

12 A. Yes.

13 Q. Have you performed any analysis of the  
14 job impact of using RPM-based pricing over the next  
15 three years?

16 A. I mentioned earlier this morning or early  
17 this afternoon that if the balance as provided in  
18 this ESP is not struck at discounted capacity to CRES  
19 providers, mitigation of rate impact to customers,  
20 mitigation of financial harm to AEP, there's a  
21 \$650 million a year impact to AEP Ohio's revenues.

22 \$650 million is a lot of money and that's  
23 a lot -- and we would have to take action in response  
24 as we discussed in my deposition and, unfortunately,  
25 one of the actions we'd have to take is to reduce O&M

1 expense in response like any business would and that,  
2 unfortunately, involves jobs.

3 So, yes, I think \$650 million a year  
4 impact can be pretty straightforward, in a  
5 straightforward manner be linked to jobs in Ohio.

6 Q. Understanding your belief that there  
7 could be that direct link, have you done an analysis  
8 that would try to relate the revenue impact that  
9 you've described to the number of job losses that  
10 would result?

11 I'm trying to understand your belief as  
12 to why it would be thousands of job losses rather  
13 than, say, a few hundred job losses.

14 A. So not differentiating at this point that  
15 income from gross revenues, it's fair to say an  
16 employee roughly represents a hundred thousand  
17 dollars a year, on average. So, you know, I believe  
18 the math would then say that to mitigate a hundred  
19 thousand -- or a hundred million dollars, you'd be  
20 talking about a thousand jobs. So at 600 plus  
21 million dollars a year of impact gross revenue  
22 standpoint, I don't think it's too hard to get to  
23 thousands of jobs pretty quickly.

24 By the way, I hope that doesn't come to  
25 pass.

1           Q.    Now, you were asked -- this is my last  
2 couple questions.

3                    You were asked about the RPM market  
4 pricing having an effect on the GenCo and, sorry,  
5 counsel had asked you earlier about whether there  
6 would be an impact on AEP Retail, and just hopefully  
7 to -- hopefully to tie that up, is it fair that the  
8 impact that you could think of would be -- that it  
9 would depend on whether AEP Retail was using the  
10 GenCo's assets?

11                   MR. SATTERWHITE:  Your Honor, I'll  
12 object.  I think we're beyond the four or five  
13 questions to the bathroom break, and this was already  
14 covered before and tied up before, I don't think we  
15 need to revisit it.

16                   MR. LANG:  It's the last question, and I  
17 don't think it was tied up.

18                   EXAMINER TAUBER:  Objection's overruled.

19           Q.    Maybe have the question read back; would  
20 that help?

21           A.    That would be great.

22                   (Record read.)

23           A.    I think just like FirstEnergy Solutions  
24 has some ability to use the generating assets that  
25 FirstEnergy has, to the extent that revenues are not

1 provided during the transition to help the AEP assets  
2 be maintained in a healthy, viable manner, it is  
3 possible that AEP Retail would not have access to the  
4 same resources, certainly the resources that were in  
5 a level of health that I would say could harm AEP  
6 Retail in the future.

7 Q. And for that, in giving that comparison,  
8 you do understand that the FirstEnergy Solutions  
9 assets will be receiving market pricing over the next  
10 few years.

11 A. Oh, I understand that, and I also  
12 understand that the FirstEnergy assets received  
13 \$6.9 billion in stranded costs over the previous  
14 history that we talked about. That's a great place  
15 to be.

16 Q. Taking us back to the transition plan  
17 cases.

18 A. Taking us back to the history we  
19 discussed this morning and this afternoon.

20 MR. LANG: Thank you, your Honors, that's  
21 all the questions I have.

22 And thank you Mr. Powers.

23 EXAMINER TAUBER: Let's take a  
24 five-minute recess. Let's go off the record.

25 (Recess taken.)

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

3 Ms. Kingery?

4 Ms. Spiller.

5 MS. SPILLER: Thank you, your Honor.

6 - - -

7 CROSS-EXAMINATION

8 By Ms. Spiller:

9 Q. Mr. Powers, does AEP Retail currently use  
10 AEP Ohio's generation for purposes of serving its  
11 shopping customers?

12 MR. SATTERWHITE: Objection, your Honor.  
13 Again, the witness is here representing AEP Ohio.

14 MS. SPILLER: Your Honor, this witness  
15 also just testified that the competitive market would  
16 be adversely affected if AEP Retail did not have  
17 access to healthy generation.

18 EXAMINER TAUBER: The objection is  
19 overruled.

20 A. So could you repeat the question?

21 Q. Sure. Does AEP Retail currently use  
22 AEP Ohio's generation for purposes of serving its  
23 shopping customers?

24 A. No.

25 Q. Thank you.

1                   Mr. Powers, do you have in front of you,  
2                   sir, the exhibit that was earlier marked as IEU 111?

3                   A.    I think so.

4                   Q.    And, sir, that is the entry from the Ohio  
5                   Commission dated March 7, 2012, to which you referred  
6                   in footnote 8 of your testimony on page 10, correct?

7                   A.    If you can slow down for a second. What  
8                   page did you refer to?

9                   Q.    It's your footnote 8, sir, on page 10 of  
10                  your testimony.

11                  A.    Yes, I think that's right.

12                  Q.    And specifically, sir, for purposes of  
13                  drafting your testimony you referenced page 6 of this  
14                  entry, correct?

15                  A.    Yes.

16                  Q.    And, sir, if I recall correctly, in  
17                  response to a question from Mr. Randazzo, you said  
18                  that the sentence that was important to you in  
19                  forming your testimony was that the Commission  
20                  further expects that AEP Ohio will look to recent  
21                  Commission precedent for guidance in formulating its  
22                  modified ESP and considering how to best ensure its  
23                  customers had market-based standard service offer  
24                  pricing in an efficient and expeditious manner,  
25                  correct?

1           A.    I remember reading that section, yes.

2           Q.    And, sir, is it correct that that is the  
3 language in this entry that you found relevant for  
4 purposes of drafting your testimony?

5           A.    I believe I testified to that earlier.

6           Q.    And certainly, Mr. Powers, consistent  
7 with AEP Ohio's desire to be responsive to the  
8 Commission, as you've shared that desire today with  
9 us, AEP Ohio would have looked at recent Commission  
10 precedent, correct?

11          A.    I believe that's correct, yes.

12          Q.    Now, in the filing before this Commission  
13 AEP Ohio is not proposing to conduct full  
14 requirements auctions for all of its standard service  
15 offer load for delivery during the period of this  
16 ESP, correct?

17          A.    I think it's fair to say we considered,  
18 as the section I read indicated, what had happened in  
19 Ohio. We also considered additional feedback from  
20 the Commission on what needed to be achieved in terms  
21 of mitigating rate impact to the customers.

22                We clearly had a need to consider  
23 mitigating the financial harm and we had to provide  
24 reasonable access to our customers by reasonably  
25 established capacity rates.

1                   So in looking at that whole calculus, not  
2                   any one piece alone, we have the ESP that's filed  
3                   today and that we're talking about.

4                   Q.    And I appreciate the consideration, sir,  
5                   but my question was this: In its filing AEP Ohio is  
6                   not proposing full requirements auctions for all of  
7                   its standard service offer load for delivery during  
8                   the period of this modified ESP, correct?

9                   A.    That's correct. Full energy and capacity  
10                  auctions occur in June of 2015.

11                  Q.    After the ESP expires, correct?

12                  A.    That's correct.

13                  Q.    And similarly, Mr. Powers, AEP Ohio is  
14                  not proposing to conduct energy auctions for a  
15                  hundred percent of its SSO load until 2015, correct?

16                  A.    I believe January of 2015, that's  
17                  correct.

18                  Q.    And AEP Ohio will consider a 5 -- an  
19                  energy-only auction for 5 percent of its SSO load  
20                  before January '15 with the condition that it be made  
21                  financially whole, correct?

22                  A.    I think we just went over those -- that  
23                  circumstance and I believe, as we discussed in the  
24                  RSR, the RSR is set up to help mitigate financial  
25                  impact for both early auctions and the offering of

1 discounted capacity from FRR, so to that extent I  
2 believe I've answered the question, yes.

3 Q. I believe you said in response to a  
4 question from Mr. Lang that the generating assets  
5 owned by the GenCo, or AEP Generation Resources, will  
6 be at the market beginning June 1 of 2015, correct?

7 A. Yes, I recall that.

8 Q. Sir, is it then your testimony that those  
9 same assets will not be at the market beginning  
10 January 1 of 2014 upon corporate separation?

11 A. I believe that we've proposed a fair  
12 transition plan for those assets over the three-year  
13 period that's described. I think that to unwind the  
14 situation that we spent a lot of time today  
15 discussing where AEP Ohio and those generation assets  
16 were encouraged and, in effect, directed to not go to  
17 market, that the three-year transition period that we  
18 offer is a reasonable way to unwind that circumstance  
19 and allow those assets to move to a competitive  
20 circumstance over a three-year period.

21 It certainly is a shorter period of time  
22 than FirstEnergy was provided and it certainly is a  
23 shorter period of time than the MRO provides in  
24 Senate Bill 221 so I think it's a reasonable period  
25 of time.

1 MS. SPILLER: Your Honor -- I'm sorry,  
2 Mr. Powers.

3 Your Honor, I would move to strike the  
4 answer as unresponsive.

5 MR. SATTERWHITE: If I may, your Honor, I  
6 think it was absolutely responsive. The question was  
7 whether they're going to be in the market and I  
8 believe his answer was we're trying to transition and  
9 unwind this.

10 It was an explanation that they won't be  
11 at market and here's why, because they're unwinding  
12 the transitioning to market at that time period, so  
13 he just gave an explanation around it, plus still  
14 saying that they wouldn't be at market.

15 EXAMINER TAUBER: The motion to strike is  
16 denied.

17 MS. SPILLER: Thank you, your Honor.

18 Q. Mr. Powers, is it true that these  
19 generating assets owned by the affiliate GenCo as of  
20 January 1, 2014, will not be at market because AEP  
21 Ohio intends to collect revenues from all of its  
22 ratepayers under a retail stability rider and remit  
23 those revenues to the GenCo?

24 A. Wow. Could you say your question one  
25 more time?

1           Q.    I will try.

2                   Mr. Powers, the generating -- is it true  
3   that the generating assets owned by the affiliate  
4   GenCo will not be at market beginning January 1,  
5   2014, because it's AEP Ohio's intention to collect  
6   revenues from all of its ratepayers under the retail  
7   stability rider and remit those revenues to the  
8   GenCo?

9           A.    Because -- I've described what we think  
10   is a fair transition plan for those assets. I think  
11   my answer was responsive to this question as well.

12           Q.    Mr. Powers, let me try again. "At the  
13   market" means that GenCo will be reimbursed for the  
14   costs of operating its generating assets pursuant to  
15   market conditions or what the market would bear,  
16   correct?

17           A.    Yes. Yes, yes.

18           Q.    And the generating assets will not be at  
19   the market beginning January 1 of 2014 because the  
20   operation and maintenance costs associated with those  
21   assets will be subsidized by retail customers of  
22   AEP Ohio, correct?

23                   MR. SATTERWHITE: Objection, your Honor,  
24   I think he's answered this question when he talked  
25   about the unwinding of the business and the reason

1     why. The question is trying to give -- it's because  
2     of this collection of this rider that they're not  
3     going to be there and the witness has already said  
4     all of the reasons why unwinding the business, why  
5     they won't be at market until 2015.

6                 EXAMINER TAUBER: The objection is  
7     overruled. I haven't heard an answer yet.

8                 Q. Can you answer? And if you need to read  
9     back, I'm going to ask the court reporter to assist.

10                THE WITNESS: Could you read it back,  
11     please?

12                (Record read.)

13                A. I don't know the answer to your question.

14                Q. Do you know what a "cross-subsidy" is,  
15     sir?

16                A. Could you define it for me?

17                Q. Do you know what one is?

18                A. I think there could be a lot of  
19     definitions of a "cross-subsidy."

20                Q. Within the context of Ohio regulations to  
21     which AEP Ohio is subject, do you know that Ohio law  
22     prohibits unlawful cross-subsidies?

23                A. I'm not an attorney, no, so I wouldn't  
24     have any knowledge of detail on something like that.

25                Q. So although you're responsible for the

1 operations of AEP Ohio and all other regulated  
2 utilities within the AEP Ohio family, you don't know  
3 what a cross-subsidy is within the context of utility  
4 service.

5 MR. SATTERWHITE: Objection, your Honor,  
6 I believe he stated what his understanding was and  
7 now I think she's just arguing with the witness.

8 MS. SPILLER: I'm just trying to  
9 understand the level of knowledge of this witness who  
10 is responsible for these generating assets.

11 EXAMINER TAUBER: The objection is  
12 overruled.

13 THE WITNESS: Could you read the  
14 question.

15 (Record read.)

16 A. Not as it pertains to your previous line  
17 of questions.

18 Q. Sir, you were not involved in the  
19 stakeholder process at the FERC that resulted in the  
20 creation of the FRR, or fixed resource requirement  
21 alternative, were you?

22 A. I was not.

23 Q. And as a result, sir, you also were not  
24 involved in drafting the revisions to the reliability  
25 assurance agreement that were necessary to

1 incorporate the FRR alternative, correct?

2 A. I was not.

3 Q. Sir, you do not personally manage the FRR  
4 plan of the AEP East operating companies, do you?

5 A. I do not personally manage it.

6 Q. Sir, I'm sorry?

7 A. Peopling who are responsible probably  
8 work for me.

9 Q. I would suspect so, given that Commercial  
10 Operations rolls up to you.

11 But could we refer, please, to page 9,  
12 line 17 of your testimony, sir.

13 A. Page 9, line 17?

14 Q. Yes, sir. And there the sentence that  
15 begins toward the end of that line 17, you're  
16 discussing some of the obligations of an FRR entity,  
17 correct?

18 A. I'm sorry, where specifically would you  
19 like me to refer?

20 Q. Page 9, line 17, "As an FRR entity...",  
21 do you see that sentence that begins on --

22 A. Yes.

23 Q. And that sentence, sir, is one in which  
24 you are describing some of the elements of being an  
25 FRR entity, correct?

1           A.     Give me a chance to read it, please.

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

4           (Discussion off the record.)

5           EXAMINER SEE:   Let's go back on.

6           A.     I've read the sentence.   Could you repeat  
7     your question again?

8           Q.     I don't think I had one pending so let me  
9     do that for you.   Beginning on line 19 you indicate  
10    that an FRR entity such as AEP Ohio has the option to  
11    establish cost-based charges for CRES providers,  
12    correct?

13          A.     That's what the testimony says.

14          Q.     Well, sir, I believe you also told  
15    Mr. Lang today that AEP Ohio is required to charge  
16    cost-based pricing for capacity to CRES providers.  
17    Could you just help me clarify, is it your  
18    understanding that it's an option or a requirement?

19          A.     I have no other understanding than it is  
20    the way FRR is calculated.   So I guess it's a  
21    requirement in my mind's eye.

22          Q.     So when you used the word "option" on  
23    line 19, page 9 of your testimony, do you define  
24    "option" synonymous with a "requirement"?

25          A.     In the context of the line of questioning

1     you just asked, again, I'm going to refer to it in my  
2     mind it's a requirement.

3             Q.     And if it's a requirement, sir, why did  
4     AEP or why did American Electric Resource -- strike  
5     that.

6                     Why did American Electric Service file --  
7     make a filing at the FERC on behalf of AEP Ohio in  
8     November of 2010 to change the rate applicable to  
9     CRES providers for capacity?

10            A.     I'm just not following your question.

11            Q.     Sure. If AEP Ohio is required under the  
12     FRR documents to charge CRES providers for capacity  
13     at a cost-based rate, why was a filing made at the  
14     FERC in November of 2010 for FERC approval to change  
15     the rate applicable to capacity charges for CRES  
16     providers?

17            A.     I don't know how to respond to your  
18     question.

19            Q.     Do you know, sir, whether there are  
20     actions pending at the FERC in respect of the charges  
21     applicable to CRES providers for capacity?

22            A.     Yes, there's a case in front of FERC.

23            Q.     Just one case?

24            A.     There's -- I don't know. There's a case  
25     in front of FERC.

1           Q.    Sir, would you agree with me that we  
2    could look to the dockets of those FERC proceedings  
3    to appreciate what the request was that was made by  
4    AEP Ohio in November of 2010?

5           A.    I'm sorry, I'm not a lawyer again, so  
6    what did you just say?

7           Q.    Sir, would you agree with me that we  
8    could refer to the dockets, to the papers filed at  
9    the FERC, to get an understanding of the request that  
10   AEP Ohio made in its filing at the FERC in November  
11   of 2010?

12          A.    If I understand your question, if we look  
13   at the filing could we understand what was in the  
14   filing?

15          Q.    Could we understand what AEP was seeking  
16   through those filings?

17          A.    I think so, yes.

18          Q.    Thank you.

19                Sir, you've mentioned that this -- the  
20   charges for capacity for CRES providers is currently  
21   contested. Do you recall testimony to that effect?

22          A.    Oh, yes, I do.

23          Q.    Do you agree with me, Mr. Powers, that  
24   the PUCO will determine the state capacity mechanism  
25   applicable to CRES providers or applicable to

1 AEP Ohio?

2 MR. SATTERWHITE: Objection, your Honor,  
3 to the extent it calls for a legal conclusion from  
4 the witness.

5 Q. I'm not asking for a legal opinion, just  
6 your understanding as to the determination, what  
7 issue the Commission, the Ohio Commission, will  
8 decide.

9 EXAMINER TAUBER: Noting that you're not  
10 an attorney, please answer the question.

11 A. My understanding is the Public Utility  
12 Commission of Ohio can consider how capacity is  
13 established. I don't know whether it's a state  
14 mechanism or, I understand there's a case in front of  
15 the Commission, so they must have some standing and  
16 authority to do that.

17 Q. Do you know what the issue is before the  
18 Commission in that case?

19 A. The general issue, and remembering I'm  
20 not an attorney, is that we have an FRR contract that  
21 we believe establishes a requirement for cost-based  
22 capacity and we'd like that affirmed by the Public  
23 Utility Commission of Ohio.

24 Q. Would you agree with me, sir, that the  
25 issue in that case is the state capacity mechanism

1 applicable to AEP Ohio?

2 A. Again, not being a lawyer, sounds  
3 directionally correct.

4 Q. And if the Ohio Commission were to decide  
5 that the state capacity mechanism should reflect  
6 RPM-based market pricing, AEP Ohio will charge CRES  
7 providers for capacity at the applicable RPM rates,  
8 correct?

9 A. I'm sorry, I'm going to have to ask you  
10 to repeat that again.

11 Q. Sure. If the Ohio Commission should  
12 decide that the state capacity mechanism should  
13 reflect RPM-based market pricing, AEP Ohio will  
14 charge CRES providers for capacity at the applicable  
15 RPM rates, correct?

16 MR. SATTERWHITE: Objection, your Honor,  
17 I believe this witness has already stated in his  
18 testimony the outcome of this case is dependent,  
19 there are other options for AEP to follow, he said  
20 he's not an attorney. I think she's asking a legal  
21 question here of what the duty of the company's going  
22 to be upon the Commission finding that order.

23 MS. SPILLER: Your Honor, through his  
24 testimony both today and in paper Mr. Powers  
25 testifies as to these other options. I think I'm

1 certainly entitled on cross-examination to explore  
2 the actual response and reaction of AEP Ohio to a  
3 final Commission order.

4 MR. SATTERWHITE: And I believe he stated  
5 that at that time we have the other options and I  
6 believe earlier he said he hopes we don't have to  
7 exercise those. I don't think he can state right now  
8 what that would be, I think he stated that.

9 EXAMINER TAUBER: The objection is  
10 sustained.

11 MS. SPILLER: Thank you, your Honor.

12 Q. (By Ms. Spiller) Mr. Powers, if we could  
13 refer to page 6 of your testimony, please. On line  
14 4, if you want to read that sentence that begins on  
15 line 4 first, that's fine.

16 A. I've read it.

17 Q. Mr. Powers, you testify there on page 6,  
18 line 4 of your testimony, that the riders proposed by  
19 AEP Ohio in this modified ESP are consistent with the  
20 riders in effect for other Ohio utilities, correct?

21 A. I believe that's what lines 4 and 5  
22 represent.

23 Q. But, sir, you're not familiar with Duke  
24 Energy Ohio's electric services stability rider, are  
25 you?

1           A.    I'm sorry, Duke Energy's which rider?

2           Q.    Electric services stability rider.

3           A.    Not in any level of detail, no.

4           Q.    Mr. Powers, the FRR contract or structure  
5 does not prevent AEP Ohio from conducting competitive  
6 auctions for full-requirements SSO service prior to  
7 June 1, 2015, does it?

8           A.    You're going to have to repeat that one  
9 again.

10          Q.    Sure, the FRR contract or the FRR  
11 structure does not prevent AEP Ohio from conducting  
12 competitive auctions for full-requirements SSO  
13 service prior to June 1, 2015, does it?

14          A.    Not to my knowledge.

15          Q.    Sir, earlier today in response to a  
16 question from Mr. Randazzo you referenced what I  
17 believe you described was the belief of folks in this  
18 room that there exists a competitive market in Ohio.  
19 Do you recall that testimony?

20          A.    No, not specifically.

21          Q.    Well, do you believe, sir, that customers  
22 in other Ohio utilities' service territories are now  
23 benefiting from access to fully competitive markets  
24 and low market prices?

25          A.    I believe that Ohio is in a transition to

1 fully competitive markets. I think as I do recall I  
2 indicated I believe that market development is still  
3 in its early nescient stages, so to the extent you  
4 used the word I believe "fully," I couldn't agree  
5 with that at this point.

6 Q. Okay. So, sir, going back to the entry  
7 from the Commission that instructed AEP Ohio to look  
8 for recent Commission precedent as guidance, did AEP  
9 Ohio not review the Duke Energy Ohio ESP that was  
10 approved in November of 2011?

11 A. I'm certain we did.

12 Q. And in that review --

13 A. But I would commend to you the word  
14 "consider," I'm sure we considered, and given the  
15 complicated nature of this case and the many items in  
16 balance that needed to happen, we considered, we  
17 certainly proposed early auctions as I understand the  
18 Duke case represents and we took early auctions as  
19 far as we could take them while still considering the  
20 rate impact to customers. So we've considered, I  
21 believe at least in that regard, the Duke case.

22 Q. And in considering the Duke case, sir,  
23 you know that Duke Energy Ohio conducted auctions for  
24 a hundred percent of its SSO load beginning January 1  
25 of 2012, correct?

1           A.    No.  I remember responding to  
2   Mr. Randazzo I believe and said that -- I remember  
3   that there were auction requirements in the Duke  
4   case.  I don't remember any of the dates, times, or  
5   specifics on what happened and what is required.

6           Q.    Well --

7           A.    I'm sure someone on the AEP team  
8   understands that but I don't.

9           Q.    Well, as the Chief Operating Officer for  
10  the company and the senior executive responsible for  
11  Commercial Operations, you would have responsibility  
12  for the AEP entities that participate in wholesale  
13  auctions in Ohio for SSO load, correct?

14          A.    Yes.

15          Q.    And so, sir, you are aware that two AEP  
16  affiliates were successful participants in the Duke  
17  auction that was conducted in December of '11, right?

18          A.    I believe -- generally aware, yes.

19          Q.    Okay.  Sir, I'd like to shift focus, if  
20  we may, to the tiered capacity structure that's  
21  contained in the modified ESP.  And the first tier of  
22  that capacity structure does not incorporate the low  
23  market prices for capacity that are applicable to the  
24  2012-2013 PJM planning year, correct?

25          A.    Is there a section of my testimony you're

1 referring to?

2 Q. Sure. If we look at page 15, line 9.

3 A. And, I'm sorry, the question is?

4 Q. The question is the tiered capacity  
5 structure that AEP Ohio is proposing in this modified  
6 ESP does not incorporate the lower capacity prices  
7 applicable to the 2012-2013 planning year, correct?

8 A. I think I've answered this question  
9 previously and I think it was a longer answer but I  
10 believe the answer was no, it does not.

11 Q. And, similarly, the tiered capacity  
12 pricing structure does not incorporate the lower  
13 capacity prices for the 2013-2014 PJM planning year,  
14 correct?

15 A. Again, I think I've given a pretty  
16 comprehensive description that this discounted  
17 capacity from our FRR requirements is offered in the  
18 spirit of trying to address the Commission's desire  
19 to move to market more quickly and balance reasonable  
20 capacity prices that affords CRES providers an  
21 opportunity to attract AEP customers and balance rate  
22 impacts. So I think I've given a pretty  
23 comprehensive answer on what this tiered capacity  
24 represents.

25 Q. And I appreciate what you believe the

1 tiered capacity represents, but my question is  
2 directed to -- strike that.

3 I appreciate what you believe the tiered  
4 capacity represents, but this tiered capacity  
5 structure does not incorporate PJM's market-based  
6 capacity prices, correct?

7 A. I think I've answered your question.

8 Q. And that's a no, it does not?

9 A. I think I -- to the extent that what I've  
10 described in terms of a fair and reasonable  
11 transition over the next three years to market and  
12 all the considerations of AEP being asked not to be  
13 at market for over a decade, I think in all that  
14 context my answer to you is these are not RPM-based  
15 capacity prices.

16 Q. Thank you.

17 And the second tier capacity price of  
18 \$255 per megawatt-day is not a cost-based price, is  
19 it?

20 A. Boy. I think we're revisiting old ground  
21 again, but we've offered a compromise here from what  
22 we believe, what we know is a cost-based capacity  
23 structure, FRR, we're trying to be responsive to the  
24 Commission and its desire to move forward. We're  
25 trying to balance rate impact. We're trying to

1 balance financial harm to AEP. We're trying to  
2 balance reasonable capacity. That's what those  
3 numbers represent.

4 MS. SPILLER: Your Honor, I would move to  
5 strike the response as nonresponsive.

6 MR. SATTERWHITE: Your Honor, he's saying  
7 how he came to the 255 in here; it's a balance based  
8 on everything in the overall plan.

9 MS. SPILLER: Your Honor, if I may, we've  
10 also heard over 15 times today about the balance that  
11 is sought to be achieved through this plan, and I  
12 would simply submit that at this point testimony as  
13 to that balance has crossed the line from being  
14 probative to prejudicial and it's also cumulative and  
15 unnecessary.

16 MR. SATTERWHITE: Your Honor, I would --

17 EXAMINER TAUBER: Mr. Powers, you're  
18 directed to answer the question with a "yes," "no,"  
19 or "I don't know," and provide a brief context, if  
20 necessary.

21 THE WITNESS: Can you?

22 EXAMINER TAUBER: Do you need the  
23 question repeated?

24 THE WITNESS: Uh-huh.

25 Q. (By Ms. Spiller) I'll rephrase the

1 question.

2 Sir, the capacity price for the second  
3 tier of \$255 per megawatt-day is not a cost-based  
4 price, is it?

5 A. No, it is not.

6 Q. Mr. Powers, the retail stability rider  
7 that AEP Ohio proposes in this modified filing is  
8 intended to ensure AEP Ohio a set level of generation  
9 revenue, correct?

10 A. Could you repeat that again?

11 Q. Sure. The retail stability rider that  
12 AEP Ohio proposes in this case is intended to ensure  
13 for AEP Ohio recovery of a set level of revenue,  
14 correct?

15 A. No, it doesn't assure that.

16 Q. It doesn't.

17 A. No.

18 MS. SPILLER: One moment, please, your  
19 Honor.

20 Q. Mr. Powers, if we could refer to page 20,  
21 line 20 of your testimony, please.

22 A. Page 20.

23 Q. Line 20, sir.

24 A. Page 20, line 20?

25 Q. Yes, sir.

1           A.    Okay.

2           Q.    The sentence that begins "The terms and  
3 conditions...."

4           A.    Yes.

5           Q.    Sir, you state on page 20, line 20 of  
6 your testimony, that "The terms and conditions of  
7 such an auction need to be clearly circumscribed up  
8 front..., " correct? Is that what your testimony  
9 says?

10          A.    I believe you've read it correctly.

11          Q.    And the auctions to which you refer  
12 there, sir, are the energy-only auctions that AEP  
13 Ohio discusses in the modified ESP, correct?

14          A.    If you're referring to the 5 percent  
15 auction six months after approval of the ESP and  
16 energy-only auction in January, yes, that's correct.

17          Q.    Yet AEP Ohio did not propose any  
18 structure in respect of these auctions that will be  
19 conducted during the modified ESP when it made its  
20 filing for a modified ESP on March 30, 2012, correct?

21          A.    Oh, I think that's correct, and for very  
22 pragmatic reasons. I think I -- I know I testified  
23 to that earlier today.

24          Q.    That you needed stakeholder input?

25          A.    That was part of it. Pragmatically, time

1 and the pace in which this proceeding is going  
2 forward and all the parties, all the parties, the  
3 parties that would be involved being engaged in this,  
4 the capacity case, and other activities.

5 Q. Sir, given that there are two AEP  
6 affiliates active in wholesale auctions in the state  
7 of Ohio, would you agree with me that the state has a  
8 pretty good process already in place for competitive  
9 auctions?

10 A. I would agree that Ohio is experienced in  
11 running auctions and I would certainly expect the  
12 team to start with many of the elements of that  
13 auction process, so to that extent I think I would  
14 describe the circumstances following the approval of  
15 the ESP, I think those requirements for the auction  
16 could be established fairly quickly absent some level  
17 of input that really challenges how Ohio has run  
18 auctions in the past.

19 I guess what I'm saying is there is a  
20 basis to start.

21 Q. But if the auction process is not  
22 addressed with the stakeholders and the Commission  
23 until after the ESP is approved, those auction terms  
24 and conditions will not have been circumscribed up  
25 front, correct?

1 MR. SATTERWHITE: Objection. I think the  
2 question has a false premise in there. Object to  
3 form.

4 MS. SPILLER: If the witness knows.

5 EXAMINER TAUBER: Objection's overruled.

6 A. I don't understand your question.

7 Q. Well, sir, you testified that the terms  
8 and conditions of the auction need to be  
9 circumscribed up front, correct?

10 A. That's what the words say.

11 Q. And yet there is no intention on the part  
12 of AEP Ohio to present the proposed auction structure  
13 related bid documents to the Commission and  
14 interested stakeholders until after an ESP that  
15 incorporates competitive auctions is approved,  
16 correct?

17 A. You know, you're an attorney, you guys do  
18 with the words what you want to do. The intent there  
19 is that AEP Ohio will provide and will engage in a  
20 process to establish the way that the auctions will  
21 operate and we'll do that as quickly, as  
22 pragmatically possible. No intention to suggest  
23 otherwise.

24 Q. Mr. Powers, as an Executive Vice  
25 President and the Chief Operating Officer responsible

1 for I believe you said 16,000 employees, you would  
2 expect those employees to all abide by AEP Ohio's  
3 principles of business conduct, correct?

4 A. Of course that would be my expectation.

5 Q. Thank you.

6 MS. SPILLER: Nothing further, your  
7 Honor. Thank you.

8 EXAMINER TAUBER: Thank you.

9 Mr. Kurtz?

10 MR. KURTZ: Thank you, your Honor.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. Kurtz:

14 Q. Good evening, Mr. Powers.

15 A. Good evening.

16 Q. The ESP as filed you believe represents a  
17 balanced package for the Commission?

18 MR. RANDAZZO: Asked and answered.

19 A. Mr. Kurtz, I think I've described a very  
20 complicated circumstance; fairness to CRES providers,  
21 fairness to customers, fairness to us. We've worked  
22 mightily to try and provide balance and I think the  
23 ESP does represent a reasonable approach to getting  
24 to market faster while dealing with the other issues  
25 of balance I've previously described.

1           Q.     Including protecting the financial  
2 integrity of AEP during the transition?

3           A.     Yes, sir, including the financial  
4 integrity of AEP.

5           Q.     Did you examine the financial -- the  
6 projected financial implications to AEP Ohio of the  
7 ESP that you filed?

8           A.     Yes. I think Witness Sever describes  
9 the -- in a forecasted sort of perspective what the  
10 impact of the ESP represents.

11          Q.     And did you review that information with  
12 Witness Sever or have you reviewed the information,  
13 the financial impacts on AEP Ohio of the plan you  
14 filed?

15          A.     In a general sense, yes.

16          MR. KURTZ: Could I ask the witness to be  
17 provided with one page or two pages from Witness  
18 Sever's testimony, his Exhibits 1 and 2, I think it's  
19 three pages.

20          Q.     And I'll ask you to first look at OJS-2  
21 which shows the projected --

22          A.     Mr. Kurtz, you better hold off until I  
23 get the document to look at.

24          Q.     Do you have OJS-2, the projected  
25 financial statements prepared consistent with filing

1 showing at the bottom the projected returns on equity  
2 for the years 2012, '13, '14, and '15?

3 A. Mr. Kurtz, is that OJS-2, page 1 --

4 Q. Yes.

5 A. -- 2, and 3?

6 Q. Page 1.

7 A. Page 1. Yes, I have it.

8 Q. Okay. So these are the projected returns  
9 on equity that AEP Ohio would experience pursuant to  
10 this, if the ESP were approved as filed; is that  
11 correct?

12 A. Again, I'd refer you to Witness Sever for  
13 any more detailed discussion, but generally speaking,  
14 that's correct.

15 Q. Okay. And if you could just turn, just  
16 one aspect of OJS-1, page 1, he lists a whole series  
17 of assumptions that went into his financial forecast  
18 and I want to just focus on one. I'll read it, it's  
19 a bullet point in the middle of the page.

20 One of the assumptions is by the end of  
21 2012, shopping customers reached 65 percent for the  
22 residential class, 80 percent in the customer class,  
23 and 90 percent in the industrial class, excluding a  
24 single large industrial customer and stay at that  
25 level for the forecasted period.

1                   Do you see that bullet point on OJS-1,  
2                   the assumptions used in the projected financial  
3                   statements for purposes of --

4                   A.    OJS, I'm sorry, I'm behind, I'm still on  
5                   page --

6                   Q.    OJS-1, page 1, are the assumptions I just  
7                   read you, the one about shopping.  The shopping  
8                   percentages he assumed.

9                   A.    Let me catch up to you.  Where are you  
10                  referring?

11                  Q.    Right below the chart that begins "By the  
12                  end of 2012."  Did I read that correctly?

13                  A.    Let me read it.

14                           I believe you read it correctly.

15                  Q.    Okay.  Let's -- I want to just focus on  
16                  these two assumptions, the shopping by class will  
17                  reach these percentages; 65 percent residential,  
18                  80 percent commercial, 90 percent industrial by the  
19                  end of this year and stay that way through the term  
20                  of the ESP.

21                           With that one assumption, the 9.5 percent  
22                  return on common equity that AEP projects for 2012,  
23                  is that a -- do you think that's a reasonable return  
24                  on equity?

25                  A.    I do think that's a reasonable return on

1 equity?

2 Q. Well, I assume you think your ESP plan is  
3 reasonable and if it is projected to yield that  
4 return on equity in 2012, do you think that  
5 9.5 percent is reasonable?

6 A. I think the average utility rate of  
7 return last year was about 10-1/2 percent.

8 Q. Well, you test --

9 A. So what we've presented in the ESP is  
10 what we believe is a plan that we can live with in  
11 all its elements, in all its features, so to that  
12 extent I believe that the ESP represents an  
13 acceptable pathway to move to market more quickly and  
14 maintain a reasonable state of financial integrity  
15 for AEP Ohio.

16 Q. So if this is a plan you can live with  
17 and a plan that's projected to produce a 9.5 percent  
18 return on equity in 2012, presumably you can live  
19 with 9.5 percent; is that a fair statement?

20 A. I think I'd ask you to ask Mr. Sever, who  
21 worked in conjunction, I'm sure, with Mr. Allen, for  
22 the shopping levels that you talk about in getting to  
23 that level in detail.

24 Q. You know, it's really not a computational  
25 question for Mr. Sever, it's more of a policy

1 question for you. Big picture. It's your ESP, you  
2 think it's balanced, you think it's fair, if it's  
3 projected to yield this return on equity in 2012,  
4 9.5 percent, big picture, presumably AEP management  
5 is fine with that result.

6 A. So the thing that I'm hesitant to agree  
7 with your conclusion is, is that my understanding is  
8 that the basis for the RSR was to give us the  
9 opportunity not to guarantee, but the opportunity to  
10 achieve revenue that was on the order of about a  
11 10-1/2 percent return, so I would ask you to ask  
12 Mr. Sever what the difference between that basis of a  
13 10-1/2 percent return and the 9-1/2 return.

14 So assuming that there is congruence  
15 there and there's an explanation, I certainly can go  
16 back to Mr. Allen's testimony that does indicate how  
17 he's suggested that the RSR gives us the opportunity  
18 to earn, but I don't know how to reconcile the  
19 difference in those two numbers.

20 Q. Well, again, big picture, policy,  
21 corporate, not the nuts and bolts of how you got  
22 there, the next year you're testifying or AEP's  
23 testifying that the plan you think is reasonable and  
24 fair and balanced will yield a 7.5 percent return on  
25 equity for AEP Ohio in 2013. Do you think that

1     that's a reasonable return level for the utility to  
2     earn?

3                 MR. SATTERWHITE:  Objection, your Honor.  
4     I think this has been asked and answered.  The  
5     witness originally, the first question stated an  
6     overall plan with lots of different parts and now  
7     we're taking one part of that plan and asking if  
8     that's representative of the whole piece.

9                 EXAMINER TAUBER:  The objection is  
10    overruled.

11                MR. KURTZ:  I think Mr. Satterwhite  
12    misconstrued.  This is the -- this is every  
13    assumption -- this is their plan, this is every  
14    assumption that they assumed that the ESP will be  
15    approved as filed what the earnings will be in  
16    two-thousand --

17                EXAMINER TAUBER:  Go ahead, Mr. Kurtz,  
18    with your questions.

19                Q.    (By Mr. Kurtz) So presumably as corporate  
20    management you've agreed to the ESP, you've approved  
21    it, you think the 7.5 percent return on equity in  
22    2013 is reasonable; isn't that a fair assessment?

23                A.    And I think I've provided a context for  
24    my answer which includes discussing the difference  
25    between the basis for Mr. Allen's testimony and the

1 RSR and this document that you placed in front of me.

2 I can't comment beyond that.

3 Q. Let me ask you, instead of -- suppose the  
4 Commission said to AEP, highest level, the level  
5 you're on, we like the shopping percentages that  
6 you've assumed, 65 percent, 80 percent, 90 percent,  
7 and we can live with these returns on equity for 2012  
8 and 2013, but instead of just forecasting those  
9 returns we want to ensure that they actually occur.  
10 You don't get any more or any less. Would AEP take  
11 that deal?

12 A. You know, we spent a lot of time thinking  
13 about the balance. There may be other solutions that  
14 provided an equal balance, so what I would say  
15 without prejudice is that, you know, we're open in a  
16 general sense to discussions of how that balance can  
17 be struck.

18 So to the extent that, you know, you're  
19 asking me a hypothetical, but if someone can come  
20 back and say well, what if it looked like this, I  
21 would certainly be willing to get the team together  
22 and say balance is struck between CRES providers,  
23 customers and us, I would think about it but I  
24 wouldn't want to see the economic harm to AEP Ohio  
25 move substantially from what's been proposed in our

1 ESP.

2 Q. Right, I'm asking you if you got the  
3 financial results you're projecting and AEP has  
4 testified to the Commission. Let me give you an  
5 example.

6 Suppose the Commission said we want RPM  
7 pricing for CRES suppliers either by year or take the  
8 three-year average of \$70 a megawatt-day to get these  
9 very aggressive shopping levels that have been  
10 predicted, but we'll assure, AEP, that your returns  
11 won't be any less than 9.5 percent in 2012 or  
12 7.5 percent in 2013. Would AEP take that deal?

13 MR. SATTERWHITE: Objection, your Honor.

14 MR. RANDAZZO: I object.

15 MR. SATTERWHITE: I'll go first I guess.  
16 The witness has already stated anything different  
17 than beyond the plan he would have to pull the team  
18 together and see if that would be reasonable. I  
19 don't think the witness can be expected to negotiate  
20 the position on the stand at this point.

21 MR. KURTZ: I'll rephrase the question.

22 EXAMINER TAUBER: The objection is  
23 sustained.

24 If you could move on, Mr. Kurtz.

25 Q. If the Commission, instead of forecasting

1       what the return would be, let's just use 2013,  
2       7.5 percent, said that we want to make sure you don't  
3       earn any more or any less, would that be a reasonable  
4       position for the Commission to take?

5               MR. SATTERWHITE: Same objection, your  
6       Honor.

7               MR. RANDAZZO: I object.

8               EXAMINER TAUBER: Please move on,  
9       Mr. Kurtz.

10              Q.     In the following year you've got a  
11       10.5 percent projected ROE for the wires-only  
12       company, that's post-divestiture; am I reading that  
13       exhibit right?

14              A.     What exhibit are you referring to, I'm  
15       sorry?

16              Q.     Exhibit OJS-2, the projected returns on  
17       equity that result from the ESP as filed.

18              A.     And you're referring to what year? I'm  
19       sorry.

20              Q.     2014, the wires only at the top, it says  
21       wires only. Is that post-generation divestiture?

22              A.     I have to ask you to ask Mr. Sever. I  
23       think that would be correct.

24              Q.     Same question, same answer on 2015?

25              A.     I think that would be correct.

1           Q.    Do you think that the shopping levels of  
2   65 percent for residential, 80 percent for  
3   commercial, and 90 percent for industrial excluding a  
4   single large customer are reasonable goals for the  
5   Commission to shoot for?

6           A.    Well, it would be for the Commission to  
7   determine but I think, again, I don't want to bore  
8   everybody with a repeat of the balance that's  
9   provided here but I think to move to market over  
10  three years, to encourage shopping over that period  
11  of time, those seem like pretty aggressive levels so  
12  I think that is a reasonable circumstance.

13          Q.    Those were the levels that AEP would  
14  assume would occur by the end of this year and stay  
15  through the term of the ESP. Do you think that those  
16  are reasonable goals for the Commission to try to  
17  achieve?

18               MR. SATTERWHITE:  Objection, your Honor,  
19  at this point I think the witness has answered and  
20  we're asking him questions on a different witness's  
21  exhibit that he's referred to explain the exhibit.

22               EXAMINER TAUBER:  The question was  
23  different; the objection is overruled.

24          A.    Mr. Kurtz, could you repeat the question?

25          Q.    Do you think it's a reasonable goal for

1 the Commission in this case to adopt as its policy  
2 the assumptions that AEP has made that by the end of  
3 this year shopping levels would be 65 percent  
4 residential, 80 percent commercial, 90 percent  
5 industrial?

6 A. Again, in the context of balance and the  
7 complicated issues that's represented in this ESP,  
8 those are the shopping assumptions that Mr. Allen has  
9 come up with after great study of what's going out  
10 there, what's already happened, because, again, I  
11 think the CSP does a good job of balancing many  
12 items, I would say, yeah, it seems like a reasonable  
13 goal to try to achieve.

14 Q. Good, thank you.

15 MR. KURTZ: No more questions.

16 EXAMINER TAUBER: Thank you.

17 Mr. Sugarman?

18 MR. SUGARMAN: Thank you, your Honor.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Sugarman:

22 Q. Mr. Powers, I wanted to flesh out a  
23 little bit of your background that I didn't hear you  
24 testified to from the witness stand yet today.

25 Sir, do you remain a member of the board

1 of directors of Ohio Power Company?

2 A. I believe I do.

3 Q. And when did you first become a director  
4 of Ohio Power Company?

5 A. I can't recall.

6 Q. Is it accurate that as well as being a  
7 director of that company that you continue to serve  
8 as Vice President of the merged entity?

9 A. That I can't confirm. I just don't know.

10 Q. According to the notice of annual meeting  
11 of shareholders and proxy statement for -- dated  
12 March 18 of 2011 for the Ohio Power Company, it  
13 states that you joined AEP Service Corporation in  
14 1998 as Senior Vice President-Nuclear Generation,  
15 does that sound right?

16 A. Yeah, I certainly joined AEP in 1998 and  
17 I think I was the Chief Nuclear Officer Senior Vice  
18 President, I believe I was with the Service  
19 Corporation.

20 Q. Right. And you continued on with the  
21 nuclear operations through 2000, 2001, until becoming  
22 Executive Vice President-Generation in 2003; is that  
23 correct?

24 A. That sounds generally correct.

25 Q. And since 2003 is it fair to say that

1     you've been involved in the generation aspect of the  
2     business of AEP Ohio for the past nearly nine years  
3     now?

4             A.     I think so.

5             Q.     You became Executive Vice President of  
6     AEP, which is the Ohio Power CSP companies, in 2006,  
7     and your current position you assumed in 2008; is  
8     that accurate as well?

9             A.     I'm sorry, I didn't follow you.

10            Q.     Sorry. 2006 you became Executive Vice  
11     President of AEP?

12            A.     I've been an Executive Vice President  
13     since 2001, but I had a -- I believe in late-2006 I  
14     became Executive Vice President of the East  
15     Utilities.

16            Q.     You're also the Vice President and  
17     Director of certain other AEP systems companies, are  
18     you not?

19            A.     Boy, you know, AEP's got a lot of  
20     operating companies and subsidiaries, I'm a director  
21     of many. I don't know if -- it wouldn't surprise me  
22     if I was an officer of others, I just don't have a  
23     catalog of all those off the top of my head.

24            Q.     According to the proxy statement, I'm  
25     glad to hand it to you to refresh your recollection

1 but let me see if I can do it this way, you're also a  
2 Director of AEP-Texas Central Company, AEP-Texas  
3 North Company, Appalachian Power Company, Columbus  
4 Southern Power Company, Indiana-Michigan Power  
5 company, Kentucky Power Company, Public Service  
6 Company of Oklahoma, and Southwestern Electric Power  
7 Company. Is that correct? Does that sound right?

8 A. Directionally it sounds correct. I don't  
9 know if that's the end of the list but certainly it  
10 sounds correct.

11 Q. And they are all direct or indirect  
12 subsidiaries of the AEP, Inc.; is that correct?

13 A. That's correct.

14 Q. This also indicates that you're Director  
15 of Indiana-Michigan Power Company, as well as of AEP  
16 Generating Company, both of which are subsidiaries of  
17 AEP, Inc. Does that sound correct to you, sir?

18 A. Pending confirmation, it sounds correct.

19 Q. In addition to serving on these -- and  
20 you don't recall the date on which you became a  
21 Director of the Ohio Power Company?

22 A. I do not.

23 Q. Do you recall the date on which you  
24 became a Director of Columbus Southern Power Company?

25 A. I do not.

1           Q.    Did you attend meetings of the board of  
2           directors of those companies?

3           A.    What we call the subsidiary company board  
4           meetings, yes, I do attend those meetings.

5           Q.    Those two in specific, the ones that were  
6           merged as of the end of last year and are now Ohio  
7           Power Company, did you attend meetings of the board  
8           of directors?

9           A.    Yes, I believe so.

10          Q.    And as a member of the Board did you set  
11          general policy for those companies?

12          A.    Principal function of the subsidiary  
13          boards of directors -- principal function during  
14          meetings are to look at capital investment and  
15          approve and authorize capital investment.

16                I'm sure in the course of business over  
17          the years there have been policy issues that have  
18          come up, but I would say that the number of policy  
19          issues is infrequent and the number of issues that  
20          deal with capital authorizations is a principal  
21          purpose for the board meetings.

22          Q.    And the capital authorizations dealt, for  
23          example, with respect to the generation assets owned  
24          by those entities?

25          A.    All assets owned by those entities.

1 Q. Including the generation assets.

2 A. Including the generation assets, yes.

3 Q. And you are also, are you not, a named  
4 executive officer of AEP Ohio, Inc., according to the  
5 2011 proxy statement of that company? Correct?

6 A. I believe that's correct.

7 Q. And as an NEO you are one of the five  
8 highest paid executive officers of AEP, Inc.,  
9 correct?

10 A. AEP, Inc. or the service company, I'm  
11 certainly a proxy officer so I assume that means I'm  
12 one of the top five paid executives.

13 Q. Of the public company AEP, Inc., as a  
14 named executive officer, you're familiar with that  
15 term?

16 A. Named executive officer, sounds right.

17 Q. And you are the Robert Powers identified  
18 in the proxy for AEP, Inc., correct?

19 A. That's me.

20 Q. All right. Going back to the beginning  
21 of today, I heard Mr. Randazzo ask whether you were  
22 the sponsor of the testimony. I'm not sure that I  
23 understood your question but then I did hear your  
24 counsel refer several times to you as the sponsor of  
25 the modified ESP that's been filed in this case. Are

1       you the sponsor of the modified ESP?

2               MR. SATTERWHITE:  Objection, your Honor,  
3       I think it misstates what I have said throughout the  
4       day.

5               Q.    I couldn't possibly recount everything  
6       that has been stated and if -- simple question, are  
7       you the sponsor of the testimony of the, excuse me,  
8       of the modified ESP plan that has been filed by  
9       AEP Ohio in this proceeding?

10              A.    I apologize, I don't know whether I'm the  
11       sponsor or not.  I'm sorry, I didn't spend any time  
12       thinking about that.

13              Q.    You don't need to apologize.

14                    I count at least seven different  
15       occasions in your testimony where you refer to  
16       substantial financial harm that will be occasioned  
17       upon AEP Ohio if the Commission does not approve the  
18       modified ESP plan, and without regard to the number 7  
19       I can point you to the references, but generally  
20       you're aware of that strain or theme that crosses  
21       throughout your testimony beginning at page 10 and  
22       carrying on through page 20.

23              A.    I think we've had quite a discussion of  
24       that today, so yes, I'm aware.

25              Q.    And part of your testimony here today has

1 talked about in the event the modified plan is not  
2 approved, that there would be a significant reduction  
3 of AEP Ohio's spend and significant job reductions in  
4 Ohio.

5 A. Out of respect for having spent a lot of  
6 time describing that this afternoon, I believe we  
7 spent a lot of time discussing that.

8 Q. Yes, we did. Is it your position on  
9 behalf of AEP if this plan is approved, that there  
10 will be an increase in AEP Ohio's spend throughout  
11 the state of Ohio?

12 A. My frame of reference is if the plan is  
13 approved as submitted, it provides AEP, the parent,  
14 and AEP Ohio platform of business certainty on which  
15 we can make good decisions about investing in Ohio.  
16 We're headquartered in Ohio, we'd love to invest in  
17 Ohio, and let me talk just very briefly about the  
18 reciprocal of your question.

19 Absent that certainty it becomes very  
20 difficult for AEP or AEP Ohio as its subsidiary to  
21 make investment decisions in the state of Ohio, so we  
22 would certainly love to have the opportunity to have  
23 an understandable business environment and invest in  
24 Ohio.

25 Q. I'm sorry, had you completed?

1           A.    I'm complete.  Thank you.

2           Q.    I was trying to avoid the reciprocal  
3 because you've testified at length about that.

4                    So the corollary, again, are you telling  
5 the Commission or are you saying you don't know at  
6 this time whether if the modified ESP is approved,  
7 that AEP Ohio will increase its spend, as you used  
8 that term in your testimony, in the state of Ohio for  
9 years 2012, 2013, and 2014?

10          A.    I think the ESP overall describes the  
11 level of investment that's occurring in Ohio over the  
12 period of this transition.

13          Q.    So is the answer to my question you don't  
14 know sitting here today?

15          A.    I'm sorry, I'm just not sure I understand  
16 your question.

17          Q.    If the modified ESP that's been submitted  
18 by the company is approved, will there be a  
19 significant increase of AEP Ohio's spend in the state  
20 of Ohio throughout the period leading up to June of  
21 2015.

22          A.    Increase from what baseline?  I'm not  
23 trying to be coy, but I mean --

24          Q.    I'm not trying to be coy either, but you  
25 talk about the fear of significant reduction from

1 current levels so I take it that's what your  
2 reduction refers to, right, the employment loss of  
3 thousands of jobs?

4 A. Are we talking about employment or  
5 investment? I'm sorry, you're confusing me.

6 Q. I'm trying -- I'm trying not to confuse  
7 you. We can take it either way. How do you use the  
8 term "spend" in your testimony which is at page 17  
9 through 18?

10 A. Do you have a specific reference in those  
11 two pages or do you want me to read them?

12 Q. If you go to the top of page 18, it's --

13 A. Top of page 18.

14 Q. It's a carryover from the sentence that  
15 starts at the bottom of page 17, line 23, which reads  
16 "Doing so would force AEP Ohio to significantly  
17 reduce its spend in Ohio and inevitably lead to  
18 significant job reductions in Ohio...."

19 A. Okay, I see that.

20 Q. Okay. So what is the baseline spend that  
21 is being reduced if the Commission does not approve  
22 the modified ESP?

23 A. What is the -- I'm sorry. It's getting  
24 late in the day, I'm not following your question.

25 Q. I appreciate that. What is meant by the

1 word "spend" in your testimony here?

2 A. "Spend" in that particular part of the  
3 testimony, generally speaking, would refer to both  
4 O&M spend as a result of, I think I spent a lot of  
5 time talking about the greater than \$600 million a  
6 year problem from a revenue standpoint if certainly  
7 RPM was established for AEP Ohio, and I also would  
8 say that this spend refers to capital investment  
9 spend.

10 Q. So the question then is if the modified  
11 ESP plan is approved by the Commission, will there be  
12 an increase in the spend to which you refer to in  
13 your testimony at the top of page 18?

14 A. So I think I'm going to have to link a  
15 couple of issues. There were previous questions  
16 about whether or not the RSR guaranteed a level of  
17 return or a level of income, and it does not, it  
18 simply affords the opportunity to achieve a certain  
19 level of income.

20 If there were, for example, unexpected  
21 generation expenses, since the base generation rates  
22 are, in fact, fixed, our costs would go up. So if  
23 something like that were to happen, we might have to  
24 take actions in response, and so I can't commit to an  
25 absolute steady or increasing spend but what I can

1 say is if the ESP is approved, obviously that \$600  
2 million challenge to AEP Ohio would be mitigated and  
3 there wouldn't be the need in a directional sense to  
4 take the actions that are described on page 18 and  
5 the bottom of 17.

6 I hope that answers your question.

7 Q. Are you committed to maintaining the same  
8 level of spend if the modified ESP is approved by the  
9 Commission over the next two-and-a-half years?

10 MR. SATTERWHITE: Objection, your Honor.  
11 I think the last answer answered that as well. I  
12 think we're going over the same ground here. He's  
13 given his pause for why he can't say what's going to  
14 happen in the future already; this is just asking the  
15 same question another way.

16 MR. SUGARMAN: You know, at this hour  
17 "objection" would be sufficient as opposed to  
18 educating the witness through continuing speaking  
19 objections that I've heard all day.

20 And I've kept my peace because it's not  
21 my term to cross-examine, but all of this could go a  
22 heck of a lot faster with simply "objection" as  
23 opposed to educating the witness by objections and  
24 speaking through counsel.

25 If the Bench wishes, I'll withdraw the

1 question and reframe the question.

2 EXAMINER TAUBER: Please move on,  
3 Mr. Sugarman.

4 MR. SUGARMAN: Okay.

5 Q. (By Mr. Sugarman) Let's turn to the  
6 second part of what happens if not and turn it around  
7 to ask whether or not there would be job maintenance  
8 or job increases if the Commission were to approve  
9 the modified ESP plan.

10 A. Was there a question in there? I'm  
11 sorry.

12 Q. If the Commission were to approve the  
13 modified ESP that's been submitted, would there be a  
14 maintenance of or increase in jobs by AEP in the  
15 state of Ohio?

16 MR. SATTERWHITE: Objection, your Honor,  
17 same objection.

18 EXAMINER TAUBER: Objection's overruled.  
19 It's a different question.

20 THE WITNESS: So could you repeat the  
21 question? Reread the question?

22 (Record read.)

23 A. It's possible but I can't say with  
24 certainty.

25 Q. As to either maintenance or increase.

1 Did I say that correctly?

2 A. I think that characterizes my answer.

3 Q. Okay. You state at page 17, lines 17  
4 through 18, that the subsidy of CRES providers harms  
5 AEP and its investors. My question with that  
6 statement, and let me know when you're there, sir.

7 A. Lines 17 and 18?

8 Q. Yes.

9 A. On page 17?

10 Q. Right.

11 A. I'm there.

12 Q. And the investor you're referring to  
13 there is the parent, AEP, Inc.; is that correct?

14 A. Yes, the shareholders of AEP, Inc.

15 Q. The shareholders of the public company?

16 A. I believe so, yes.

17 Q. That's your reference on page 17,  
18 lines --

19 A. AEP and its investors.

20 Q. Do you believe that requiring AEP Ohio to  
21 charge market-based rates for its cost of capacity to  
22 CRES providers harms either customers or ratepayers?

23 A. I think I answered that question in  
24 detail this morning. And the answer referencing back  
25 to a longer description was yes, I believe it

1 ultimately harms them.

2 Q. A few questions on the RSR. And you  
3 talked briefly in response to earlier expance on a  
4 question I asked you that it affords an opportunity  
5 to earn a rate of return. Do you understand that  
6 Mr. Allen's calculations deal with the nonfuel  
7 generation revenue that is supposed to be addressed  
8 through the retail stability rider?

9 A. I'm going to refer you to Mr. Allen, but  
10 I'll be willing to take a shot at hearing your  
11 question again and giving it my best shot.

12 Q. All I'm asking for is your understanding.  
13 Is it your understanding that the retail stability  
14 rider is designed to achieve nonfuel generation  
15 revenues at a certain level to achieve a return on  
16 equity of 10.5 percent?

17 A. So let me think about this. There is --  
18 I'm aware that there is a fuel clause, we talked  
19 about that earlier. I think I indicated previously  
20 that there's an opportunity to achieve a revenue  
21 stream, as Mr. Allen describes this his testimony,  
22 but it doesn't guarantee that revenue stream, so I  
23 think directionally you're correct.

24 Q. Okay. And you, from your experience, you  
25 understand that revenues from nonfuel generation and

1 general generation of the company can be adversely  
2 affected through, for example, weather conditions  
3 including storms, correct?

4 A. I'm sorry, ask your question again.

5 Q. You --

6 A. You guys ask long questions.

7 Q. You understand from your experience that  
8 revenues from generation can be adversely impacted by  
9 weather conditions including storms, are you not?

10 A. Boy, I usually don't think about it in  
11 that way, but I suppose in a competitive circumstance  
12 if there's no transmission line connecting the  
13 generation to the grid, it would be hard to sell your  
14 product, so I suspect that circumstance is an example  
15 where I could agree with you.

16 Q. Are you aware that AEP Ohio and AEP, Inc.  
17 experienced a decrease in retail gross margin during  
18 the first quarter of 2012?

19 A. Again, could you repeat the question?

20 Q. Sure. Are you aware that AEP Ohio and as  
21 well as AEP, Inc. experienced a decrease in retail  
22 gross margins during the first quarter of 2012?

23 A. Retail gross margins. I just don't, off  
24 the top of my head I don't know, and I'd refer you to  
25 Witness Sever, who I think could be responsive to

1 your question.

2 Q. Do you know if the retail gross margins  
3 reported by AEP Ohio and AEP, Inc. increase included  
4 revenues from generation services of the company?

5 A. Off the top of my head I'd have to again  
6 refer you to Mr. Sever. I don't know.

7 Q. You don't know the answer to what's  
8 included within retail gross margin reported by both  
9 the public company and by the subsidiary?

10 A. Off the top of my head, no, I don't know.

11 Q. Would you agree with the concept that  
12 generation revenues have recently decreased in first  
13 quarter of 2012 for both AEP Ohio and AEP, Inc. due  
14 to decreased customer demand during the first quarter  
15 as compared with the same period last year primarily  
16 because of record warm temperatures?

17 A. I can agree with that.

18 Q. So the RSR that is intended to generate a  
19 earned rate of return and afford that opportunity,  
20 according to your testimony, based primarily on the  
21 discounted cost of capacity and auction can also be  
22 affected by other factors including decreased  
23 customer demand due to weather, correct?

24 A. I think I agree with what you're saying  
25 but I refer you to Mr. Allen for further

1 clarification.

2 Q. And you would agree with me that not only  
3 weather but there are other conditions that could  
4 cause -- could and do cause volatility based upon  
5 your experience in revenues through the generation  
6 functions of AEP Ohio and AEP, Inc., correct?

7 A. I'm sorry, it's getting late in the day,  
8 could you repeat the question?

9 Q. Sure. I understand. It is late.

10 In addition to the decreased customer  
11 demand we just talked about due to the weather there  
12 are other factors that you're aware of based upon  
13 your experience over the last at least nine years  
14 that could and do cause volatility in revenues  
15 through the generation activities of AEP Ohio,  
16 correct?

17 A. As the utility executive I know that  
18 there are factors that make revenues somewhat  
19 unpredictable. To the extent that you're parsing out  
20 AEP Ohio and separating that uniquely, I can confirm  
21 that there are factors that affect revenue from  
22 generation.

23 Q. Across the utility without -- it doesn't  
24 have to just focus on AEP, correct?

25 A. Correct. That one I'm with you on.

1           Q.    We have agreement on that.  And you've  
2   read the risk factors that are reported in the  
3   public -- in your 10-K and your proxy statement that  
4   affect the activities of the company, have you not?

5           A.    We give investors every opportunity to  
6   understand just about every risk we can think of.

7           Q.    And so with that in mind the RSR that  
8   you're asking the Commission to approve as part of  
9   the modified ESP plan will address these industrywide  
10  factors that will affect revenues from your  
11  generation activities, not just from discounted  
12  capacity afforded to CRES providers or to the auction  
13  that's referred to in your testimony; is that  
14  correct?

15          A.    I don't know.  I'd ask you -- I would  
16  refer you to Witness Allen.

17          Q.    You don't know based upon your  
18  experience.

19          A.    I don't know how to link my experience  
20  and a specific question on how the RSR operates.

21          Q.    Okay.  Is it your understanding if the  
22  other nonbypassable riders described in the modified  
23  ESP are not approved by the Commission, that the RSR  
24  would need to be increased in order to avoid  
25  financial harm to AEP Ohio?

1           A.    I'm sorry, repeat it again, please.

2           Q.    You're aware that there are, or at least  
3 one other nonbypassable rider in the modified ESP,  
4 are you not?

5           A.    Could you cite it for me?

6           Q.    You understand that the RSR is a  
7 nonbypassable rider, do you not?

8           A.    That I understand, yes.

9           Q.    I simply asked whether you're aware if  
10 there are any other nonbypassable riders contained in  
11 the modified ESP that you're asking the Commission to  
12 approve.

13          A.    Let me look at the list of the riders. I  
14 believe the riders include distribution investment,  
15 those would be nonbypassable as well, as an example.

16          Q.    If the other nonbypassable rider or  
17 riders described in the plan were not approved by the  
18 Commission, does that mean that the RSR would need to  
19 be increased to avoid financial harm to AEP Ohio as  
20 you understand the proposal before the Commission?

21          A.    What I have thought about is, again, the  
22 comprehensive package that this represents and, as an  
23 example, we also considered contrasting this plan to  
24 the stipulation that was approved in December and  
25 what's the level of financial harm that would be

1 mitigated to be equivalent to going back to that  
2 December stipulation.

3 And certain riders were removed from the  
4 stipulation so what I can say, that in balance this  
5 entire plan represents a financial view of AEP that  
6 includes consideration of what was removed from the  
7 stipulation, the December stipulation is what I'm  
8 referring to, and so I'm hesitant to say that the  
9 removal of any of these other riders would require  
10 the RSR to increase.

11 But I am saying that we presented this as  
12 a package and changes to the package would have to be  
13 considered by AEP in the full context, again, of that  
14 balance that I described between CRES providers,  
15 customers, and AEP.

16 Q. So if one part goes in or one part goes  
17 out, sitting here today you're unable to say what --  
18 how to rejigger the balance of the plan at the  
19 moment. I think you testified to that earlier.

20 A. I've testified this is very complicated.

21 Q. That's fine.

22 A. And changes would have to be studied very  
23 carefully.

24 Q. Sure. You testified and responded to  
25 Mr. Lang earlier that AEP Ohio experienced serious

1 financial harm during 2011 when the capacity cost it  
2 charged to CRES providers was less than \$355 per. Do  
3 you recall what's day. Do you recall that exchange?

4 A. I recall that, yes.

5 Q. You would agree, would you not, that the  
6 serious financial harm incurred during 2011 did not  
7 affect AEP Ohio's ability to provide reliable service  
8 to its customers? Correct?

9 A. I recall that, yes.

10 Q. And your answer to the question is yes?

11 A. Yes.

12 Q. Okay. Thank you.

13 Do you know the basis on which the RSR  
14 will be allocated between residential, commercial,  
15 and industrial customers, or is that a question, I'll  
16 give you the easy out, that I should ask Mr. Allen?

17 A. That would be a good decision.

18 Q. Okay. You don't know sitting here today  
19 how that allocation is done?

20 A. I would refer you to Mr. Allen.

21 Q. Does that mean you don't know?

22 A. I think I said I don't know, but if  
23 that --

24 Q. If you did, I didn't hear you, I  
25 apologize. Okay. I can move on.

1           Are you aware of how the modified ESP  
2 addresses rate design concerns for small commercial  
3 customers in the former CSP service territory who use  
4 more than 800 kilowatt-hours in winter months?

5           A.    What I can comment on is that we spent a  
6 lot of time mitigating rate impact to customers in  
7 the design of this plan and David Roush would be a  
8 great person to refer your questions on the specific  
9 customer classes. I think he's got some tables in  
10 his testimony that have every customer class  
11 imaginable and he could describe the impacts to the  
12 class you referred to.

13          Q.    So sitting here today you're unable to  
14 respond of your own knowledge to the question that I  
15 posed.

16          A.    That's correct.

17          Q.    Responding to Mr. Kurtz's questions with  
18 reference to Mr. Sever's Exhibit OJS-2, do you still  
19 have that available to you, sir?

20          A.    OJS-2.

21          Q.    Yes.

22          A.    Pages 1, 2, and 3?

23          Q.    I'm looking at page 3.

24          A.    Page 3.

25          Q.    And these, again, are projected financial

1 statements prepared consistent with the filing. Do  
2 you see that at the top?

3 A. I see those words, yes.

4 Q. And do you understand that this  
5 represents the use, the cash flow usage by AEP Ohio  
6 in the event that the modified ESP application is  
7 approved by the Commission?

8 A. I remember referring detailed questions  
9 on OJS-2 to Mr. Sever and I would recommend you do  
10 that again.

11 Q. I'm just asking you do you understand  
12 that this document represents the proposed use of  
13 cash flow by AEP Ohio upon approval by the Commission  
14 of the application that has been filed in this case?

15 A. Only in a general sense.

16 Q. And in a general sense, if you look on  
17 line 20, do you understand that line to indicate that  
18 upon approval of the modified ESP that Ohio Power,  
19 AEP Ohio, will upstream \$300 million in dividends in  
20 2012 and 2013 to its parent AEP, Inc.?

21 A. Generally speaking I'm aware that we  
22 expect our operating companies to dividend up to the  
23 parent, so it appears that's the line, but, again,  
24 I'd refer you to Mr. Sever for more detail.

25 Q. Let me ask you again, is it in your

1 experience as a member of the board of Ohio Power  
2 Company, in all your time that you served on the  
3 board of directors of that company has the board  
4 declared a dividend in favor of the parent AEP, Inc.?

5 A. I believe so.

6 Q. Do you recall the magnitude --

7 A. Could you repeat the question again,  
8 please?

9 Q. I'm sorry?

10 A. Could you repeat the question, please?

11 Q. Sure. In all the time that you have  
12 served, continue to serve, as a member of the board  
13 of directors of Ohio Power Company, AEP Ohio, has  
14 that board declared a quarterly dividend in favor of  
15 the parent AEP, Inc.?

16 A. I believe during that time -- AEP Ohio,  
17 Columbus Southern, AEP -- I'm sorry, Ohio Power,  
18 Columbus Southern would have dividended to the  
19 parent, I believe that's correct.

20 Q. And in the most recent quarter ended for  
21 March 31 of 2012, do you know of your own knowledge  
22 the amount of the dividend that was declared by Ohio  
23 Power Company in favor of the parent?

24 A. No; I don't have my financials in front  
25 of me so I would, again, refer you to Mr. Sever.

1           Q.    Would your belief be that on an annual  
2 basis it would approximate the \$300 million dividend  
3 that is reported on page 3 of Exhibit OJS-2 to  
4 Mr. Sever's testimony?

5           A.    I'd ask you to ask the question to  
6 Mr. Sever. I don't know.

7           Q.    In response to questions from Mr. Lang in  
8 terms of, again, financial harm and the debt  
9 structure and going to market for capital or for  
10 debt, do you know the last time that Ohio Power went  
11 to the market for either, to secure debt or to raise  
12 capital?

13          A.    I don't remember a specific date, no.

14          Q.    Do you have a general recollection?

15          A.    No.

16          Q.    Is it true that Ohio Power has a  
17 borrowing relationship with the other AEP entities  
18 such that it can borrow up to several hundred million  
19 dollars from affiliated entities without the need to  
20 go to market?

21          A.    As Chief Operating Officer I'm generally  
22 aware. I'm aware AEP has financing needs. The chief  
23 financial officer's office handles finances. I'm  
24 certainly aware that those financings occur but the  
25 details of those financings are, again, the

1 responsibility of the chief financial officers.

2 Mr. Sever works in that organization so I  
3 think the questions from a financing standpoint I  
4 refer to Mr. Severe.

5 Q. During the time you served as a member of  
6 the board of directors of Ohio Power can you recall  
7 any instance in which a financing transaction or a  
8 need for funds was -- by Ohio Power was denied or  
9 declined?

10 A. To this point, no, I can not.

11 Q. Thank you.

12 MR. SUGARMAN: No further questions.

13 EXAMINER TAUBER: Let's go off the  
14 record.

15 (Discussion off the record.)

16 EXAMINER TAUBER: Let's go back on the  
17 record.

18 Ms. Thompson.

19 MS. THOMPSON: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Ms. Thompson:

23 Q. Good evening, Mr. Powers.

24 A. Good evening.

25 Q. Earlier today during Mr. Randazzo's

1 examination you testified that AEP Retail's offerings  
2 to customers were indicative of market prices. Do  
3 you remember that?

4 A. Generally speaking, yes.

5 Q. Okay. When you said "market prices,"  
6 were you referring to the RPM auction price?

7 A. CRES providers, as I understand -- are we  
8 talking about AEP Retail?

9 Q. Yes.

10 A. CRES provider offer to customers both  
11 capacity and energy so whatever their offers are to  
12 customers have to include capacity and energy, so  
13 it's both.

14 Q. And that would be at a price set by the  
15 PJM RPM auction?

16 A. For capacity.

17 Q. For capacity, yes.

18 A. However they secured their energy.

19 Q. And during the questioning of Mr. Lang  
20 and Ms. Grady you discussed the AEP SSO auctions that  
21 are proposed in the ESP.

22 A. Are you referring to the 5 percent  
23 auction?

24 Q. That's one amongst three that are in the  
25 proposed ESP.

1           A.    And energy-only auction in January of  
2   2015?

3           Q.    Yes.

4           A.    And then the capacity and energy auction  
5   in June of 2015?

6           Q.    Yes, those would be the three SSO  
7   auctions.

8           A.    I remember talking about those, yes.

9           Q.    Okay. Just to take, for example, the  
10   5 percent SSO energy-only auction, it's your  
11   understanding that that auction is a wholesale  
12   auction, correct?

13          A.    That auction is a wholesale auction. I  
14   don't know. I mean, it's an auction for a part, a  
15   slice of system, 5 percent of the load. Is it a  
16   wholesale auction? I don't know.

17          Q.    Are you familiar with the term "wholesale  
18   auction"?

19          A.    Yeah, wholesale auction, there are states  
20   which utilities bid for load, some of those are  
21   referred to as wholesale auctions, so my only  
22   hesitation is the strict definition of wholesale  
23   auction in Ohio, but sounds like it.

24          Q.    And under your general understanding in a  
25   wholesale auction a CRES supplier would then provide

1 the energy or capacity, whatever they're bidding to,  
2 directly to the local distribution company, the EDU.

3 A. Say that again, please.

4 Q. In a wholesale auction the CRES provider,  
5 whether they're bidding for capacity or energy, would  
6 deliver that directly to the EDU.

7 A. Deliver the energy to the EDU. Yeah,  
8 you're losing me because the CRES providers at the  
9 moment are using AEP capacity, so I can't agree with  
10 your question.

11 Q. Okay. So under the 5 percent SSO auction  
12 when CRES providers then bid for that energy load,  
13 whom will they deliver the energy to once they win?

14 A. I don't know.

15 Q. So you're not familiar with the auction  
16 structure.

17 A. Well, again, I think we've talked about  
18 the fact that the auction structure needs to be  
19 defined, but I'm not in detail familiar with the  
20 auction structure, no.

21 Q. Did AEP consider only wholesale auctions  
22 for the SSO program or SSO customers?

23 A. I don't know.

24 Q. Were you involved in drafting the ESP?

25 A. Yes.

1           Q.   And did you -- were you involved in the  
2   drafting of the auction process for the SSO customer  
3   load?

4           A.   Only in a very broad sense.

5           Q.   So you didn't provide any inputs into  
6   types of auctions that could be used.

7           A.   I did not, no.

8           Q.   So you didn't look at other types such as  
9   retail auctions that could have been used.

10           MR. SATTERWHITE:  Objection.  I think  
11   he's already answered that question.

12           MS. THOMPSON:  Your Honor, I'm just  
13   trying to understand his whole understanding -- his  
14   full involvement in the ESP auction process.

15           EXAMINER TAUBER:  The objection is  
16   overruled.

17           A.   Can I have the question again, please.

18           MS. THOMPSON:  May I have the question  
19   reread.

20                   (Record read.)

21           A.   I did not personally, no.

22           Q.   Has AEP ever looked at retail auctions to  
23   be adopted for its service territory?

24           A.   I have to think about that.

25                   I guess I'd refer you to Witness Nelson

1 or Allen to answer that question on whether the team  
2 considered alternative auctions as you described  
3 them.

4 Q. So you don't know?

5 A. I don't know.

6 Q. Okay. Thank you.

7 In response to Ms. Spiller's questioning  
8 earlier --

9 A. I'm sorry, who is that?

10 MS. SPILLER: That's me.

11 Q. In response to Ms. Spiller's questioning  
12 you testified that you reviewed the Duke Energy ESP.

13 A. I don't recall saying that I reviewed it  
14 in any detail, no.

15 Q. Just to refresh your recollection,  
16 Ms. Spiller pointed you to IEU Exhibit 111 which  
17 discussed and referred to the Duke Energy ESP in a  
18 citation. Would it help you if we went back there?

19 A. I don't know where you're going. I'm not  
20 sure what would help me or not.

21 Q. Okay. Is IEU Exhibit 111 in front of  
22 you?

23 MR. RANDAZZO: Just say "no."

24 A. Yes, it is.

25 Q. If you can turn to page 6, please.

1           A.    Yes.

2           Q.    And underneath the sentence that you had  
3    cited in previous testimony, is a citation to the  
4    Duke Energy ESP case, correct?

5           A.    That's correct.

6           Q.    And in questions with Ms. Spiller you had  
7    said that Duke Energy did -- I mean, you said that  
8    AEP had looked at the Duke Energy ESP when looking at  
9    auctions.

10          A.    I said that since this statement I  
11    referred to indicated -- let me read it for a second.

12                The statement says the Commission further  
13    expects AEP Ohio will look into recent Commission  
14    precedent for guidance in formulating its modified  
15    ESP. So to the extent that Duke was recent, I think  
16    I recall testifying that the team took a look at what  
17    Duke did.

18          Q.    Right. Okay.

19          A.    You guys ask complicated questions.

20          Q.    My apologies, it is late.

21                When you looked at the Duke ESP, did you  
22    see that Duke had adopted a purchase of receivables  
23    program?

24          A.    I did not personally.

25          Q.    So you did not review the ESP or remember

1       that purchase of receivables program in your review.

2             A.    I think I indicated I recall testifying.  
3       I did not recall the Duke ESP in detail.

4             Q.    Would there be any other AEP witness who  
5       did review it in detail?

6             A.    You know, I certainly can refer you to --  
7       I don't know specifically, but Selwyn Dias would be a  
8       good witness to ask.

9             Q.    I'll hold off those questions for you.  
10            Next if you could turn in your testimony  
11       to page 16, lines 6 through 8, and let me know when  
12       you're there.

13            A.    Page 16, line 6 through 8?

14            Q.    Yes.

15            A.    Yes, I'm there.

16            Q.    You testified that "During the ESP II  
17       timeframe, AEP Ohio will provide discounted capacity  
18       to CRES providers in order to support expedited  
19       growth of robust competitive supply options for SSO  
20       customers," correct?

21            A.    You just read it very well.

22            Q.    Thank you.

23                   The discounted capacity that you referred  
24       to, is that the proposed tier 1 and tier 2 capacity  
25       prices in the ESP?

1           A.    Yes.

2           Q.    And you believe the prices are discounted  
3 because the 146 first tier price and the 255 second  
4 tier price are less than the 355 capacity price AEP  
5 has proposed in a separate proceeding?

6           A.    AEP has a contractual obligation for FRR,  
7 \$355 per megawatt-day is the cost of capacity so that  
8 146 and 255 is a discount to that.

9           Q.    And it's a discount only because it's  
10 less than a price that AEP has thought it needs to  
11 recover.

12          A.    It's a price that AEP believes it's  
13 obligated and entitled to receive.

14          Q.    You also believe that because the tier 1  
15 and tier 2 pricings are less than 355, supply options  
16 for SSO customers will grow exponentially?

17          A.    Where do you see the word  
18 "exponentially"?

19          Q.    In your testimony it states that AEP will  
20 provide discounted capacity to CRES providers in  
21 order to support expedited growth of robust  
22 competitive supply options, so I'm assuming that the  
23 growth is to grow expeditiously -- I'm sorry, did I  
24 misspeak?

25          A.    You said "exponentially."

1 Q. My apologies; "expeditiously."

2 A. That's what the sentence says, it's our  
3 belief.

4 Q. And what do you base that on?

5 A. I refer you to Mr. Allen, but Mr. Allen's  
6 done quite a bit of study and the testimony provides  
7 quite a bit of information on what the levels of  
8 shopping will be at those capacity prices and they  
9 are substantial.

10 Q. But it's only based on Mr. Allen, not  
11 your own personal investigation.

12 A. Well, in detail it's based on Mr. Allen  
13 and as Executive Vice President/Chief Operating  
14 Officer, I'm aware that under the interim capacity  
15 order that the Commission provided that we're  
16 currently operating on there's still customer  
17 switching that's occurring so, and I know that there  
18 has been a large level of customer switching that's  
19 already occurred, so I think Mr. Allen is pretty good  
20 at what he does and certainly the facts of the matter  
21 and the level of customer shopping gives me  
22 confidence that his estimates are pretty good.

23 Q. And are the proposed prices in the tier 1  
24 and tier 2 greater than what CRES providers have been  
25 paying in the past? Are they greater than what CRES

1 providers have been paying in the past?

2 A. Well, again, I'd refer you to Mr. Allen  
3 in detail, but in general, to the extent the 255 has  
4 been greater than RPM over the period of 2010-'11,  
5 then it would be greater.

6 Q. And increasing the price paid by  
7 suppliers, in your opinion, would increase supply  
8 options for customers?

9 A. State the question again, please.

10 Q. And increasing the price paid by CRES  
11 suppliers, in your opinion, would increase the supply  
12 options for customers?

13 A. I think I spent a fair amount of time  
14 today talking about the fact that to have a fully  
15 developed competitive situation in Ohio you would  
16 want the generation, anybody that was supportive of  
17 the competitive environment would want the generation  
18 that's currently in AEP Ohio to be able to be brought  
19 to bear in that competitive environment.

20 So from the standpoint of this overall  
21 plan, assuring that generation can be reasonably  
22 maintained during this transition period, you know, I  
23 think that ultimately that does support customers'  
24 access to a robust competitive environment.

25 Q. I'm going to point you to page 16, a

1 little bit further down, lines 11 through 12. You  
2 testify "In addition, AEP Ohio has seen significant  
3 customer switching at the \$255 a megawatt-day second  
4 tier capacity price."

5 On what day did AEP Ohio implement the  
6 255 per megawatt second tier capacity price?

7 A. I don't know the specific dates.

8 Q. You don't know the specific date.

9 A. I don't know the specific date.

10 Q. Do you know generally when AEP  
11 implemented the 255 second tier capacity price?

12 A. I believe it was initially established in  
13 the stipulation approved in December of 2011 but I'd  
14 ask you to confirm that with Witness Allen, but  
15 that's my understanding.

16 And then, as I just recently referenced,  
17 Commission decision to establish an interim capacity  
18 price following the February decision to undo the  
19 stipulation, it's been in place since then as well,  
20 so that was sometime in February or early-March, I  
21 don't recall the exact date. But it was fairly  
22 recently.

23 Q. So the 255 price has been in place since  
24 early-March 2012.

25 A. I think I said you can check with Witness

1 Allen, I believe it goes all the way back to  
2 December.

3 Q. And since -- then we'll use December.  
4 Since December 2011 you claim that AEP has seen  
5 significant customer switching.

6 A. That's correct.

7 Q. Have you quantified that?

8 A. Mr. Allen has; yes.

9 Q. But you have not.

10 A. I recall a discussion, I just don't  
11 remember the number that was discussed.

12 Q. Okay. If you could turn to page 17 of  
13 your testimony, and on lines 6 through 7 you were  
14 asked "Does the modified ESP promote competition in  
15 other ways and also promote other policy objectives  
16 of Senate Bill 221?"

17 And you answered in lines 8 through 9 "A  
18 reasonable transition to market for AEP Ohio is  
19 needed to truly promote fair competition and to avoid  
20 causing serious financial harm to AEP Ohio...."

21 Do you believe that, well, first of all,  
22 when referring to the "fair competition" in that  
23 sentence, does that include the two-tier capacity  
24 price mechanism?

25 A. The two-tier capacity mechanism refers to

1 a reasonable transition to market for I think a  
2 pretty involved circumstance that I've spent time  
3 describing of AEP Ohio being asked not to go to  
4 market.

5 Q. So you are not including the two-tier  
6 capacity price in what you term "fair competition."

7 A. I'm sorry, ask your question again.

8 Q. So you're not including the two-tier  
9 capacity price in what you term as "fair  
10 competition."

11 A. What we are saying is that getting  
12 capacity for free, \$20 a megawatt-day, I apologize,  
13 when AEP has a contractual obligation or a  
14 contractual rate to receive \$355 is not fair, and  
15 it's not fair in an immediate sense in terms of the  
16 financial harm that will occur to AEP and in the  
17 long-term sense it doesn't support fair competition  
18 because access to that capacity is just not  
19 reasonable at a \$20 a megawatt-day level when we have  
20 a contract that requires \$355 a day to be  
21 recovered -- megawatt-day to be recovered.

22 So, again, because I've described the  
23 financial harm that will occur to AEP Ohio and in the  
24 future the AEP GenCo, that's not harming a large  
25 supply of generation and capacity in the state of

1 Ohio by -- an act of going to RPM pricing is, in our  
2 opinion, consistent with the definition of fair  
3 competition.

4 Q. So just to confirm because I kind of got  
5 lost --

6 A. I get lost in your questions, so.

7 Q. Do you believe that the two-tier capacity  
8 pricing mechanism is included in what you term "fair  
9 competition"?

10 A. I think the two-tier capacity mechanism  
11 is part of the process to transition to a robust  
12 competitive circumstance in Ohio which, in my  
13 opinion, would be fair.

14 Q. So it is.

15 A. Yes.

16 Q. Okay. Do you believe that fair  
17 competition could be achieved without the two-tier  
18 capacity price mechanism?

19 A. I mean, in a big picture sense, again, I  
20 think you certainly talked a lot today about the  
21 complicated nature of the circumstance. I've talked  
22 about the fact we've thought long and hard about how  
23 to make all these various factors that the Commission  
24 would like to achieve, balance benefits for the  
25 customers, CRES providers, AEP financial harm, we've

1 provided a solution that we think works, gives the  
2 Commission a more rapid move to market. Is there  
3 another solution out there? Possibly.

4 If there's another solution we'd be  
5 willing to listen but, again, as I indicated earlier  
6 in response to do we have other options, we've  
7 listened but because this is very complicated we'd  
8 have to think long and hard.

9 Q. And if that other option was RPM pricing,  
10 would you consider it?

11 A. Again, I think I've answered your  
12 question.

13 Q. And that answer was?

14 MR. SATTERWHITE: Objection, your Honor,  
15 he stated multiple times what he would have to do,  
16 what he would have to look at if there were any  
17 change, to multiple attorneys, I don't think we need  
18 to revisit it again.

19 MS. THOMPSON: It's my final question,  
20 your Honor.

21 EXAMINER TAUBER: Let's move along,  
22 Ms. Thompson.

23 MS. THOMPSON: That's all my questions.

24 EXAMINER TAUBER: Thank you.

25 At this point we will stop for tonight

1 and we'll reconvene tomorrow morning at 8:30 a.m.

2 Let's go off the record.

3 (Hearing adjourned at 8:00 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, May 18, 2012, and carefully compared with my original stenographic notes.

Maria DiPaolo Jones, Registered  
Diplomate Reporter and CRR and  
Notary Public in and for the  
State of Ohio.

My commission expires June 19, 2016.

(MDJ-4013)

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**in**

**Case No(s). 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM**

Summary: Transcript of the Application of Columbus Southern Power Company and Ohio Power Company hearing held on 05/17/12 - Volume I electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Jones, Maria DiPaolo Mrs.