

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
8:30 a.m. on Friday, June 8, 2012.

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VOLUME XVI

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INDEX

- - -

Witnesses	Page
Howard B. Fleeter	
Direct Examination by Mr. Stinson	4423
Cross-Examination by Mr. Alami	4425
Tony C. Banks	
Direct Examination by Mr. Lang	4428
Cross-Examination by Mr. Satterwhite	4431
Redirect Examination by Mr. Lang	4524
Recross-Examination by Mr. Satterwhite	4527
Tamara S. Turkenton	
Direct Examination by Mr. Margard	4535
Cross-Examination by Ms. Hand	4536
Cross-Examination by Mr. Etter	4542
Cross-Examination by Mr. Nourse	4545
Robert B. Fortney	
Direct Examination by Mr. Margard	4553
Cross-Examination by Mr. Barnowski	4555
Cross-Examination by Mr. Stinson	4559
Cross-Examination by Mr. Darr	4577
Cross-Examination by Mr. Lang	4601
Cross-Examination by Mr. Maskovyak	4616
Cross-Examination by Mr. Etter	4619
Cross-Examination by Mr. Conway	4627
Redirect Examination by Mr. Margard	4654
Examination by Examiner See	4657

- - -

INDEX (Continued)

- - -

AEP Exhibits	Identified	Admitted
147 - Pennsylvania PUC, Dissenting Statement of Chairman James H. Cawley	4456	--
148 - PUCO mission statement	4504	4533
149 - FES Restricted Access Confidential Attachment 4-1 Interrogatory No. 4-11 (Confidential)	4523	4523

- - -

FES Exhibits	Identified	Admitted
105 - Testimony of T. C. Banks	4428	4531

- - -

Schools Exhibits	Identified	Admitted
102 - Direct Testimony of H. B. Fleeter	4423	4428
103 - Case No. 79-629-TP-COI Opinion and Order	4565	4660

- - -

Staff Exhibits	Identified	Admitted
109 - Prefiled Testimony of T. S. Turkenton	4535	4552
110 - Prefiled Testimony of R. B. Fortney	4553	4659

- - -

4421

1 Friday Morning Session,
2 June 8, 2012.

3 - - -

4 EXAMINER SEE: Let's go on the record.
5 As we've done before, let's take brief appearances of
6 counsel in the room, starting with the company,
7 moving around the room.

8 MR. NOURSE: Thank you, your Honor. On
9 behalf of Ohio Power Company, Steven T. Nourse,
10 Matthew J. Satterwhite, Yazan Alami, Daniel R.
11 Conway, and Christen M. Moore.

12 MR. ETTER: Good morning, your Honor. On
13 behalf of Ohio's residential utility consumers, the
14 Office of the Ohio Consumers' Counsel, Maureen Grady,
15 Joseph Serio, and Terry Etter.

16 MR. LANG: On behalf of FirstEnergy
17 Solutions, Mark Hayden, Jim Lang, and Laura McBride.

18 MR. DARR: On behalf of IEU, Frank Darr,
19 Sam Randazzo, Matt Pritchard, and Joe Oliker.

20 MR. SINENENG: Good morning. On behalf
21 of Duke Energy Retail Sales and Duke Energy
22 Commercial Asset Management, Amy Spiller, Jeanne
23 Kingery, and Philip Sineneng.

24 MR. STINSON: On behalf of the Ohio
25 Schools, Dane Stinson.

1 MR. K. BOEHM: On behalf of the Ohio
2 Energy Group, Kurt Boehm.

3 MS. THOMPSON: On behalf of Interstate
4 Gas Supply Incorporated, Mark Whitt, Andrew Campbell,
5 Melissa Thompson, and Matthew White.

6 MR. YURICK: Mark Yurick, here for the
7 Kroger Company.

8 MR. BARNOWSKI: Dan Barnowski and Emma
9 Hand on behalf of Ormet.

10 MS. KALEPS-CLARK: On behalf of the
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12 M. Howard Petricoff, and David Stahl.

13 And on behalf of the Retail Energy Supply
14 Association and Direct Energy, Lija Kaleps-Clark,
15 M. Howard Petricoff, and Steve Howard.

16 MR. BEELER: Steve Beeler, Vern Margard,
17 on behalf of staff.

18 EXAMINER SEE: There is one housekeeping
19 matter we need to take up before we begin examination
20 of witnesses today. There is an outstanding motion
21 to compel filed by Industrial Energy Users of Ohio
22 filed on May 11th. The Bench has reviewed that
23 request and the motion to compel is denied.

24 First witness of the day, unless the
25 parties have agreed to something else, is Fleeter?

1 MR. STINSON: That's correct, your Honor.

2 EXAMINER SEE: Okay. Mr. Stinson.

3 MR. STINSON: If I can approach, your
4 Honor. May I approach?

5 EXAMINER SEE: Yes.

6 Mr. Fleeter, if you would, please raise
7 your right hand.

8 (Witness sworn.)

9 EXAMINER SEE: Thank you.

10 Proceed, Mr. Stinson.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 - - -

13 HOWARD B. FLEETER

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

16 DIRECT EXAMINATION

17 By Mr. Stinson:

18 Q. Mr. Fleeter, would you please state your
19 full name and business address for the record.

20 A. It's Howard B. Fleeter, 60 East Broad
21 Street, Columbus, Ohio.

22 Q. And by whom are you employed?

23 A. Driscoll & Fleeter.

24 Q. I've placed before you what I marked as
25 Schools Exhibit No. 102. Can you identify that for

1 me, please?

2 A. Yes.

3 Q. And what is it?

4 A. It's my testimony.

5 Q. Was that testimony prepared by you or
6 under your direct supervision?

7 A. Yes, it was.

8 Q. Do you have any corrections to that
9 testimony today?

10 A. No, I don't.

11 Q. If I were to ask you those same
12 questions, would your answers be the same today?

13 A. Yes, they would.

14 MR. STINSON: I move the admission of
15 Schools Exhibit No. 102, subject to
16 cross-examination.

17 EXAMINER SEE: Ms. Kaleps-Clark?

18 MS. KALEPS-CLARK: No questions, your
19 Honor. Thank you.

20 EXAMINER SEE: Mr. Barnowski?

21 MR. BARNOWSKI: No questions, your Honor.
22 Thank you.

23 EXAMINER SEE: Mr. Yurick?

24 MR. YURICK: No questions.

25 EXAMINER SEE: Ms. Thompson?

1 MS. THOMPSON: No questions, your Honor.

2 Thank you.

3 EXAMINER SEE: Mr. Boehm?

4 MR. K. BOEHM: No questions, your Honor.

5 EXAMINER SEE: Mr. Sineneng?

6 MR. SINENENG: No questions, your Honor.

7 EXAMINER SEE: Mr. Darr?

8 MR. DARR: No questions.

9 EXAMINER SEE: Mr. Lang?

10 MR. LANG: No. Thank you.

11 EXAMINER SEE: Mr. Etter?

12 MR. ETTER: No questions, your Honor.

13 EXAMINER SEE: Mr. Alami?

14 MR. ALAMI: Thank you, your Honor. Just
15 a few questions.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Alami:

19 Q. Good morning, Mr. Fleeter. How are you?

20 A. I'm fine.

21 Q. And is this your first time testifying
22 before the PUCO?

23 A. Yes, it is.

24 Q. It says here on page 4 of your testimony
25 that the purpose of your testimony in this case is to

1 quantify the impact for the fiscal year 2012-2013
2 Ohio Biennial State Budget on the Ohio public
3 schools; is that correct?

4 A. That's correct.

5 Q. And the next Q and A, on page 4, lists
6 the materials that you've reviewed in preparing your
7 testimony in this case; is that correct?

8 A. Yes, it is.

9 Q. And is it true that you reviewed your
10 ongoing work with the ETP I to prepare for your
11 testimony in this case?

12 A. Yes, it is.

13 Q. This analysis included reviewing the
14 budget language and funding levels?

15 A. It includes reviewing the funding levels
16 included in the state budget and included in the
17 administrative budget that was proposed back in March
18 of 2011.

19 Q. And did you review the company's
20 application submitted in this case?

21 A. AEP's you mean?

22 Q. Yes.

23 A. No, I have not.

24 Q. Did you review the company's testimony
25 prefiled in this case?

1 A. No, I have not.

2 Q. Have you done any analysis showing the
3 impact of the company's, AEP Ohio's, ESP on Ohio
4 schools?

5 A. What is the ESP?

6 Q. The electric security plan proposal
7 submitted.

8 A. No, I haven't.

9 MR. ALAMI: Thank you, Mr. Fleeter.
10 That's all the questions I have, your
11 Honor.

12 EXAMINER SEE: Mr. Beeler?

13 MR. BEELEER: No questions. Thank you.

14 EXAMINER SEE: Redirect, Mr. Stinson?

15 MR. STINSON: Nothing, your Honor.

16 EXAMINER SEE: Thank you very much,
17 Mr. Fleeter. You're dismissed.

18 THE WITNESS: Thank you.

19 MR. STINSON: At this time I'd move the
20 admission of Schools Exhibit No. 102.

21 EXAMINER SEE: Are there any objections
22 to the admission of Schools Exhibit 102?

23 (No response.)

24 EXAMINER SEE: Hearing none, Schools
25 Exhibit 102 is admitted into the record.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 EXAMINER SEE: Mr. Lang?

3 MR. LANG: Thank, your Honor. FES calls
4 Tony C. Banks.

5 EXAMINER SEE: Mr. Banks, please raise
6 your right hand.

7 (Witness sworn.)

8 EXAMINER SEE: Thank you. Have a seat,
9 and please use your microphone today.

10 MR. LANG: May I approach, your Honor?

11 EXAMINER SEE: Yes, Mr. Lang.

12 MR. LANG: I would ask that Mr. Banks's
13 testimony be marked as FES Exhibit No. 105.

14 EXAMINER SEE: The exhibit is so marked.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 - - -

17 TONY C. BANKS

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

20 DIRECT EXAMINATION

21 By Mr. Lang:

22 Q. Mr. Banks, could you introduce yourself,
23 please?

24 A. Yes. My name is Tony Banks. I'm Vice
25 President of Competitive Market Policies for

1 FirstEnergy Solutions.

2 Q. Do you have in front of you what's been
3 marked as FES Exhibit No. 105?

4 A. If that's my testimony, yes.

5 Q. It is. And with regard to your
6 testimony, do you have any corrections you would like
7 to make today?

8 A. Yes, I do. On page 3, line 12, we should
9 get rid of anything after the word "modified,"
10 starting with "Error! Bookmark," so on and so forth.

11 Page 4, line 12, the last word in the
12 sentence should be "Retail" as opposed to "Rate." So
13 that should be "Retail Stability Rider."

14 Q. Okay.

15 A. Page 18, line 8, the date that's
16 indicated as "May 2016" should be "May 2015."

17 And page 20, line 7, the word "Rate"
18 should be replaced with the word "Retail," so it
19 should be "Retail Stability Rider."

20 Those are all my corrections.

21 Q. Thank you.

22 Mr. Banks, if I were to ask you the
23 questions in your testimony today, would you provide
24 the same answers?

25 A. Yes, I would.

1 MR. LANG: Your Honors, Mr. Banks is
2 availability for cross.

3 EXAMINER SEE: Ms. Kaleps-Clark?

4 MS. KALEPS-CLARK: No questions, your
5 Honor. Thank you.

6 EXAMINER SEE: Mr. Barnowski?

7 MR. BARNOWSKI: No questions, your Honor.

8 EXAMINER SEE: Mr. Yurick?

9 MR. YURICK: No questions.

10 EXAMINER SEE: Ms. Thompson?

11 MS. THOMPSON: No questions, your Honor.
12 Thank you.

13 EXAMINER SEE: Mr. Boehm?

14 MR. K. BOEHM: No questions, your Honor.

15 EXAMINER SEE: Mr. Stinson?

16 MR. STINSON: No questions, your Honor.

17 EXAMINER SEE: Mr. Sineneng?

18 MR. SINENENG: No questions, your Honor.

19 EXAMINER SEE: Mr. Darr?

20 MR. DARR: No questions. Thank you.

21 EXAMINER SEE: Mr. Etter?

22 MR. ETTER: No questions, your Honor.

23 EXAMINER SEE: Mr. Satterwhite?

24 MR. SATTERWHITE: Thank you, your Honor.

25 - - -

1 CROSS-EXAMINATION

2 By Mr. Satterwhite:

3 Q. Good morning, Mr. Banks. How you doing
4 today?

5 A. Not too bad.

6 Q. Welcome back. This time -- you get to
7 testify this time, back to the hearing; recalled.8 Now, a couple of clarifying questions.
9 You're the only FES employee that's testifying on
10 behalf of FES in this case, correct?

11 A. That's correct.

12 Q. And FES sits underneath FirstEnergy Corp.
13 in the corporate hierarchy of the company; is that
14 correct?

15 A. Yes, it is.

16 Q. And even though we're sitting here on the
17 last day of the direct case, your testimony also
18 introduces some more specific FES witnesses that
19 cover more specific areas in the case, correct?20 A. Yes, my testimony does introduce our
21 expert witnesses on various matters in this case.22 Q. And you rely on those witnesses to
23 support certain positions that you take in your
24 testimony as well, correct?

25 A. I do rely on those witnesses, yes.

1 Q. For example, on page 3, lines 20 to 21,
2 you state the "ESP is less favorable than the
3 expected results of an MRO," and for that you're
4 relying on FES Witness Schnitzer, correct?

5 A. Yes, I'm relying on Mr. Schnitzer's
6 analysis.

7 Q. And you did not do your own MRO versus
8 ESP test, correct?

9 A. I did not personally do my own MRO versus
10 ESP test.

11 Q. You're more just summarizing the results
12 of what the other witnesses have provided you,
13 correct?

14 A. I am referring to the analysis that they
15 put together to make these statements, yes.

16 Q. But you're relying upon that, I want to
17 make it clear that you haven't done your own
18 independent analysis, you're relying on the analysis
19 of the other FES witnesses.

20 A. Right. I have not done my own
21 independent analysis. I'm relying on their analysis.

22 Q. I'd like to talk a little bit
23 historically and start off with: You're aware that
24 the Commission encouraged distribution utilities to
25 consider filing plans to extend the market

1 development period and file rate stabilization plans
2 to allow additional time for the competitive market
3 to develop, correct?

4 A. I am aware that the Commission encouraged
5 rate stabilization plans. I wasn't part of the
6 proceedings, so I don't know all the nuances about
7 why they made that determination, but I do understand
8 they made it to allow the market to continue to
9 develop.

10 Q. And you agree the Commission has the
11 authority to ensure the financial integrity of a
12 utility in the state of Ohio, correct?

13 A. I agree that the Commission has the
14 authority to ensure the financial integrity of a
15 utility in the state of Ohio, but I don't necessarily
16 think that extends to competitive generation assets.

17 Q. And I think you'll see a lot of questions
18 that you're probably familiar with, but as we're in a
19 new hearing today, I just want to make sure we have
20 the record developed, so.

21 Now, it's your opinion that it does not
22 matter what the costs of the utility are, but that
23 the PUCO should ensure competitive suppliers access
24 to RPM-based pricing for capacity, correct?

25 A. It's my opinion that it should not matter

1 what the costs are relating to RPM capacity pricing,
2 yes.

3 Q. More specifically, as it relates to the
4 utility, you don't think that costs are relevant;
5 your position is that RPM should be charged for
6 capacity regardless of what the costs are to the
7 utility, correct?

8 A. It's my position that RPM should be
9 charged for capacity regardless of what the costs are
10 relating to generation that might be owned by the
11 utility. That is a distinction.

12 Q. What's the distinction there between what
13 I said and what you said?

14 A. Well, the distinction is the generation
15 assets, because generation assets are supposed to be
16 competitive, and there is a way to assure financial
17 integrity of the utility without giving advantage to
18 the generation side of the business.

19 Q. Right. But I was referring to the costs
20 of the utility, not the financial integrity at this
21 point. And I asked if there was a distinction
22 between -- let me rephrase that.

23 I was asking if you think the costs
24 should be a factor to be considered at all or if they
25 should not be considered and the RPM capacity price

1 should just be substituted regardless of what the
2 costs are?

3 A. I think I said RPM capacity is the
4 appropriate value to charge CRES suppliers for
5 competitive generation.

6 Q. Regardless of costs.

7 A. Regardless of costs, that's correct.

8 Q. I thought we said the same thing, but you
9 said there was a distinction, so I wanted to make
10 sure.

11 A. The distinction is costs include
12 distribution wires, transmission, and I'm referring
13 to generation, which is the only cost that's
14 associated with capacity.

15 Q. Okay. Now, you believe that the
16 Commission has the authority to consider things like
17 limitations on shopping if, in their view, it will
18 negatively impact the stability and certainty on
19 retail generation service, correct?

20 A. I do believe the Commission has that
21 right. I don't necessarily think it's necessary, but
22 yes.

23 Q. And you also state that FES -- when I say
24 "FES," is that fair?

25 A. FirstEnergy Solutions, I understand.

1 Q. Okay.

2 -- has customers in every certified
3 territory in the state of Ohio, correct?

4 A. That's correct.

5 Q. And did FES pass on the decrease in
6 capacity costs from the RPM change on June 1st to --
7 in the contracts outside of the AEP Ohio territory in
8 Ohio?

9 A. When you say "did FES" -- I need you to
10 maybe reread that question.

11 Q. Let me start to break it down.

12 A. Yes.

13 Q. You believe that RPM, the PJM RPM price
14 is the price that should be charged by utilities to
15 CRES providers for capacity costs, correct?

16 A. That's correct.

17 Q. And was there a change on June 1st in the
18 PJM RPM capacity price?

19 A. Yes, there was.

20 Q. And so, therefore, outside of the
21 AEP Ohio region, in the FirstEnergy, the Duke and the
22 DP&L region, is FES now only responsible for the
23 lower price that came out on June 1st from the RPM
24 market?

25 A. FES is responsible for capacity at the

1 RPM price, which, on June 1st, changed to, I think,
2 about \$16 in the rest of the market, yes.

3 Q. And that was a decrease from where it was
4 on May 31st, correct?

5 A. That's correct.

6 Q. What was the difference between the
7 price?

8 A. I think it was about 110 or 125 on
9 May 31st and it went to 16 on June 1st.

10 Q. So my question is: Did FES, then, from
11 June 1st on, adapt its contracts of what it charges
12 its retail customers to reflect the change in the RPM
13 capacity price?

14 A. FES did not adapt anything. When we
15 enter into contracts, we enter into contracts with
16 the understanding of what capacity cost is going to
17 be during the entire term of that contract.

18 So to the extent that the contract
19 reflected a period after June 1st of 2012 when the
20 capacity price dropped to \$16, that \$16 capacity cost
21 was reflected in the original contract that may have
22 been signed a year ago, six months ago. So there was
23 no change in the contract; the contract reflected
24 that price from the beginning.

25 Q. So retail customers saw no change in the

1 price that they received from FES for their service
2 between June 1st and May 31st, correct?

3 A. Retail customers saw no change, but the
4 price that the customers paid already reflected the
5 \$16 capacity price on June 1st.

6 Q. I don't want to get into specifics of,
7 you know, anything proprietary that the company might
8 have, but, just in general, when you're determining,
9 like you said, the blend or whatever you were going
10 to determine for the offers you make for rates for
11 customers, do you follow a model to determine that or
12 is that just a simple discount off the price to
13 compare in the jurisdictions?

14 A. There are various offers. I mean, I
15 think I testified before that some of our standard
16 contracts, some are fixed price that are built up,
17 some are percent off of the price to compare.

18 But, in all cases, we determine what our
19 actual cost to serve that customer will be, which,
20 again, includes the capacity costs that are in effect
21 during the entire term of that contract. So, aside
22 from that, I'm not sure.

23 Q. Well, you do have fixed contracts,
24 correct, that have a fixed price?

25 A. Yes, that's correct.

1 Q. And that can come with a fixed price or a
2 fixed percentage off the price to compare, correct?

3 A. We have fixed-price contracts; a fixed
4 price, the customer gets a price and that's the price
5 the customer pays. We have percent-off contracts
6 which looks at the price to compare from the utility
7 and it will be a set percent off of that price to
8 compare. We have both.

9 Q. Okay. Is one more than the other? Is
10 there one that's predominant?

11 A. I can't say that.

12 Q. Because you don't know?

13 A. I wouldn't want to say it even if I knew.

14 Q. You do not know?

15 A. I could guess, but I don't know
16 specifically if one's more predominant than the
17 other.

18 Q. So when you decide what you're going to
19 offer in these contracts in general, is that a
20 bottom-up, where you figure what all your costs are,
21 or do you start with where the utility is with the
22 price to compare and work down from there to see what
23 you're going to offer?

24 A. Our offer is based on what we think the
25 customer will accept, just very generally.

1 Q. Okay.

2 A. And whether or not we can do that
3 profitably.

4 Q. But any offer that you put out there
5 covers your costs, correct?

6 A. We would certainly hope so, yes.

7 Q. So I'm trying to distinguish, because
8 earlier you mentioned, when I asked about whether
9 there was a change on June 1st or not, that you
10 consider, up front, sort of the blend of what's going
11 to happen into the future. Do you remember that
12 testimony?

13 A. Not specific to a blend. What we do is
14 take into consideration what we think our actual
15 costs are going to be during the entire term of that
16 agreement, so whatever that is. And right now we
17 know the capacity costs \$16, starting June 1st, we
18 knew it was 110 or 125 before that, so if we have a
19 contract that overlaps those two periods, it will
20 consider both of those capacity costs in determining
21 what we think we're able to offer.

22 Q. And so that determines the part of the
23 equation where you figure out what the company's
24 costs are going to be, correct?

25 A. Yes, the actual capacity costs during the

1 term of the contract goes into what we think our
2 costs are going to be.

3 Q. I'm talking globally. I'm talking bottom
4 up here. Part of the process is to figure what the
5 total costs of the company are, so, as you said, you
6 hope you'll be able to cover those costs with
7 whatever contracts you'll be able to enter into,
8 correct?

9 A. We try to determine what our costs are
10 going to be, just like every other competitor in the
11 marketplace; and if those costs can serve customers
12 profitably, then we would make an offer to a
13 customer.

14 I guess I should add, though, if those
15 costs do not allow us to make an offer to a customer,
16 we'll figure out ways we can decrease our costs in
17 other areas so we can be competitive.

18 Q. Okay. But you agree that FES also has
19 the ability, in some contracts, to pass on any
20 increases in capacity costs outside of what the price
21 might be in the contract, correct?

22 A. Yes. Very generally, FES and most other
23 competitors have, what I would call, a "regulatory
24 out," which could include a pass-through of costs, it
25 could include the right to get out of the contract,

1 but, yes, if you go into a contract with a customer
2 with a common understanding about what the market
3 costs are to serve that customer, to the extent that
4 that common understanding changes, there's typically
5 some language in the contract that allows you to deal
6 with that.

7 Q. I'd like to go to page 5 of your
8 testimony. At the bottom of page 5 and top of page
9 6, you discuss competition and the benefits of
10 competition and list a number of items there. Would
11 you agree that it's important to have effective
12 competition in Ohio's electric markets?

13 A. Yes, that's why I'm here.

14 Q. And could you define "effective
15 competition" for me?

16 A. Well, I generally think effective
17 competition means that you have customers able to
18 choose their supplier and supply without any
19 barriers; you have a market that has multiple
20 suppliers, again, without any barriers to those
21 suppliers entering the market; and then you just
22 don't have any other unnatural barriers to the
23 customers being able to shop.

24 Q. So I'm sensing you don't want any
25 barriers --

1 A. That's right.

2 Q. -- for effective competition.

3 A. No barriers.

4 Q. And the other words in that definition
5 are customers able to choose and multiple suppliers,
6 correct?

7 A. That's correct.

8 Q. How many providers would you define as
9 "multiple" to have effective competition?

10 A. More than one.

11 Again, the key is that there aren't any
12 barriers. So if there aren't any barriers, there
13 could be two suppliers that actually win customers;
14 but, typically, what you'll have is more customers
15 trying to win. And if the answer is that one or two
16 customers actually do win, I think that still could
17 be determined to be effective competition.

18 Q. So any competition is effective
19 competition, in your mind, then?

20 A. I'm not sure what that means.

21 Q. Well, you said as long as -- did you say
22 two customers have the ability to -- if two customers
23 actually win, then it's effective competition?

24 A. I don't think that's what I said.

25 Q. What did you say, then?

1 A. I said if two suppliers actually win
2 customers, that that is effective competition. The
3 key to effective competition is that there are no
4 barriers, so that the markets get to work as natural
5 as possible.

6 Q. And you're familiar with the state
7 policies, I believe you cite in your testimony, and I
8 believe you say diversity of suppliers is one of the
9 state policies that --

10 A. That's correct.

11 Q. So it's your testimony that having just
12 two competitive suppliers meets the standard for a
13 diversity of suppliers; is that correct?

14 A. That's not my testimony. I think we're
15 getting a little bit mixed up.

16 What I'm saying is that if there aren't
17 any barriers, what that means is you could have 50
18 suppliers actually participate in the competitive
19 market. But, at the end of the day, at any point in
20 time, if there are only two suppliers at that point
21 in time, that could still be a competitive
22 marketplace because you eliminated all the barriers;
23 you set it up for anyone that had the capability,
24 operationally and financially, to participate, can
25 participate.

1 And the fact that only two suppliers
2 would win at any point in time does not mean there's
3 not effective competition; that is still a diversity
4 of suppliers.

5 Q. And are you counting the EDU as one of
6 those suppliers?

7 A. No.

8 Q. So it would be the EDU, the standard
9 service offer, and two more beyond that, two CRES
10 providers would provide effective competition?

11 A. No. What I'm saying is if there aren't
12 any barriers that allow any suppliers who want to and
13 capability to participate, they can participate;
14 that's effective competition.

15 What I'm trying to distinguish is that
16 the fact that there may only be two suppliers at any
17 one minute in time serving customers in that group,
18 does not mean that there's not effective competition;
19 there could still be effective competition.

20 Q. All right. I understand that barriers is
21 something you want to focus on, but, right now, I'm
22 trying to focus on the multiple suppliers that you
23 gave in your definition. So by your definition of if
24 there's no barriers, everything's nirvana, could you
25 have one CRES supplier with no barriers and,

1 therefore, have effective competition?

2 A. First of all, I don't think I said
3 anything about "nirvana."

4 Q. You just love the word "barriers," so I
5 just want to --

6 A. Well, I just don't think you can separate
7 the two. The reason that you could have two
8 suppliers is because you have no barriers.

9 Q. I understand that. But the question
10 right now is with that understanding --

11 A. Okay. If there are no barriers --

12 Q. -- could you have just one competitive
13 supplier and have effective competition?

14 A. I guess it's possible if that supplier is
15 the only supplier that won a customer on day one,
16 there would be one supplier. Maybe on day five there
17 are five suppliers.

18 The point is, the effective competition
19 isn't necessarily defined by how many suppliers are
20 serving at any point in time, it's that you're
21 allowing suppliers to enter into a market and fairly
22 be able to compete with those customers. And on day
23 one, yes, there could be one supplier possibly.

24 Q. Right. I'm just trying to understand
25 your recommendations to the Commission about what

1 effective competition would be. And just to sum it
2 up, I think, tell me if this is wrong, as long as
3 there's no barriers and the system has the presence
4 of one competitive supplier beyond the standard
5 service offer, you would consider that effective
6 competition for the state of Ohio.

7 A. No; I would add one thing. As long as
8 there are no barriers and there are multiple
9 suppliers participating in the process, there could
10 be one or two suppliers at any point in time.

11 Now, if those one or two suppliers are in
12 effect for the entire term, say three or four years,
13 then that would not be effective competition, because
14 that, to me, would be an indication that there are
15 some barriers preventing other suppliers from being
16 able to win.

17 But at any point in time, and typically
18 when you're starting out, there could be one
19 supplier, could be two suppliers.

20 Q. So it takes action beyond just the
21 presence. There has to be action and actual shopping
22 going on and multiple suppliers to have the effective
23 competition.

24 A. Over time, yes.

25 Q. And how does one determine what the

1 barriers are?

2 A. Well, outside of suppliers, for example,
3 if we're talking about suppliers, outside of
4 suppliers' ability to participate, if they have the
5 operational capability and if they have the financial
6 wherewithal, there shouldn't be any other barriers.

7 I mean, you shouldn't have a situation
8 where a supplier is incurring costs that are not
9 natural, when I'm saying that, for example, the PJM
10 market provides a market-based price for capacity,
11 which everybody knows, everyone participates in, and
12 to the extent that you're using something other than
13 PJM, that is a barrier, in my opinion.

14 To the extent that you make it hard for
15 customers to shop, that's a barrier. So when you
16 have things like minimum stays, when you have
17 complicated processes to move over to a supplier,
18 those are things that all become barriers, because as
19 customers get frustrated and confused with those
20 processes, they just tend to stand back and say,
21 "Look, this isn't worth the trouble," even though
22 there could be benefits for the customer in the long
23 run.

24 Q. And in a market that has effective
25 competition, would there be anti-barriers or

1 subsidies to help competitive suppliers?

2 A. Could you say that again? I'm not sure,
3 "anti-barriers"?

4 Q. Let me ask it this way: Is it
5 appropriate in a competitive field to have subsidies
6 for competitors?

7 A. And I think you've asked me that probably
8 at least two other times, and --

9 Q. Let's see if your answer is the same.

10 A. My answer is the same. I think the issue
11 is who's getting the subsidy. So to the extent that
12 you want to define a reduction in an arbitrary
13 capacity number, a cost-based capacity number, if you
14 call that reduction a "subsidy," I disagree with
15 that, so I want to make clear that that's not what
16 I'm talking about.

17 What I'm talking about is anything that a
18 supplier has to pay to a monopolistic situation which
19 is above market, I would consider that to be a
20 subsidy. So, in my view, the fact that AEP is
21 seeking capacity cost recovery at a rate that's
22 higher than what the market is offering, that is a
23 subsidy from suppliers to AEP, and I think that is
24 bad for competition.

25 Q. And, conversely, if there was a subsidy

1 going the other way, that would also be bad for
2 competition?

3 A. No; actually, I think it could be good
4 for competition.

5 Q. And is it appropriate to provide
6 subsidies to have effective competition? Is that
7 your testimony?

8 A. That's not my testimony. Can you just
9 clarify the question?

10 Q. You said "it could be good."

11 A. I said "it could be good."

12 Q. I'm asking do you think it could be good.

13 EXAMINER SEE: Let's try it this way,
14 gentlemen: Complete the question, complete the
15 answer, respond. Eliminate the crosstalk for me.

16 MR. SATTERWHITE: Thank you. No problem.

17 Q. So I'm asking: When you talk about
18 competition in general in your testimony, and you
19 believe it's good for the state of Ohio to have
20 competition, correct?

21 A. That's correct.

22 Q. And I'm asking if it's good for
23 competitive markets to have subsidies included within
24 that competitive market for the competitive
25 suppliers.

1 A. I think that if you're jump-starting
2 competition and subsidies to suppliers would help the
3 development of that market for competition, that
4 could be okay is what I'm saying. I don't think it
5 should go the other way is my point. I don't think
6 that subsidies that prevent competition are good for
7 competitive markets.

8 Q. So the only subsidies you're in favor of
9 are subsidies that benefit CRES providers, but any
10 other subsidy is wrong, correct?

11 A. I'm not in favor of anything. You asked
12 me a question about whether or not subsidies can
13 benefit competition; I think they can. But I'm not
14 suggesting that CRES providers should get subsidies
15 either.

16 Q. Okay. Now, you also state in your
17 testimony that you believe there's been less
18 effective competition in AEP Ohio's territory,
19 correct?

20 A. I don't know that I used those specific
21 words, but I would say generally, yes, that's
22 correct, there has been less competition in
23 AEP Ohio's service territory than other territories
24 in the state.

25 Q. Do you think there's any effective

1 competition in AEP Ohio's territory?

2 A. I think that before all of these filings
3 for capacity and tiers and things like that,
4 effective competition was beginning to develop.

5 Q. But there are multiple providers
6 supplying service to customers that are shopping in
7 AEP Ohio's territory, correct?

8 A. To my knowledge, yes, there are;
9 including AEP Retail.

10 Q. Is there effective competition in the
11 other certified territories in Ohio?

12 A. I think it varies, but, for the most
13 part, there's pretty effective competition in the
14 other service territories because a lot of the
15 barriers have been eliminated or are being
16 eliminated.

17 Q. So let's break them down. Is there
18 effective competition in the Duke certified
19 territory?

20 A. I think that it's becoming more effective
21 with wholesale auctions for SSO service and by
22 providing RPM-based capacity to shopping customers,
23 yes, I think that --

24 Q. I'm sorry. Were you done?

25 A. I think that is a situation that meets

1 the definition, in my mind, of effective competition.
2 Are they 100 percent there? I don't think anybody is
3 ever 100 percent there, but . . .

4 Q. And there's multiple suppliers and
5 multiple customers taking multiple offers?

6 A. To my knowledge, yes, there are, in
7 Duke's service territory.

8 Q. Would your answers be the same for the
9 DP&L certified territory?

10 A. I'd say they're not quite as effective,
11 because, again, they have other barriers to
12 competition from the ability of customers to switch
13 easily.

14 Q. And what about the FirstEnergy family of
15 utilities, up north, would your answers be the same
16 as the Duke or the DP&L response?

17 A. I would say they're more closely in the
18 ballpark with Duke. I would say those two are
19 probably the more effective competitive markets, with
20 DP&L a smidgen behind them, and with AEP a bigger
21 smidgen behind DPL.

22 Q. Would you say a majority of the
23 residential shopping that goes on in these other
24 territories goes on under aggregation, governmental
25 aggregation contracts?

1 A. I think the majority of shopping in
2 FirstEnergy utility's service territory may be
3 aggregation. I'm not sure the exact numbers in the
4 other service territories, but I don't -- in DPL, I
5 don't think there is any aggregation, or, if so,
6 there may be a few.

7 In Duke, there is some, but I think there
8 could be as much residential shopping outside of
9 aggregation as there is inside of aggregation.

10 AEP, I think that there's probably a
11 little more in aggregation, but the outside of
12 aggregation is growing pretty -- it was growing, I
13 should say, at a nice pace until some of these
14 proceedings.

15 Q. And you mentioned there's a lot of
16 governmental aggregation or there's existence of
17 governmental aggregation, residential shopping in
18 FES's territory. Are you aware of what percentage of
19 that is residential aggregation shopping?

20 MR. LANG: Objection.

21 A. First of all, I don't think --

22 MR. LANG: Hold on.

23 Could I have the question read back?

24 I think you said "in FES's territory."

25 A. I was going to say --

1 MR. SATTERWHITE: I apologize. I meant
2 "FE" if I said "FES."

3 A. You did say "FES." Can you repeat the
4 question now, please?

5 Q. Sure.

6 You talked about the level of
7 governmental aggregation in the FirstEnergy certified
8 territory. Are you aware of what percentage of the
9 residential aggregation in that territory, what the
10 percentage is?

11 A. The percentage of residential aggregation
12 for what?

13 Q. For residential shopping, what percentage
14 of that is residential aggregation?

15 A. I don't know the exact number. I know
16 there's about a million customers or so on
17 aggregation in FirstEnergy service territory.

18 Q. Do you know what percentage of the
19 residential aggregation that is in existence in the
20 FirstEnergy certified territory is served by FES?

21 A. I don't know the exact percentage, but
22 it's a pretty big percentage.

23 Q. 50 percent?

24 A. It's probably more.

25 Q. 60?

1 A. It's probably in the 80-plus percent.

2 Q. Okay. And, in fact, FES serves over
3 81 percent of retail customers in FirstEnergy's
4 certified territory, all together, correct?

5 A. I don't know and I wouldn't tell you our
6 market share if I did.

7 Q. Would that be effective competition if
8 that were true?

9 A. If you go back to my prior definition, as
10 long as there aren't any barriers, which any supplier
11 that wanted to could compete for aggregation in
12 FirstEnergy's service territory, and I think AEP
13 Retail just won one not too long ago. And to the
14 extent that there's one supplier who has a product
15 offering that becomes the dominant offering, I mean,
16 that's okay, in my view.

17 MR. SATTERWHITE: Your Honor, may I
18 approach?

19 EXAMINER SEE: Yes.

20 MR. SATTERWHITE: I'd like to mark as an
21 exhibit AEP 147, which is a Dissenting Statement of
22 Chairman James Cawley from the Pennsylvania Public
23 Utilities Commission.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 Q. Mr. Banks, do you recognize this

1 document?

2 A. I haven't looked at it in a while, but,
3 yes, I do recognize it.

4 Q. And this is a dissenting opinion from
5 Chairman Cawley in Pennsylvania that dealt with the
6 merger of FirstEnergy and Allegheny Power, correct?

7 A. With Allegheny and FirstEnergy, yes.

8 Q. Is it your understanding that, from this
9 document, Chairman Cawley didn't agree that there was
10 effective competition in FE's territory in Ohio?

11 A. You'd have to point me to --

12 MR. LANG: Your Honors, we'd object at
13 this time to the use of this document. This deals
14 with Pennsylvania. It's the opinion of some
15 dissenting person in the Pennsylvania Commission. It
16 doesn't have any applicability to Ohio. It's the
17 personal views of that person that, as you know, we
18 have no idea whether that person in Pennsylvania has
19 any accurate information with regard to Ohio since
20 they don't have anything to do with Ohio.

21 We would object to the use of this
22 document. It's irrelevant and it's more trouble than
23 it's worth.

24 MR. SATTERWHITE: If I may, your Honor?

25 EXAMINER SEE: Yes.

1 MR. SATTERWHITE: I understand why FES
2 says "it's more trouble," because I think it might be
3 trouble for their case. But I think if you look at
4 it, it talks about -- it's going to be used to
5 impeach the positions of this witness about whether
6 there is effective competition in Ohio or not.

7 The chairman of the Pennsylvania
8 committee, or commission, which I think should get at
9 least some deference from FES's counsel, says, "Ohio
10 All Over Again," and uses statistics from
11 FirstEnergy's and FirstEnergy Solutions' own
12 personnel to talk about the level of shopping and the
13 participation of what's going on in Ohio, and the
14 concerns that he has.

15 I think it's completely relevant to
16 solicit or view the views of a chairman from another
17 commission who's concerned about what's going to
18 happen in his state as he looks from afar to see
19 what's going on in Ohio.

20 And I think it would be appropriate for
21 this Commission to at least hear from one of their
22 peers in another state and the concerns that are
23 raised as it relates to the arguments being made by
24 FES in this case.

25 MR. LANG: Again, your Honor, the "more

1 trouble than it's worth" is the hearsay of this
2 person from Pennsylvania has nothing to do with this
3 AEP proceeding.

4 MR. SATTERWHITE: And it's a published
5 dissent from part of another commission that -- I
6 believe the Pennsylvania Commission would also give
7 the respect to Ohio Commissioners as part of
8 decisions that are released as part of this case.

9 EXAMINER SEE: Just a minute, gentlemen.
10 I'm going to overrule the objection for
11 now.

12 You can proceed, Mr. Satterwhite.

13 MR. SATTERWHITE: Thank you, your Honor.

14 Q. (By Mr. Satterwhite) Mr. Banks, what I'd
15 like to do is go through this a little bit and give
16 you the opportunity to give your view in response to
17 the chairman, all right?

18 A. Be happy to.

19 Q. I'm sure you will. So is it your
20 understanding that the chairman of the Pennsylvania
21 Commission was concerned that there wasn't adequate
22 shopping or appropriate shopping in the FE certified
23 territory in Ohio, and he was concerned that would
24 extend itself to the Pennsylvania state?

25 A. This could be a very long answer; I'm

1 just going to warn you up front.

2 First of all, Pennsylvania is in a
3 completely different regulatory construct than Ohio.
4 So, for example, in Pennsylvania, all wholesale
5 supply for SSO service is competitively bid and
6 provided at market. In Pennsylvania all capacity for
7 shopping customers is provided at RPM-based market.

8 So we have to understand that
9 Pennsylvania is at a completely different stage of
10 development than Ohio. They have an investigation
11 going on right now to determine all of the things
12 that "improve the retail market in Pennsylvania,"
13 which includes opt-in aggregation, referral programs;
14 none of which is being considered in Ohio.

15 So, because of that, I believe the
16 chairman -- the former chairman, he's no longer the
17 chairman in Pennsylvania, the former chairman did not
18 look at aggregation as a solution for Pennsylvania.

19 State policy in Ohio, though, dictates
20 that you have to consider large-scale government
21 aggregation. So there's completely two different
22 things to start off with. What he would rather have
23 seen done is have customers choose suppliers,
24 individually.

25 And so they're considering a lot of

1 things, of which government aggregation is still --
2 it hasn't been completely ruled out. They deferred
3 the final decision on that until they see how these
4 other retail market enhancements will work, and that
5 is going to be happening over the next two to three
6 years. It starts in June of '13.

7 They've changed the default service
8 procurement process; they've implemented or required
9 the utilities to implement a retail auction which all
10 suppliers can participate; they took away all the
11 barriers to entry; they don't allow the regulated
12 utility to participate at all; they're actually
13 thinking about getting the regulated utility out of
14 providing default service so that there won't be any
15 misunderstanding about the utility's desires to keep
16 load.

17 So, again, the Pennsylvania situation is
18 completely different. And Chairman Cawley -- former
19 Chairman Cawley, who he and I are friends, so I feel
20 comfortable saying this, he has a vision for
21 Pennsylvania that is different than what state policy
22 in Ohio -- sees for Ohio.

23 And part of that is the reason that he
24 would rather not see generators participate at all in
25 retail markets. And that's why they talked about

1 FirstEnergy being a generator in Ohio and as a
2 generator being able to secure its customers that
3 nongenerator suppliers can't secure, in his view.

4 My view is different. I think that, at
5 this stage of the market, customers are making
6 decisions based on price and they're looking at
7 savings as their primary objective.

8 And when you think about savings,
9 generators may have an advantage, but as the market
10 develops and you think about, then, customers looking
11 to other things besides just the lowest price, and
12 that's going to happen when smart meters are deployed
13 and other things, but when customers start to make
14 those kind of decisions, that's when nontraditional
15 suppliers will come in and be able to win more
16 customers.

17 But I don't think you should force
18 customers away from saving money just so you can see
19 the market develop in a different way, which hasn't
20 even been proven in Pennsylvania.

21 That's a long-winded answer to -- I don't
22 even know if it is an answer to your question.

23 Q. Well, I'll agree with that.

24 MR. SATTERWHITE: Your Honor, I think --
25 and I'd move to strike, because I think the witness

1 recognized himself, the question was really whether
2 the chairman in Pennsylvania thought there was
3 adequate and effective competition in Ohio.

4 And I appreciate you giving me the long
5 dissertation about what you think the chairman thinks
6 of Pennsylvania, but I'd move to strike and maybe we
7 can get back to the question.

8 A. Well, but your question was --

9 MR. LANG: Hold on Mr. Banks.

10 EXAMINER SEE: There is a motion to
11 strike, Mr. Banks. Hold on just a second.

12 MR. LANG: And, your Honor, the question
13 is --

14 EXAMINER SEE: Hold on just a minute,
15 Mr. Lang.

16 MR. LANG: Yes, your Honor.

17 MR. SATTERWHITE: You know what, your
18 Honor, in fairness to Mr. Banks, I can just reask the
19 question and we can leave it in. It might provide
20 good context for this Commission.

21 EXAMINER SEE: Appreciate it. Move on.

22 Q. (By Mr. Satterwhite) So the answer to the
23 question is yes, that the chairman in -- former
24 chairman, and your friend, in Pennsylvania, did not
25 think there was effective competition in the Ohio

1 FirstEnergy certified territory, that's a very
2 limited question, correct?

3 A. My answer is he was concerned about the
4 structure of effective competition -- of competition
5 in Ohio. That's what I believe.

6 Q. Now, I'd like for you to turn to page 4
7 of the statement, and I believe it's four lines up in
8 the first paragraph with text on there. Do you see
9 the sentence that says "The result will be higher
10 prices and fewer choices for customers than if a
11 fully competitive market was able to develop...."?

12 A. I do see that.

13 Q. And that was in reference to the
14 acquisition of Allegheny, and the retail marketing
15 strategy that will be able to be taken advantage of
16 by FES because of that, correct?

17 A. That was in response to the merger
18 between Allegheny and FirstEnergy. But what I will
19 point out is he's actually been wrong. There has
20 been more effective competition; prices have gone
21 down.

22 Q. And in the footnotes below that, in the
23 second line of the footnotes, the first full
24 indentation, that's where it indicates that
25 81.4 percent is the amount of share that FirstEnergy

1 Solutions serves in the FirstEnergy certified
2 territory, correct?

3 A. That's what it says. I can't verify or
4 deny, but, again, this looks like it refers to not
5 just retail or competitive sales, from a retail
6 perspective. It's talking about POLR sales which is
7 SSO load, which, again, if, you know, if AEP were to
8 have SSO options, it would see similar kind of
9 results in my view.

10 Q. That's a good point. And if you look up,
11 in the second paragraph of that page, I think it
12 states it a little cleaner, where it says the
13 company's "...been highly successful for FirstEnergy
14 in Ohio, where, the record establishes it serves
15 approximately 81.4 percent of retail customers,
16 either through competitive market, municipal
17 aggregation, or default service."

18 Is that just what you said, as well,
19 there, that this is beyond just the shopping
20 customers, but also able to serve the SSO load as
21 well?

22 A. It looks like this 81 percent refers to
23 all load, which, again, I mean, if you look at the
24 AEP service territory, they're closer to a hundred
25 percent today.

1 Q. I'm sorry, could you state that again?

2 A. What I'm saying is if you take that
3 81.4 percent, and include SSO service as part of
4 that, and you looked at the AEP service territory, my
5 guess would be that AEP serves as much load in its
6 service territory today as FirstEnergy Solutions
7 serves in the FirstEnergy utility's service
8 territory.

9 Q. And do you believe that AEP Ohio and
10 FirstEnergy Solutions are competitors?

11 A. They shouldn't be.

12 Q. And the equivalent of AEP Ohio in the
13 FirstEnergy territories would be the EDU which would
14 be the FE operating companies, correct?

15 A. Could you reread, I'm not sure I got all
16 that.

17 Q. Well, you tried to make a comparison
18 between what AEP Ohio serves and what FES serves,
19 correct?

20 A. Yes, I did.

21 Q. And they're two completely different
22 companies as far as one's a CRES provider and one is
23 an EDU, correct?

24 A. That's correct.

25 Q. So let's get back to the market share of

1 FirstEnergy Solutions in FirstEnergy's certified
2 territory. And you would agree, based on these
3 numbers --

4 MR. LANG: Objection, your Honor, to the
5 characterization in the question. What he's actually
6 referring to is the market share of FirstEnergy
7 Solutions and the FirstEnergy operating companies.
8 Just when he's talking about SSO service --

9 MR. SATTERWHITE: Your Honor, I think the
10 witness can answer, but I think the statements that
11 we've already established is, including the first
12 full footnote, "FirstEnergy Solutions increased its
13 share of sales...to 81.4 percent." I don't think it
14 says "FE."

15 MR. LANG: And it also says in the text,
16 "default service."

17 MR. SATTERWHITE: And I believe that's
18 what I was trying to clarify with this witness, that
19 that means that FES is not just serving shopping
20 customers, but part of its load is also to serve the
21 SSO customers, and I believe Mr. Banks said that, and
22 I was clarifying "by winning auctions and serving
23 them."

24 MR. LANG: The problem, again, of using a
25 hearsay document from Pennsylvania; it's confusing

1 and we can't clarify it.

2 EXAMINER SEE: But I think the witness
3 has done just that.

4 The objection is overruled.

5 Let's move on.

6 THE WITNESS: Can I finish?

7 Q. (By Mr. Satterwhite) I think you were
8 done.

9 A. I'm sorry.

10 EXAMINER SEE: Just a moment. Was there
11 a question? I don't think the question had been
12 completed.

13 Read back the last question before the
14 objection.

15 (Record read.)

16 MR. SATTERWHITE: And I was just trying
17 to clarify, and I think your Honor already pointed
18 out that it's already clear.

19 EXAMINER SEE: Next question.

20 MR. SATTERWHITE: Thank you.

21 Q. (By Mr. Satterwhite) Let's get back to
22 your statement that you believe AEP Ohio serves a
23 hundred percent in AEP Ohio's territory. Is it your
24 understanding that there is zero shopping currently
25 in AEP Ohio's territory?

1 A. I think I corrected that in a follow-up
2 comment. It's probably more than what FES serves in
3 FE utility's service territory, so, my guess is, it's
4 more than 81.4 percent. And it should be noted that
5 that percentage is probably significantly below
6 because FE has not won the tranches and the SSO
7 service in recent auctions.

8 Q. Do you know what the level of shopping is
9 in the AEP Ohio territory?

10 A. Right now? I think I saw some reference
11 to a 30-percentish-type number from perhaps Bill
12 Allen's testimony.

13 Q. Okay. And, to back up, another statement
14 you just mentioned, FE has not won any tranches.
15 Were you referring to FES in the FirstEnergy
16 certified territory?

17 A. I said FES has won a lot fewer tranches
18 in the FE utility service territories than it did
19 when the 81.4 percent share was developed, and so my
20 guess would be that it's a lot less than 81.4 percent
21 today.

22 Q. So you think competition's -- more
23 suppliers have moved in to take competition or market
24 share away from FES since these statistics were
25 released?

1 A. I think there are more suppliers serving
2 load in FE utility service territory than there were
3 when these statistics were released.

4 Q. And where does that data come from? What
5 do you use to rely on for that?

6 A. I just looked at the auction results from
7 the recent auctions and it shows that FES won fewer
8 tranches than I think even, perhaps, AEP affiliates
9 did.

10 Q. And this is in relation to the
11 81.4 percent number that we were talking about,
12 correct?

13 A. That's correct.

14 Q. So is it your testimony that overall,
15 since we've established that that's not just default
16 service, that's competition and aggregation as well,
17 that overall that number's lower than 81 percent now?

18 A. That would be my guess, yes, based on the
19 recent auctions for service in FE utility service
20 territory.

21 Q. So do you believe there was effective
22 competition in FirstEnergy's certified territory when
23 these numbers were accurate at 81.4 percent?

24 A. Yes, I do. As I testified earlier,
25 effective competition means you remove all the

1 barriers, and to the extent that there's only one or
2 two suppliers at any point in time, it doesn't mean
3 that there's not effective competition.

4 So because all the barriers were removed,
5 and to the extent that FES was one of the big winners
6 early on, does not mean there's effective
7 competition. And as that market's been allowed to
8 continue to develop, you're seeing the impact of that
9 by other suppliers starting to win more tranches in
10 those auctions. But, again, it's effective
11 competition at the wholesale and retail level.

12 Q. So it's your testimony that the former
13 chairman of Pennsylvania's section of this statement
14 entitled "Ohio All Over Again," is something that the
15 Public Utilities Commission of Ohio -- well, strike
16 that.

17 Turning to page 13 in the conclusion.
18 Would it be your testimony for the original answer
19 you gave, the long answer giving all of the ins and
20 outs of your opinion on this, that's why the
21 Commission in Ohio shouldn't be concerned about the
22 statement that he makes, that there will be no retail
23 electric choice in most of Pennsylvania as a result?

24 A. I just think it's irrelevant to Ohio.
25 The regulatory constructs are completely different.

1 Pennsylvania is much further down the path of
2 implementing competition. It's gotten rid of all
3 wholesale issues by having competitive bids. It's
4 gotten rid of a lot of the barriers that the
5 utilities had previously set up to keep people from
6 shopping.

7 So, again, I think that the context in
8 which this statement was made by the former chairman
9 of Pennsylvania is irrelevant to where Ohio is in the
10 development of its markets. And Ohio has a state
11 policy or, actually, in the state code it talks about
12 supporting large-scale government aggregation, which
13 Pennsylvania clearly doesn't support.

14 Q. So you mentioned the structure in
15 Pennsylvania. Is it your understanding that auctions
16 are required in Pennsylvania?

17 A. I'm not sure I know what you mean by
18 "options."

19 Q. Auctions for service.

20 A. Oh, auctions.

21 Q. For customers, sorry.

22 A. Yes, the utilities file default service
23 plans where they have auctions to supply SSO load.
24 Some use RFP, some use competitive bid processes, and
25 there may be some exceptions with some of the smaller

1 utilities, they may procure differently, and I don't
2 know what those are, but for the large part of the
3 customers, serving the customers in Pennsylvania,
4 they use a competitive bid process to serve SSO
5 service.

6 Q. And that's a requirement of law in your
7 understanding?

8 A. I don't know if it's law. That's what
9 the commission has ruled.

10 Q. Now, on page 16 of your testimony, you
11 discuss what you label as "evidence of limited
12 shopping." Let me know when you get there.

13 A. I'm on page 16.

14 Q. Does FES view an open AEP Ohio territory,
15 with the ability to serve the SSO by competitors in
16 an auction process, beneficial for the state of Ohio?

17 A. FES believes having an open auction for
18 wholesale service to SSO customers would benefit
19 Ohio, yes.

20 Q. And what's your understanding of how we
21 get to that point under the modified ESP that's been
22 proposed by the company?

23 A. Well, I understand that AEP has proposed
24 a couple of things relating to that. First of all,
25 AEP has agreed to go to PJM for the '15-'16 period

1 which is after the ESP, but, during the term of the
2 ESP, I think that AEP has offered to have an auction
3 of 5 percent of its SSO load after the rulings in
4 this proceeding, but only if it's made whole, which
5 I'm not sure exactly what that means.

6 And it's also offered to have an auction
7 starting in January of '15 to May of '15 for energy
8 only, but I think in that circumstance wants to still
9 charge capacity at some other number other than RPM.
10 That's my understanding.

11 Q. But my question was about getting to a
12 full auction for everything. Is it your
13 understanding that the modified plan would be able to
14 deliver that by June of 2015?

15 A. Not necessarily. You know, there are a
16 lot of things in there like the corporate separation
17 and pool termination; I'm still not exactly sure how
18 those all might effect that decision at the end of
19 the day.

20 Q. Fair enough.

21 But is it your understanding that the
22 goal of the company in the modified ESP, as
23 represented in the testimony of the company, is to
24 get to that full auction in June of 2015?

25 A. I understand that there's been testimony

1 by the company that there could be an auction by June
2 of '15.

3 Q. Let me try it this way: Would you like
4 to have a full auction in June of 2015 in AEP Ohio's
5 territory where you could bid in to provide
6 generation service to AEP SSO customers?

7 A. What I'd really like is to have a full
8 auction now.

9 Q. I understand that.

10 A. But we propose June of 2013. So we just
11 think that that June of 2015 is too long of a period
12 to get there, and by doing it that late in the
13 process, customers are not benefiting from
14 competitive markets.

15 Q. So what's your understanding, if the
16 company had filed a market rate offer instead of an
17 electric security plan, of when the company could
18 reach that goal that you have of reaching a full
19 auction? What year would that, the earliest year
20 that could happen?

21 A. My understanding and my opinion is the
22 earliest year it could happen is June of 2013.

23 Q. I'm asking under a market rate option.

24 A. Under a market rate option, I think the
25 earliest year it could happen is probably June of

1 '13. I understand that there's a longer blending
2 period proposed or as part of the regulatory process,
3 but I also think that the Commission probably has
4 wide latitude to look at the environment, the market,
5 and all other things, and can make a determination
6 that there will be a 10-percent blend in the first
7 year. And, if it thought it made sense for the
8 markets in Ohio, it could rule that the blend go to a
9 hundred percent in the second year. And, again,
10 that's my view, but --

11 Q. Right. But is it your understanding that
12 the statute calls for a five-year blending absent the
13 Commission stepping in and changing what's outlined
14 in the statute, that under the market rate option
15 there's a five-year before you would get to that full
16 offering in an auction?

17 A. I understand that there is a statute or
18 something out there that proposes the five-year
19 blend. But I also understand, as many have said in
20 this case, that the Commission has the authority to
21 consider markets, financial integrity of the company,
22 whether or not state policy is being adhered to
23 relative to giving customer choices of supply; and
24 all those things, I think, could go into whether the
25 Commission would want to do something, yes.

1 Q. I understand that. I'm just asking your
2 understanding of what the market rate option is for
3 utilities, and am I correct that the way that's
4 written in the statute is that there's a five-year
5 transition under the market rate option?

6 A. I think that may be right.

7 Q. And the plan that AEP Ohio has presented
8 in the modified ESP would get to that point faster
9 than five years, correct? If everything worked out
10 with the caveats you explained earlier.

11 A. Well, if everything worked out, it would
12 get there. But that's only one aspect. I mean, if
13 you're in an ESP, there are a lot of other things you
14 can get, that you can't get in a market rate offer,
15 by having benefits, apparent benefits to generation,
16 that when you go to a market rate offer, the
17 generation can't be subsidized in any way.

18 So you can't look at that one aspect, in
19 and of itself, to determine whether the ESP is better
20 than the MRO, if that's where we're going. The fact
21 that you get there from a wholesale-auction
22 perspective doesn't mean it's better.

23 MR. SATTERWHITE: Your Honor, I'd move to
24 strike everything after "Well, if everything worked
25 out."

1 I believe the question was really about
2 timing comparing when you could get to an auction
3 under an MRO versus an ESP, and what we got was
4 testimony on overall benefits of an ESP. I wasn't
5 talking about the ESP versus MRO test; I was simply
6 talking about mechanisms and timing.

7 EXAMINER SEE: I'm going to grant the
8 motion to strike after the first sentence. "I mean,
9 if," to the end.

10 Q. Now, do you consider the discount in
11 capacity that the company's represented as part of
12 the modified ESP to the two tiers a benefit of the
13 ESP?

14 A. Absolutely not. I don't see a discount
15 because there's no capacity number that's authorized
16 above the numbers that are proposed in the ESP. So
17 I'm not sure what it's being discounted from.

18 Q. And that's based on your understanding or
19 opinion that the RPM price is the proper price for
20 capacity and not what AEP Ohio is proposing; is that
21 correct?

22 A. Yes, I think the RPM price is a proper
23 price for capacity for shopping customers.

24 Q. In fact -- I guess I meant to ask this
25 earlier. On page 7, and throughout your testimony,

1 you refer to "higher above-market price," or "above
2 market price." This is on line 1, 7, just as an
3 example. Do you see that?

4 A. Yes, I see that.

5 Q. When you refer in your testimony to
6 "above-market price," you're referring to the PJM RPM
7 market price, correct?

8 A. That's correct.

9 Q. And whose market is the RPM market price?

10 A. It's the rest of the market other than
11 the constrained zones. So any market that is in PJM
12 that's not identified as a constrained zone, to me,
13 is the price that I'm referring to.

14 Q. So companies that didn't participate in
15 the PJM RPM market and have opted out of that, you
16 believe that's still the market of that company?

17 A. Yes, I do.

18 Q. So you do not recognize the fixed
19 resource requirement option for utilities?

20 A. I do recognize that there is a fixed
21 resource requirement option for utilities, but I
22 don't think it has anything to do necessarily with
23 whether it's market price or not. I still think
24 market price is the appropriate price for capacity.

25 Q. So when a company, let's just take

1 AEP Ohio specifically, you're aware that AEP Ohio or
2 AEP elected to be an FRR entity, correct?

3 A. Yes, I am.

4 Q. And, as part of that, they have the right
5 or the responsibility to provide their own capacity
6 and not rely upon the PJM RPM market, correct?

7 A. Yes, they have an obligation to provide
8 capacity for their load.

9 Q. And provide that on their own and not
10 have to rely on the PJM RPM market, correct?

11 A. I'm not sure I know what you mean by
12 "rely on." They have to provide their own resources
13 which means they can use their own generation, they
14 can secure it from some other source if they'd like,
15 but they are responsible for securing the generation
16 resource for that load, plus, of course, the reserve
17 requirement.

18 Q. And that would include not just their
19 standard service offer, but for the shopping load,
20 for all load in their territory, correct?

21 A. That's correct, all load.

22 Q. And because they made that election, none
23 of the capacity of AEP was bid into the PJM RPM
24 auction, correct?

25 A. I don't know specifically, but I know

1 that most, if not all, of their capacity was not bid
2 into the RPM.

3 Q. So it wasn't considered in the makeup of
4 the, what you claim is the market price, the PJM
5 market price, correct?

6 A. Their load and generation was not put
7 into PJM. So the way I think about it is that to the
8 extent you have an equal balance of load and
9 generation, the impact on the capacity value in the
10 AEP zone would have been minimal, if there would be
11 any difference at all.

12 And then when you think about the results
13 of the '15-'16 auction, where AEP did put its load
14 and generation into RPM, that capacity price turned
15 out to be the exact same capacity price as the rest
16 of market which, again, is what I think is the
17 appropriate price for capacity in AEP.

18 Q. Okay. But I'm just trying to talk
19 about -- you know, we'll get to the future auction in
20 just a second since you brought it up -- but what
21 we're talking about before when AEP was an FRR and,
22 therefore, was not bidding, and a participant in the
23 PJM RPM market, it's still your testimony that even
24 though they didn't participate and were providing
25 their own capacity and resources, that you should

1 still hold the market price that they didn't
2 participate as the market price that they should have
3 to apply to shopping CRES suppliers, correct?

4 A. You should still use RPM; and the reason
5 is, by being an FRR entity, AEP has decided to be a
6 monopoly. And when you have a monopoly, I think you
7 need to make sure the customers are protected, and
8 the best way to protect the customer is to assure
9 they have access to capacity or whatever costs are
10 affiliated with their decision to shop that is
11 readily available in the marketplace. And, in my
12 view, that's RPM-based capacity for rest of market.

13 Q. And suppliers do have the option of
14 providing their own capacity to a company that's
15 providing FRR, correct?

16 A. Technically, yes; but, practically, in
17 AEP's service territory, no. Because the decision
18 would have had to have been made three years in
19 advance of the time to serve the customer. And, at
20 that time, there was no reason to think that shopping
21 customers would not get RPM capacity because that's
22 what AEP had been providing. And that's what was
23 reaffirmed in the state compensation mechanism by the
24 Commission, I think, in 2010, if I have the date
25 right.

1 Q. So, yes, other providers do have the
2 opportunity to provide their own capacity, correct?

3 A. In 2015, yes.

4 Q. And they could have offered -- they could
5 have -- as you said, they had to plan for it, but if
6 they would have planned appropriately, they would
7 have been able to provide their own capacity today,
8 correct?

9 MR. LANG: Objection. Again, asked and
10 answered.

11 EXAMINER SEE: It has been asked and it
12 has been answered. Move on, Mr. Satterwhite.

13 Q. So do you disagree with the option, the
14 FRR option that the company has, the ability to not
15 participate in the RPM PJM market?

16 A. Could ask you that again?

17 Q. Sure. You mentioned that -- we
18 established that AEP Ohio is not part of the PJM RPM
19 market and is an FRR entity, correct?

20 A. That's correct.

21 Q. But you called AEP Ohio a monopoly
22 provider for capacity, correct?

23 A. Yes.

24 Q. And, based on that, are you asserting
25 that the FRR option for a utility is improper?

1 A. No, not at all. What I'm suggesting is
2 that if you choose an FRR entity, I think it's
3 incumbent upon the Commission to protect customers
4 from market power. And the fact that AEP wants to
5 charge something above market demonstrates that they
6 have market power, again, which the customer has no
7 option. So I think, in that case, the right answer
8 would be to assure that AEP charges nothing but
9 market-based capacity, to protect the customer.

10 Q. And, under your analysis, there would be
11 no reason to have any other provision other than the
12 RPM market for an FRR company, correct?

13 A. Well, I don't know what you mean by my
14 "analysis"; there are other provisions.

15 Q. What are the other provisions, what are
16 the other options?

17 A. The first provision says if there's a
18 state compensation mechanism, that rules. I mean,
19 that is it; if there is one, you don't go below that
20 for deciding what else to do.

21 If there is no state compensation
22 mechanism, then you would look to the RPM capacity
23 price as the amount that's charged. And then an FRR
24 entity has a right to file for a cost-based recovery.

25 However, I would disagree with the

1 methodology used to determine that cost-based
2 recovery that AEP has proposed; I think it should be
3 consistent with how PJM looks at costs and use an
4 avoided-cost rate determination of what that cost
5 recovery should be.

6 Q. And I understand your opinion and where
7 you think it should turn out, but, right now, I'm
8 trying to figure out what's allowed and what's
9 appropriate. And you mentioned the state
10 compensation mechanism; there's nothing barring that
11 mechanism being based on the cost of the utility, is
12 there?

13 A. I think the Commission can use its
14 discretion to determine what the right state
15 compensation mechanism is.

16 Q. Okay. Switching back to your opinion.
17 Overall, you just believe the RPM market should be
18 applied because that's better -- the RPM price for
19 capacity should be applied because overall that's
20 better for competition, correct?

21 A. I think primarily it's better for the
22 customers, but, yes, competition as well.

23 Q. You mentioned the 2015-'16 planning years
24 previously. Do you know what the projected price for
25 capacity is in the ATSI zone for that period?

1 A. Yes, I do.

2 Q. And what is that?

3 A. Well, the actual auction result was 357,
4 and that's offset by import capability and some other
5 things to get the price down to 294 which is what the
6 customer would pay.

7 Q. And because that's a market-set rate, you
8 think that that's an appropriate capacity price that
9 will support competition?

10 A. Yes. I mean, when I think about that,
11 whether that price was 357, 157, or 57, the reason
12 it's the right price is because it was determined by
13 the market.

14 And if you think about the result and
15 what's happening since that, I mean, it did exactly
16 what it was intended to do which was to incent
17 additional capacity into that zone. And you've seen
18 the announcement of transmission that's going to go
19 into that zone.

20 And my guess -- and, again, this is just
21 my opinion -- I think that knowing now that you have
22 those additional resources when you have the auction
23 for '16-'17, you'll see that number come down and,
24 perhaps, come down significantly. So I think it did
25 exactly what it was intended to do.

1 Q. So, in the beginning of that answer, you
2 said it could be any price; it's a matter of the
3 process. So is it safe to say that your opinion is
4 that the process is what's important, that it's
5 competitively bid, and whatever it turns out to be,
6 that's fine. That's exactly how it's supposed to
7 occur.

8 A. That's why -- I'm a competitive person.
9 I believe the market gives you the better alternative
10 rather than administratively-set prices, yes.

11 Q. On page 8 of your testimony, you talk
12 about the two-tiered capacity pricing, and you refer
13 to it as "discriminatory" because some customers pay
14 more than other customers. Do you remember that
15 testimony?

16 A. Yes.

17 Q. Do all FES retail customers in Ohio pay
18 the same retail rate?

19 A. Do all -- would you say that again,
20 please?

21 Q. Do all of your customers for FES pay the
22 same retail rate?

23 A. No.

24 Q. Could you have a customer across the
25 street from each other paying completely different

1 rates if they were both served by FES?

2 A. Well, it depends. If both of those
3 customers were served by FES, entered the contract at
4 the exact same time, had the same load profile and
5 all the other same risk factors, they'd probably be
6 paying the same price, but that typically doesn't
7 happen. So there will be some characteristics of
8 their contract that would basically dictate that
9 their price be different.

10 Q. But there's nothing holding FES to that.
11 That's just a matter of negotiation between you and
12 the customers, if they're not in an aggregation
13 program, correct?

14 A. That's correct. That's the way a
15 competitive market works, yes.

16 Q. And is that discriminatory?

17 A. Not at all, because both parties have the
18 choice as to whether or not to enter into that
19 contract, and if one doesn't like what the other is
20 offering, it can walk away.

21 Q. And what about between the different
22 certified territories in Ohio, does the same answer
23 apply, that FES could have different pricing for
24 customers in all of those different territories?

25 A. Yeah, it's the same answer for the same

1 reasons.

2 Q. Let's turn to page 13 of your testimony,
3 talk a little bit about governmental aggregation. Is
4 there an average discount for residential and
5 commercial customers in FES's governmental
6 aggregation programs?

7 A. I'm not sure I understand the question.

8 Q. How are the governmental aggregation
9 programs that FES serves priced?

10 A. Well, some of the earlier ones, which is
11 public information, mostly had 6 percent discounts
12 for residential customers, and 4 for commercial. But
13 there's no requirement that they all be the same.

14 Q. And on page 14 of your testimony, on
15 lines 8 to 9, you say, "Consistent with the
16 Commission's charge to promote and encourage
17 governmental aggregation," you go on to talk about
18 the two-tier program.

19 I was wondering if you can help me
20 understand what you mean by the word "charge," "the
21 Commission's charge to promote." What did you mean
22 by that?

23 A. Well, I just think that because of the
24 state law which says that government, you know, we
25 should encourage large-scale government aggregation,

1 I think the Commission has a responsibility to make
2 sure that happens.

3 Q. And it's your testimony that the state
4 law, that it's the state law that requires or --

5 A. That's my understanding.

6 Q. -- or includes this provision that the
7 Commission must promote governmental aggregation; is
8 that correct?

9 A. Yes, that's correct.

10 Q. And what's the scope of the Commission's
11 responsibility to promote governmental aggregation
12 under your understanding?

13 A. The scope is to support large-scale
14 government aggregation as indicated in the state law.
15 I'm not sure I know what you mean by "scope" other
16 than that.

17 Q. I'm just trying to see what you
18 understand. So if you don't know, that's fine.

19 But you're not aware of the difference
20 between a rulemaking proceeding before the Commission
21 and an adjudicatory or evidentiary hearing, correct?

22 A. To me it's kind of a distinction with no
23 difference. But, you're right, I don't know the
24 specifics of which is which, but I do believe that
25 the Commission has a responsibility to support

1 large-scale government aggregation.

2 Q. So if the statute says the Commission
3 shall adopt rules to encourage and promote
4 large-scale government aggregation, you rely on that
5 to base your testimony that the Commission can do
6 that in this hearing or in any other hearing in front
7 of the Commission, correct?

8 A. I would say yes to that.

9 Q. Switching topics to something else.

10 MR. LANG: If I could interrupt, just,
11 we've gone about an hour and a half.

12 MR. SATTERWHITE: It's a new topic. It
13 would be a good time for a break.

14 MR. LANG: If you need a break, let us
15 know, if not --

16 THE WITNESS: I'm fine, but I'll leave it
17 up to you.

18 EXAMINER SEE: We're going to take a
19 five-minute recess.

20 MR. SATTERWHITE: Okay.

21 MR. LANG: Thank you, your Honor.

22 (Recess taken.)

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

25 Mr. Satterwhite.

1 MR. SATTERWHITE: Thank you, your Honor.

2 Q. (By Mr. Satterwhite) Mr. Banks, do you
3 know when the FirstEnergy companies completed their
4 structural separation?

5 A. I think it was in 2005.

6 Q. The process was -- when did the process
7 begin?

8 A. I'm not sure I know the answer to that.

9 Q. Do you know when the law was changed that
10 gave rise to the purpose for changing?

11 A. Yes. 1999, starting 2000.

12 Q. And you're aware, aren't you, that all of
13 the utilities filed cases to comply with the new law
14 at that time period?

15 A. I am aware that utilities filed cases.

16 Q. And was the path to structural separation
17 for the FirstEnergy companies started in that filing?

18 A. Again, I'm not sure what you mean by
19 "path." I know it was completed in 2005. I didn't
20 start with the company until 2004, so what they may
21 have done in preparation, I'm not sure.

22 Q. Help me understand what you do understand
23 with that. Did FirstEnergy transfer the bulk of
24 their assets to FirstEnergy Solutions?

25 A. I believe FirstEnergy transferred the

1 assets to FE Generation. And I believe it was all
2 but a few regulated generation assets.

3 Q. And do you know if they transferred that
4 generation at net book value or not?

5 A. I do not know.

6 Q. And once those assets were transferred,
7 were those assets also used to supply generation for
8 the standard service offer for the EDU?

9 A. Yes, they were.

10 Q. And do you know what the relationship was
11 that allowed the supply of that generation to the EDU
12 from the affiliated entity?

13 A. What I understand about it is that FERC
14 has jurisdiction over affiliate pricing relative to
15 generation, and FES got approval or FEU got approval
16 for the contract between FES and FEU to provide
17 generation for SSO service.

18 Q. But you don't know the particulars of the
19 agreement, you just know there was an affiliate
20 agreement that allowed the supply of the generation
21 service to serve the SSO customers; is that correct?

22 A. I know that and, if I remember correctly,
23 the price was about \$43 a megawatt-hour. I could be
24 wrong, but I --

25 Q. That's fine.

1 A. -- I do remember something like that.

2 Q. Do you remember how many -- do you
3 remember how many years that relationship existed?

4 A. Well, it existed until 2009, when FE
5 utilities put its SSO service out to bid, which
6 started, I believe, in June of 2009.

7 Q. Now, you're aware that if the PUCO were
8 to modify the amended ESP as filed by AEP Ohio, that
9 AEP Ohio would have the right to withdraw, correct?

10 A. Yes, I am aware that AEP doesn't have to
11 accept modifications to its ESP filing. And in that
12 case it would go back to the prior ESP.

13 Q. Which is what we're in now, correct?

14 A. I don't think so. I would characterize
15 the prior ESP as what was in effect before January of
16 2012 which was RPM-based capacity for shopping
17 customers, no tiers, and all those other things.

18 Q. I'd like you to turn to page 27 of your
19 testimony, please. On lines 3 to 7, you discuss the
20 collection of the RSR and the discount to the
21 embedded cost of capacity, which you refer to as
22 "above market," as an anticompetitive subsidy because
23 AEP will be able to invest in its system.

24 Based on that, do you find it
25 inappropriate to take money received from providing

1 capacity service to be invested by the owner in those
2 assets or other parts of the system, including
3 investment in transmission in Ohio?

4 A. I'm trying to find this exact reference
5 to what you said I said.

6 Q. Lines 3 to 7.

7 A. Okay.

8 Q. On page 27. I guess if you start on line
9 5, it might be easier. "...AEP Ohio's receipt of
10 above-market capacity pricing will allow [AEP Ohio]
11 to make investments in our generation plants as it
12 will in our distribution because, again, we are a
13 bundled company." That's a quote that --

14 A. I see that.

15 Q. -- you provide there. You consider that
16 anticompetitive, an anticompetitive subsidy. So,
17 based on that, I was asking if you find it
18 inappropriate for a utility, like AEP Ohio, to take
19 money received from providing its capacity service
20 and invest those in the assets that provide capacity
21 or other investments likes the transmission system in
22 Ohio.

23 A. I believe it's okay for AEP to take
24 capacity revenues to invest in its generation, but
25 two points: I think that the capacity revenues

1 should not be above market and, secondly, then those
2 revenues should not be invested in transmission and
3 distribution; I believe that they should be
4 completely separate.

5 Q. Now, on page 28, you start to talk about
6 the generation resource rider, and your concern is
7 that customers can end up paying twice for costs
8 associated with the generation service contract,
9 correct? Or the generation -- could end up paying
10 twice for the generation facility. Correct?

11 A. It says paying twice for costs associated
12 with generation service, yes.

13 Q. And on page 29 in line 3, you underline
14 the word "this," I assume because you wanted emphasis
15 on that word, correct?

16 A. That's what the underline means, yes.

17 Q. Okay.

18 A. Emphasis.

19 Q. And why did you want to emphasize that
20 word above all other words on that page?

21 A. Well, the point is that in this
22 proceeding, AEP's proposing a rider with no dollars
23 associated with it. And in order to have the ESP
24 approved with the rider in, first of all, would need
25 to have dollars in it, I believe, to even allow the

1 Commission to do an appropriate ESP versus MRO test.

2 And to the extent that it's going to
3 happen at some other period of time, it shouldn't be
4 in this proceeding, it should be in the proceeding in
5 which AEP's able to demonstrate the cost of the
6 facilities and then be considered in that way.

7 Q. I believe we've established before, but I
8 don't know if we did today, but you're not an
9 attorney, correct?

10 A. I am not an attorney.

11 Q. So you're not attempting to do some
12 statutory interpretation here to advise the
13 Commission about how it should read the statute,
14 correct?

15 A. I am not. All I'm doing is responding to
16 the advice that I've gotten from our attorneys that
17 you can't have a zero-based rider for
18 generation-related investments and, again, you can't
19 do a fair comparison of a ESP versus MRO without
20 knowing all of the costs of the ESP.

21 Q. Right. My question really was focused on
22 you're not doing some statutory interpretation here,
23 correct?

24 A. No, I am not.

25 Q. Are you aware of any other cases where

1 the Commission has adopted a rider based on a zero
2 dollar level?

3 A. I don't remember specifically, but I
4 think in one of the other cases, you pointed out a
5 case with FE utilities where they had a zero-based
6 dollar amount for transmission, I believe.

7 But, again, the distinction, again, is
8 that this is for generation-based service that is
9 supposed to be competitive on a transmission side. I
10 really don't have an opinion as to whether it was
11 appropriate or not.

12 Q. Actually, that was an ESP case that had a
13 number of zero riders in there. And, in all
14 fairness, that was part of settlement, but it did
15 have other zero-based riders including distribution,
16 correct?

17 A. Again, I'm not familiar with any
18 zero-based riders that were relating to generation in
19 that case.

20 Q. But the ultimate opinion and orders in
21 those cases will tell whether there were or not,
22 correct?

23 A. That's correct.

24 Q. In your opinion, does the MRO test
25 distinguish between zero-based generation riders and

1 zero-based nongeneration riders?

2 A. I'm not sure I understand.

3 Q. In doing the analysis for the ESP versus
4 an MRO test, does it --

5 A. My --

6 Q. -- does it matter if the rider is
7 generation or nongeneration to be a zero-based rider?

8 A. Well, I think that, for the reasons of
9 the fact that generation is supposed to be
10 competitive, there shouldn't be zero-based generation
11 riders. As it relates to the test, I think that you
12 have to have dollars in the ESP in every aspect of
13 the ESP to appropriately compare it to the results of
14 an MRO.

15 Q. So that's your opinion of the policy that
16 should be underlying the test, but is it your
17 understanding that that's required by the test?

18 A. It's not my understanding as to whether
19 or not it's required or not, but I think the test has
20 to be a fair test, which would imply, to me, that you
21 compare all costs of one to all costs of the other.
22 I don't think you should be able to eliminate any
23 costs from one side.

24 MR. DARR: Can I have the last two
25 questions marked, so I can look at them on a break

1 later today?

2 Q. (By Mr. Satterwhite) Now, on page 29, you
3 state the GRR must be bypassable for three reasons,
4 you say it: "violates state policy and the
5 Commission's own mission statement to foster
6 competition" -- and you numbered them (a), (b), and
7 (c) -- "improperly favors AEP Ohio's own generation
8 service, which should be competitive;" and, (c), "the
9 cost of renewable energy resources must be recovered
10 on a bypassable basis under Ohio law." Do you see
11 that?

12 A. Yes, I do.

13 Q. Let's go one by one through these and
14 discuss them. The first one, "violates state policy
15 and the Commission's own mission statement to foster
16 competition." Which state policies are you referring
17 to here?

18 A. Well, the state policy, I don't know the
19 specific paragraph or number, but what I'm referring
20 to is the policy that says that to build new
21 generation, you have to demonstrate need, which, to
22 my knowledge, that hasn't been demonstrated.

23 Secondly, to the extent that it is
24 demonstrated, it should be competitive. And, to my
25 knowledge, it's not competitive because AEP is

1 proposing to build it itself as opposed to put it out
2 to competitive bid.

3 And then, of course, it has to be
4 dedicated to the state of Ohio.

5 Q. All right. So when you talk about "state
6 policy," you're not referring to 4928.02 that you
7 discuss in other portions of your testimony; you're
8 referring to 4928.143.

9 A. Yes.

10 Q. That details the ability to build a
11 generation resource, correct?

12 A. If that's the right reference, yes,
13 that's correct.

14 Q. And you mention that you don't believe
15 need's been established. Is it your understanding
16 that there is a proceeding, currently pending before
17 the Commission, awaiting decision that deals with the
18 need for the Turning Point Facility?

19 A. I do understand that there is a filing
20 relating to Turning Point. I don't recall the
21 details of that filing.

22 Q. So you haven't followed that filing and
23 reviewed any documents?

24 A. No. I have not closely, no.

25 Q. But FES is an intervenor in that case,

1 correct?

2 A. Yes, I believe we are. And our lawyers
3 follow that case.

4 Q. And what's your title, again, as far
5 as -- I think I've said it every time and got it
6 wrong, so I'll just ask you what your title is.

7 A. Vice President of Competitive Market
8 Policies.

9 Q. And part of your responsibilities are to
10 be apprised of what's going on in the different state
11 commissions, correct?

12 A. That's correct.

13 Q. But is it your testimony that you haven't
14 really followed the "need case," as we'll call it,
15 the 10-501 docket?

16 A. I looked at it earlier. I haven't
17 followed it recently. Our lawyers are doing that on
18 my behalf.

19 Q. But what is your understanding of what
20 that case is about?

21 A. Well, my understanding is that there
22 needs to be a long-term price -- a long-term forecast
23 that talks about the growth and demand relative to
24 supply; and to the extent that that demand is there,
25 that is one of the factors that go into establishing

1 the need.

2 And I'm not remembering the exact
3 reference, but it's also my understanding that AEP,
4 itself, has indicated that there is no need, during
5 the term of this ESP, for additional generation.

6 Q. And when you said you've allowed or
7 you've relied on the lawyers to follow that, are you
8 stating that the lawyers are making the decisions of
9 the policy in that case, the decisions of FES?

10 A. No, I'm not.

11 Q. So the policy positions taken by FES in
12 that case, were those reviewed by you?

13 A. Yes. Way back in the beginning, yes. I
14 just don't recall all the details.

15 Q. You also mention under (a), on line 14,
16 that you believe this would violate "the Commission's
17 own mission to foster competition"; is that correct?

18 A. Yes.

19 Q. And you're supportive of the Commission's
20 complete mission statement and the indicators of
21 accomplishment, correct?

22 A. I support the Commission's mission
23 statement.

24 Q. And the indicators of accomplishment that
25 define the mission statement; isn't that correct?

1 A. I don't recall what they all are, but,
2 generally, I would say yes.

3 MR. SATTERWHITE: Your Honor, I'd like to
4 mark the Commission's Mission Statement as AEP
5 Exhibit 148. May I approach?

6 EXAMINER SEE: Yes.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. Mr. Banks, is this the mission statement
9 that you refer to of the Public Utilities Commission
10 of Ohio in your testimony?

11 A. It appears to be it, yes.

12 Q. Do you have any reason to doubt this
13 isn't the PUCO mission statement?

14 A. I have no reason to doubt it.

15 Q. And what were you relying upon in the
16 mission statement under (a), on lines 13 and 14, of
17 page 29?

18 A. Well, I was actually relying on the
19 lead-in which talks about facilitating an environment
20 that provides competitive choices.

21 Q. And it's your understanding that the GRR
22 would violate the mission statement?

23 A. In my opinion, yes, because it is not
24 offering a competitive choice. It's anointing AEP as
25 the builder of that generating facility. And, if

1 there is one that is needed, I believe that all
2 suppliers should have an opportunity to bid that.

3 Q. So I'd like you to look at the third
4 bullet under the indicators where it says "This
5 mission is accomplished by." Could you read the
6 third bullet?

7 A. Yes. It says, "Promoting utility
8 infrastructure investment through appropriate
9 regulatory policies and structures."

10 Q. And wouldn't the GRR that would allow --
11 wouldn't that allow the promotion of utility
12 infrastructure through regulatory policies and
13 structures?

14 A. In my opinion, I would say no, because
15 when I think of utility infrastructure, I think of
16 wires which is transmission and distribution. And
17 the generation is something that's supposed to be
18 competitive.

19 Q. So you view the Commission's mission
20 statement, when it states "utility" in any of these
21 statements, to be focused solely on wires; is that
22 correct?

23 A. Well, in the purpose that was brought --
24 put to me on bullet No. 3, in that context, I think
25 utility infrastructure investment should be

1 investment in wires only. I don't think it extends
2 to utility investment in generation assets, because
3 it seems clear to me that generation is supposed to
4 be competitive.

5 Q. So is it your understanding that there is
6 the ability under this statute that you mentioned,
7 for the state policies, in your testimony here, that
8 there is the ability under an ESP statute to build
9 generation?

10 A. My understanding is there's the ability
11 to build generation, but with the bypassable charge
12 to customers, yes.

13 Q. And is that under 4928.143 or is that a
14 different section?

15 A. I don't remember.

16 Q. But the section we're talking about where
17 you give the need must be competitively bid, is that
18 the statute you're referring to, whatever number that
19 might be?

20 A. In what context?

21 Q. Let me back up. A minute ago, when I
22 asked you why the generation resource rider violates
23 state policy, and I asked if it was 4928.02, and you
24 said no, there was something in 4928.143, you weren't
25 sure of the exact number, but it dealt with the

1 standards of providing need, showing need, that the
2 facility must be competitively bid. Do you remember
3 that?

4 A. Yes, I do.

5 Q. And so it's your testimony today that
6 that's the statute you're referring to when you say
7 generation can be built under an ESP, but it must be
8 bypassable?

9 A. Again, I'm not sure if that's the
10 section, but in one of those sections it does
11 indicate that generation can be built with a
12 bypassable charge to customers.

13 Q. Further down on page 29, lines 17 to 18,
14 you state it's unfair for shopping customers to pay
15 their supplier and AEP for renewables, correct?

16 A. That's correct.

17 Q. So is it your concern that the benefit of
18 the plant should only be enjoyed by SSO customers,
19 while all customers are paying a nonbypassable
20 charge? Is that fair?

21 A. I'm not sure I understand what you just
22 said.

23 Q. What I'm trying to say is, is that a fair
24 assessment of your position that your concern is that
25 the benefits related to any facility, like the

1 Turning Point facility that would be built in the
2 GRR, would only be used to benefit SSO customers,
3 while all customers would be paying a charge for it?

4 A. Well, to be honest, I don't know the
5 exact structure of how AEP would propose to recover
6 those costs; whether they were bypassable or not.

7 But what I believe is that -- if solar is
8 needed, it should be secured in the most
9 cost-effective way. And, just recently, for example,
10 based on FE utility's own auction for solar RECs,
11 they got, I think, 15 times what they were looking
12 for, and they were able to satisfy those solar
13 requirements.

14 So I think the more important part of
15 this is whether or not there's a need to build it at
16 all. And then, to the extent there is a need to
17 build it, then it would be relegated to those
18 customers who are still on SSO service, because the
19 shopping customers will have a more cost-effective
20 alternative by going to the market, I believe.

21 Q. I believe the end of your answer started
22 to get to my question because I'm talking about your
23 statement on lines 17 and 18, where you talk about
24 how it would be unfair to shopping customers to pay
25 AEP for the renewables.

1 What I was asking was trying just to
2 understand your position on that point. Is the point
3 you're making that because if it were a nonbypassable
4 charge, it's your belief that shopping customers
5 would be paying for something that would only benefit
6 SSO customers? Is that the basis of your concern?

7 A. My concern is that shopping customers
8 would be securing their renewables from the shopping
9 supplier that they're with and should not have to
10 then pay for the renewable resource that AEP has
11 decided to build.

12 Q. But if it was structured that the
13 shopping customers would also benefit from the
14 presence of the facility, would that alleviate your
15 concerns?

16 A. No. Because then I go back to my
17 original concern which is to make sure that whatever
18 solar requirements that exist, that they be
19 competitively bid.

20 And I don't think that you should just
21 assume that AEP building Turning Point Solar in this
22 case is the right solution. There are many suppliers
23 out there willing to provide solar RECs in the market
24 as evidenced by the recent auction in FE utility's
25 service territory. So there's two parts; the second

1 part is there still is no need. So if you're going
2 to have AEP provide the resources, it shouldn't
3 necessarily be by building Turning Point Solar.

4 Q. So you have two levels of concern: One,
5 that shopping customers will pay a nonbypassable
6 charge and potentially not receive a benefit from
7 that, and then, two, even if that were to happen, and
8 they did receive a benefit, you're worried that there
9 might not be a need for the facility to begin with,
10 correct?

11 A. Two is that if there were going to be a
12 benefit and if there was going to be a need, I don't
13 think the answer is to assume that the best solution
14 is for AEP to build Turning Point Solar, because
15 there are many suppliers out there willing to provide
16 the solar REC requirements, and I think there needs
17 to be a process to assure that those solar REC
18 requirements are satisfied in the most cost-effective
19 way.

20 Q. And in your initial review of the need
21 case, the 10-501 case, is it your understanding that
22 that is the purpose of that proceeding, to determine
23 whether the Turning Point facility is needed or not
24 in Ohio?

25 A. That is my general understanding, yes.

1 Q. You mentioned recently that there was a
2 request for bids or RFP in the FirstEnergy territory
3 for renewables, and I believe you said you received
4 50 times what was needed, 15 -- was it 15 or 50?

5 A. I think it was 15.

6 Q. All right. Are you aware at what price
7 that was quoted and how that compared to the prices
8 included in the supplemental testimony filed in this
9 case that relate to Turning Point?

10 A. I am not aware of that price comparison.
11 But I think someone should do it.

12 Q. Let's go back to page 4 of your
13 testimony. On this page, while you don't support the
14 modified ESP as proposed by the company, you state
15 that if the Commission were to approve it, you have
16 some alternatives that you would like the Commission
17 to consider, correct? That's just a basis question.

18 A. Yeah, I basically say here the Commission
19 should make significant modifications to the ESP,
20 yes.

21 Q. Now, you give an alternative proposal
22 that includes doing a 10 percent energy-only auction
23 in June of '13 --

24 A. No.

25 Q. -- using R -- okay. What's wrong about

1 that?

2 A. It says a hundred percent.

3 Q. Oh. That's a big difference.

4 A. Yes.

5 Q. Using an RPM-based capacity rate across
6 the board, correct?

7 A. That's correct.

8 Q. Eliminating the GRR and RSR and removing
9 certain rules on switching that you discuss in your
10 testimony, correct?

11 A. Yes. And you left out one about the
12 proposed two-tiered pricing for capacity.

13 Q. What's that one?

14 A. That's the second bullet where AEP's
15 proposing to charge 146 for tier 1, and 255 for
16 tier 2 shoppers.

17 Q. Right. That's when I said you wanted to
18 use RPM-based capacity rates only.

19 A. So your question was covering both.

20 Q. Yes.

21 A. Okay.

22 Q. Have you done any studies to determine
23 the financial impact of these recommendations?

24 A. I have not done any of my own studies.

25 Q. Have you determined at all how this would

1 impact AEP Ohio if all of these were adopted by the
2 Commission?

3 A. I have not determined how it would impact
4 AEP Ohio.

5 Q. I'd like you to pick back up what was
6 marked -- the AEP mission statement, which was AEP
7 Exhibit 147, I believe.

8 EXAMINER SEE: 148.

9 Q. 148.

10 A. You mean the "PUCO mission statement."

11 Q. They like to be referred to as "P-U-C-O,"
12 not "puke-o," I believe.

13 I believe I said "the AEP mission
14 statement," you're correct. The PUCO mission
15 statement.

16 A. Okay.

17 Q. And could you read the second bullet
18 under "This mission is accomplished by"?

19 A. It says "Ensuring financial integrity and
20 service reliability in the Ohio utility industry."

21 Q. Do you think it's important, if the
22 Commission is going to make modifications to the ESP,
23 that it consider the financial integrity of the
24 company in any changes that it would make?

25 A. I think that's part of the Commission's

1 responsibility. Where I take exception, though, is
2 assuming that everything that is being asked for is
3 needed to ensure the financial integrity.

4 And, as I understand, at least in some of
5 the analyses that was put forth by, I think it was
6 AEP Witness Allen, all you basically did was took
7 your existing infrastructure, put a return on top of
8 it, and said that you needed that; without any
9 consideration as to what you might do to improve
10 efficiency, improve costs, and some of those other
11 things.

12 So I think there needs to be a more
13 complete record as to what it would mean as relates
14 to the financial harm that could come to AEP by some
15 of the changes we're proposing.

16 Q. But, to be clear on the recommendations
17 you make, you didn't consider the financial integrity
18 of AEP Ohio in the recommendations you were making,
19 correct?

20 A. No. I would leave that up to the
21 Commission.

22 Q. And, in addition, there's a section in
23 your testimony that refers to different state
24 policies under 4928.02. Do you remember that
25 testimony?

1 A. No, I don't. Can you help me? Point me
2 to that section.

3 Q. I believe starting on 27 is the first
4 time you refer to 4928.02(I). And then on page 29,
5 you talk about other state policies, and there's a
6 section there. So it's safe to say that when you
7 were examining these state policies, you also weren't
8 considering the financial integrity of AEP Ohio.

9 A. And, again, I was considering what would
10 be needed to ensure a competitive marketplace. And I
11 believe it's the Commission's responsibility, then,
12 to figure out how AEP gets protected from any impact
13 of that.

14 Q. So if the Commission finds that there's
15 an adverse impact to the financial integrity of
16 AEP Ohio as a result of your recommendations, it
17 would be appropriate for the Commission to reject or
18 modify your recommendation, correct?

19 A. I think the Commission has latitude in
20 figuring out how to protect AEP. It doesn't
21 necessarily mean they need to reject these specific
22 modifications; there are other ways to accomplish
23 that, I believe.

24 Q. And on page 30, starting on, I believe,
25 line 22, you start talking -- you talk about the

1 12-month minimum stay requirement. Let me know when
2 you get there.

3 A. I'm sorry, what line was that?

4 Q. The question starts on line 22, on 30,
5 but the discussion really starts on page 31.

6 A. Yeah, I see it.

7 Q. And you believe, or correct me if I'm
8 wrong, do you believe the 12-month stay provision is
9 a barrier to competition?

10 A. Yes, I do.

11 Q. And you also mentioned this earlier in
12 your discussion of the Pennsylvania regulatory
13 structure, that they've removed that barrier in your
14 opinion, correct?

15 A. I didn't address the 12-month minimum
16 stay at all in Pennsylvania.

17 Q. Is there a minimum stay period in
18 Pennsylvania that you're aware of?

19 A. I don't recall EDC by EDC; they're all
20 different.

21 Q. Are you aware of any commission decisions
22 on whether the 12-month stay is a barrier to
23 competition?

24 A. No, I'm not.

25 Q. Did you review the Commission's Opinion

1 and Order from December 14th on the stipulation in
2 this case?

3 A. Some time ago, yes, I did.

4 Q. I'd like to provide you a copy of that
5 Opinion and Order, and see if that helps refresh your
6 recollection.

7 EXAMINER SEE: Mr. Satterwhite.

8 Q. Can you turn to page 48 of that Opinion
9 and Order, please. And specifically under paragraph
10 7 that's entitled "CRES Provider Information," or
11 Section 7.

12 A. I see it.

13 Q. Do you see the statement that says,
14 "Further, the Signatory Parties provide that
15 AE-Ohio's 12-month minimum stay and switching fee
16 cannot be classified as barriers to competition, as
17 they were reflected in the Commission's approved
18 tariffs"?

19 A. I see that. But FES wasn't a signatory
20 party to that.

21 Q. Right.

22 A. I do see it.

23 Q. And then if you go down to the last
24 paragraph on the page, there's a sentence that reads:
25 "Regarding FES's concerns about the minimum stay

1 requirements, we find that the proposed provisions in
2 the Stipulation are not excessive when compared with
3 those of other electric distribution utilities." Do
4 you see that?

5 A. Yes, I do. And I would point out I think
6 it's referring to the FE utilities; and even though
7 they have that tariff provision, my understanding is
8 they don't enforce that.

9 Q. But are you challenging the Commission's
10 finding that they don't believe it's a barrier that
11 does exist in Ohio and other jurisdictions?

12 MR. LANG: Just objection to the
13 characterization.

14 MR. DARR: Join in the objection based on
15 the nature of --

16 MR. LANG: The Commission made --

17 MR. SATTERWHITE: I can rephrase it, your
18 Honor.

19 MR. LANG: The Commission made no such
20 finding.

21 MR. SATTERWHITE: I can rephrase it if
22 it's easier.

23 EXAMINER SEE: Yes.

24 Q. Would you agree that the 12-month minimum
25 stay provision is based on a Commission-approved

1 tariff?

2 A. That would be my belief, yes.

3 Q. And other providers, besides AEP Ohio,
4 also have this provision in their tariffs as well,
5 correct?

6 A. I think they do, but, as I indicated, at
7 least the FE utilities don't enforce it, and I
8 believe that in Duke's service territory they're
9 getting rid of it, and in DPL's case it's still to be
10 considered.

11 Q. But if the Commission were to -- since
12 the Commission approved this tariff, is it your
13 testimony that the Commission approved an
14 anticompetitive barrier?

15 A. Short answer is yes.

16 Q. Okay.

17 A. But to explain it is that a lot of things
18 that are in place today were approved several years
19 ago when the market conditions were very different,
20 things were significantly different, and the
21 considerations that the Commission took into --
22 considered at that time were important, and perhaps
23 it was appropriate then.

24 But where the markets have developed to
25 today, there's no reason to have minimum stays. And

1 to the extent that there was a competitive process
2 for SSO service, there wouldn't be any reason at all
3 to have minimum stays because that risk of customers
4 shopping and returning would be absorbed into the
5 price that suppliers bid for SSO service.

6 So I disagree with this order that
7 12-month minimum stays do not negatively affect
8 competition, because they do; it's just a fact.

9 Q. All right. I understand your position,
10 but you recognize that as the December 14th, 2012,
11 or, 2011, that the Commission did not agree with your
12 position, correct?

13 A. Well, but this says that the provisions
14 in the stipulation are not excessive when compared
15 with those of other electric distribution utilities.
16 And it references the FE utilities. And what I'm
17 telling you is that the FE utilities don't adhere to
18 that 12-month minimum stay, so there aren't -- the
19 anticompetitive result of the 12-month minimum stay
20 is not happening in that case.

21 Now, whether the Commission believes it's
22 good or bad, I can't speak to, but I do know the
23 impact on shopping.

24 Q. Right. But this finding of the
25 Commission in this case was based off testimony and

1 FES's concern that you filed against the stipulation
2 in the stipulation phase of this case, correct?

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

4 Q. And you raised the same concern that you
5 raise here, with the 12-month minimum stay, in that
6 testimony as you raise in this testimony, correct?

7 A. I have the same concern, yes.

8 Q. And the Commission didn't agree with your
9 concern and didn't invalidate the 12-month stay,
10 correct?

11 A. And this is a different filing with a lot
12 of other different factors to consider. And my
13 argument has always been when you look at the
14 totality of all the things that have been proposed,
15 the 12-month minimum stay is just another thing on
16 top of the other barriers and, you know, the
17 Commission has the authority to not accept that view,
18 but it doesn't change the fact, in my mind, and
19 what's happening in the marketplace, that it is a
20 barrier to competition.

21 Q. So, in other words, your answer is yes,
22 the Commission did not accept your recommendation and
23 invalidate the 12-month minimum stay.

24 A. They did not in that order.

25 MR. SATTERWHITE: Your Honor, the only

1 other question I have at this point, and I don't
2 think we need to go into a closed session because --
3 do you want to go off the record for a second?

4 EXAMINER SEE: Yes.

5 MR. SATTERWHITE: I can explain it then.

6 EXAMINER SEE: Let's go off.

7 (Discussion off the record.)

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

10 MR. SATTERWHITE: Your Honor, at this
11 time AEP Ohio would like to mark as Confidential AEP
12 Exhibit 149, an FES Restricted Access Confidential,
13 Attachment 4-1, Interrogatory Response. It's going
14 to be Interrogatory No. 4-11 that was responded to by
15 FES in the 10-2929 proceeding.

16 And I believe a number of the parties
17 that have signed confidentiality agreements with FES
18 may have already received this.

19 And if I'm able to mark and have this
20 exhibit admitted, I won't have to ask any questions
21 in the confidential portion of the record and I'll be
22 completed with my cross.

23 May I approach?

24 EXAMINER SEE: You may.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 MR. SATTERWHITE: And, your Honor, at
2 this time I would move for admission of AEP
3 Confidential Exhibit 149, and ask FES counsel to
4 validate that and, upon that, I can conclude my
5 cross-examination.

6 EXAMINER SEE: Mr. Lang.

7 MR. LANG: Thank you, your Honor. And
8 FES has no objection to AEP Exhibit No. 149, which we
9 agree is an FES discovery response and was prepared
10 by Mr. Banks.

11 EXAMINER SEE: With that, AEP Exhibit 149
12 is admitted into the record.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 EXAMINER SEE: And I believe you
15 indicated that concluded your cross-examination of
16 this witness?

17 MR. SATTERWHITE: And you'd hold me to
18 that, so, yes, thank you.

19 EXAMINER SEE: Mr. Margard?

20 MR. MARGARD: No questions. Thank you,
21 your Honor.

22 EXAMINER SEE: Redirect, Mr. Lang?

23 MR. LANG: If we can have just a few
24 minutes.

25 EXAMINER SEE: Certainly.

1 (Recess taken.)

2 EXAMINER SEE: Mr. Lang.

3 MR. LANG: Thank you, your Honor.

4 - - -

5 REDIRECT EXAMINATION

6 By Mr. Lang:

7 Q. I do have a few questions. Mr. Banks,
8 when you were asked questions by Mr. Satterwhite
9 about the options for passing along increases in
10 capacity pricing under contracts, is that true for
11 any capacity price increase?

12 A. No. Not necessarily. The ability to
13 pass through costs are related to those costs that
14 result from a regulatory event, and increases in
15 costs that are just based on activity in the
16 marketplace, we, as a supplier, absorb that and take
17 on that risk.

18 Q. And you were also asked questions about
19 the Commission's mission statement, what was marked
20 as Exhibit AEP 148. And with regard to the provision
21 regarding financial integrity of the Ohio utility
22 industry, and you were asked specifically with regard
23 to AEP, in terms of this provision and its
24 relationship to AEP, what's your understanding?

25 A. Well, my response was really relating to

1 the idea that the Commission has the authority to
2 assure the financial integrity of AEP Ohio relating
3 to its wires business. It was not intended to be a
4 response that suggest that the Commission should
5 assure that AEP gets a return on its generating
6 assets. So, again, that financial integrity should
7 be relegated just to the wires side of the business.

8 Q. And with regard to the confidential
9 discovery response that was marked as, I believe it
10 was AEP No. 149, this addresses the number of
11 nonresidential customer accounts since September,
12 7th, 2011, that did not receive an allocation of RPM,
13 like I said, at the time the discovery response was
14 prepared.

15 Without going into the confidential
16 information, so we can stay on the public record, can
17 you provide your general understanding of what the
18 circumstances were?

19 A. Yes. There's some uncertainty about what
20 was actually put on the portal because there were
21 some cases where the portal, perhaps, didn't have all
22 the accurate information about who got RPM capacity
23 and who didn't.

24 But relating to those customers who
25 ultimately did not get RPM capacity, our assumption,

1 when we signed those deals, was based on the
2 situation at the time that those customers would end
3 up getting RPM capacity. So our deal was struck to
4 take into consideration those customers would get RPM
5 capacity and, after the fact, perhaps they did or
6 didn't; we don't even know exactly for all of them.

7 Q. When you refer to the "portal," what do
8 you mean?

9 A. That was the portal that was designed to
10 post information about tier 1 capacity availability
11 and who got it. And I think it was called the "cap
12 tracking system," I'm not sure if that was exactly
13 the portal, but it was information provided by AEP as
14 to who got RPM capacity and who didn't.

15 Q. Would that have been under the, I guess
16 the tier 2 system under the stipulated ESP?

17 A. Yes.

18 MR. LANG: No further questions. Thank
19 you.

20 EXAMINER SEE: Recross?

21 Mr. Barnowski?

22 MR. BARNOWSKI: No questions, your Honor.

23 EXAMINER SEE: Mr. Yurick?

24 MR. YURICK: No questions.

25 EXAMINER SEE: Ms. Thompson?

1 MS. THOMPSON: No questions, your Honor.

2 EXAMINER SEE: Mr. Boehm?

3 MR. K. BOEHM: No questions, your Honor.

4 EXAMINER SEE: Mr. Stinson?

5 MR. STINSON: No questions, your Honor.

6 EXAMINER SEE: Mr. Sineneng?

7 MR. SINENENG: No questions, your Honor.

8 MR. DARR: No questions. Thank you.

9 EXAMINER SEE: Mr. Maskovyak?

10 MR. MASKOVYAK: No questions, your Honor.

11 EXAMINER SEE: Mr. Etter?

12 MR. ETTER: No questions, your Honor.

13 EXAMINER SEE: Mr. Satterwhite?

14 MR. SATTERWHITE: Thank you, your Honor.

15 - - -

16 RECROSS-EXAMINATION

17 By Mr. Satterwhite:

18 Q. You were just asked some questions about
19 the confidential exhibit that was stipulated to and
20 entered into the record a second ago by your counsel.
21 Do you remember that?

22 A. Yes, I do.

23 Q. And is it your testimony that the number
24 of customers that appear on that document that say
25 they switched, that you say that switched since

1 September 7th of 2011, was based on your assumption
2 that all of those customers would receive RPM
3 pricing?

4 A. The number is based on those customers
5 that we assumed, during the term of the contract,
6 would get RPM capacity. It doesn't mean that a
7 hundred percent of their load would have been at RPM,
8 but it does mean that RPM capacity was part of the
9 component cost that was assumed to be in effect for
10 those customers.

11 Q. Okay. And your statement just now was
12 that at some point, during the term of that contract,
13 they would receive RPM pricing, correct?

14 A. They would have received RPM -- I don't
15 know every individual customer, but, generally, they
16 would have received RPM capacity during the initial
17 terms of the contract. Now, at some point in time
18 they may or may not have received RPM capacity based
19 on activity in the queue which, again, we don't fully
20 understand.

21 Q. And you're assuming that based on the
22 tier that was included in the stipulation; is that
23 correct?

24 A. Yes, that's correct.

25 Q. And maybe I just wasn't grasping, but the

1 first point your counsel asked you about the option
2 for passing on capacity costs in contracts; what was
3 the point of your answer on that statement?

4 A. Well, the point, I think in the original
5 cross, talked about passing through all costs. I
6 wanted to clarify that we're only passing through
7 capacity cost increases that are related to
8 regulatory events. So, for example, capacity goes
9 from 16 to 28 in '13-'14, that capacity is not
10 considered a capacity cost increase that would be
11 passed through to customers.

12 Q. And, likewise, a decrease that would be
13 known because it was part of the RPM advanced market
14 would not be considered a regulatory event that could
15 change the contract; is that correct?

16 A. That's right, because the known increases
17 and decreases were considered in costing the service
18 to those customers. So whatever the price is in RPM,
19 that would be the price that we use when we price
20 those customers.

21 Q. But a decision in the 10-2929 case that
22 would potentially change the price of capacity, would
23 that be that regulatory event under your definition
24 that could --

25 A. Yes.

1 Q. -- that could change the contract then?

2 A. Yes.

3 Q. And the same with this case, if the tiers
4 were established as modified by the Commission, that
5 also would be a regulatory event that would qualify
6 under those terms of the contracts?

7 A. I'm pretty sure it would be because it
8 goes from RPM up to 146 for tier 1.

9 MR. SATTERWHITE: That's all I have.
10 Thank you, Mr. Banks.

11 Thank you, your Honor.

12 EXAMINER SEE: Mr. Margard?

13 MR. MARGARD: No. Thank you, your Honor.

14 EXAMINER SEE: Thank you very much,
15 Mr. Banks.

16 THE WITNESS: You're welcome.

17 EXAMINER SEE: Mr. Lang.

18 MR. LANG: Thank you, your Honor. FES
19 would move Exhibit No. 105, Mr. Banks's testimony.

20 EXAMINER SEE: Are there any objections
21 to FES Exhibit 105?

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

24 EXAMINER SEE: FES Exhibit 105 is
25 admitted into the record.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 EXAMINER SEE: Mr. Satterwhite.

3 MR. SATTERWHITE: Thank you, your Honor.

4 The company would move for the admission of AEP Ohio
5 Exhibit 147, which is the dissenting statement of
6 Chairman James Cawley of the Pennsylvania Public
7 Utilities Commission, and also AEP Exhibit 148 which
8 is the Commission's mission statement.

9 EXAMINER SEE: Are there any objections
10 to the admission of AEP Exhibits 147 and 148?

11 MR. LANG: Your Honor, we have no
12 objection to 148.

13 We do object to 147 for the reasons
14 previously stated; it's an improper exhibit, improper
15 hearsay. But to the extent your Honors would put it
16 in the record, we would ask also that your Honors
17 take administrative notice of the decision of the
18 Pennsylvania Public Utilities Commission to which
19 this dissenting statement relates, that would be the
20 actual controlling statement of the Pennsylvania
21 Public Utilities Commission.

22 MR. SATTERWHITE: If I may, your Honor.

23 EXAMINER SEE: Yes.

24 MR. SATTERWHITE: I believe there was
25 extensive cross-examination on this document that

1 without it in the record might not make sense. I
2 also believe I gave Mr. Banks wide latitude in
3 explaining, as I pointed out issues in the opinion or
4 dissents from the chairman of the Commission, to
5 allow him to explain his view of that.

6 And I believe it's a very distinct issue
7 of -- the section's titled "Ohio All Over Again," and
8 the whole argument that the chairman of the
9 commission is making, I believe, tests the
10 credibility of the positions taken by Mr. Banks
11 dealing with competition and whether there is
12 effective competition in Ohio. And I think it's
13 proper to have in this record as a statement to
14 impeach the arguments.

15 As far as the administrative notice of
16 the Opinion and Order in that docket, I haven't
17 reviewed it, but I know this deals with just a side
18 issue of the impact of the overall merger. But to
19 the extent that's also a record of that commission,
20 we wouldn't object to it just as this is a record of
21 that commission as well.

22 EXAMINER SEE: The Bench will take
23 administrative notice of the entire order related to
24 AEP Exhibit 147 and, therefore, Exhibit 148, the
25 mission statement, is admitted into the record.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 EXAMINER SEE: Just to be clear, the
3 entire decision relating to PA Docket
4 No. A-2010-2176520 and -2176732 is what the Bench
5 will take administrative notice of.

6 MR. SATTERWHITE: Just to clarify, I
7 believe you referred to it as "148," but it was 147
8 that we had moved.

9 EXAMINER SEE: 148 is admitted into the
10 record which is the PUCO's mission statement.

11 AEP 147, which was a dissenting statement
12 from the PA decision, we will take administrative
13 notice of not only the dissenting statement but also
14 the order, the entire order of the PA commission.

15 MR. SATTERWHITE: And for ease of
16 reference, would it be appropriate in briefing to
17 refer to "AEP Exhibit 147" as that, even though you
18 took administrative notice of it? I don't know if
19 you wanted to -- if that was to be admitted as well
20 as administrative notice of the entire Opinion and
21 Order.

22 EXAMINER SEE: The entire Opinion and
23 Order, including the dissenting opinion, is being
24 taken notice of.

25 MR. SATTERWHITE: Would you like us to

1 late-file the entire thing, would that make it
2 easier, as AEP 147, and I can work with counsel for
3 FES?

4 MR. LANG: And, your Honors, I think
5 certainly the purpose of taking administrative notice
6 is so that we don't have to put all that paper in the
7 record. It's easily citeable and we would certainly
8 recommend that, you know, as with all decisions of
9 public utilities commissions, it can simply be cited
10 by the parties who want to cite to it without having
11 to copy it all into the record.

12 MR. SATTERWHITE: I'm just trying to
13 decrease the description in the brief, so with these
14 long dockets it might decrease the page numbers, but
15 whatever the Bench prefers, no problem.

16 EXAMINER SEE: You can cite the decision.

17 MR. SATTERWHITE: Thank you.

18 EXAMINER TAUBER: Mr. Margard.

19 MR. MARGARD: Thank you, your Honor. I
20 would call Ms. Tamara Turkenton to the stand.

21 EXAMINER TAUBER: You can be excused,
22 Mr. Banks.

23 MR. MARGARD: Your Honor, at this time I
24 would respectfully request that the prefiled
25 testimony of Tamara Turkenton, filed in this case on

1 May 9th, 2012, be marked for purposes of
2 identification as Staff Exhibit 109.

3 EXAMINER TAUBER: It shall be so marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 EXAMINER TAUBER: Ms. Turkenton, if you
6 could raise your right hand.

7 (Witness sworn.)

8 EXAMINER TAUBER: Thanks.

9 - - -

10 TAMARA S. TURKENTON

11 being first duly sworn, as prescribed by law, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Margard:

15 Q. State your name and position, please.

16 A. Tamara Turkenton, the Chief of Accounting
17 and Electricity at the Public Utilities Commission of
18 Ohio.

19 Q. And do you have before you what's been
20 marked as Staff Exhibit 109?

21 A. I do.

22 Q. And is that the direct testimony that you
23 prepared or was prepared at your direction?

24 A. It is.

25 Q. Do you have any corrections, changes,

1 additions, or modifications to this testimony as it
2 was filed?

3 A. I do not.

4 Q. If I were to ask you the questions
5 contained in this document today, would your
6 responses be the same?

7 A. Yes, they would.

8 Q. And would those responses be true,
9 accurate, and reasonable to the best of your
10 knowledge and belief?

11 A. Yes, they would.

12 MR. MARGARD: Your Honor, I respectfully
13 move admission of Staff Exhibit 109, subject to
14 cross-examination, and I tender Ms. Turkenton for
15 that purpose.

16 EXAMINER TAUBER: Ms. Hand?

17 MS. HAND: Just a couple.

18 - - -

19 CROSS-EXAMINATION

20 By Ms. Hand:

21 Q. Good morning, Ms. Turkenton.

22 A. Good morning.

23 Q. I'd like to talk with you about the PIRR.
24 Isn't it true that the majority of the deferred
25 balances to be collected through the PIRR are amounts

1 that were incurred on behalf of, but have not yet
2 been paid by, customers of Ohio Power for their
3 energy use during the first ESP period of 2009 to
4 2011?

5 A. That is true.

6 Q. Okay. And isn't it true that the FAC
7 charge that's also being proposed to be merged is
8 different. That one is for current and ongoing costs
9 incurred to serve AEP Ohio's entire united load; is
10 that correct?

11 A. That is true.

12 Q. And isn't it true that if the PIRR is
13 merged, CSP -- the former -- the customers in the
14 Columbus Southern Power zone will end up paying for
15 power that was used by Ohio Power customers in the
16 2009 to 2011 period?

17 A. I would disagree in terms of rate impact.
18 If you merge both the fuel and the PIRR, in fact, CSP
19 customers actually are advantaged.

20 Q. But let's -- leaving the FAC out of it,
21 looking just at the impact of merging the PIRR, if
22 the PIRR is merged, then don't the CSP customers end
23 up paying for some of the costs that were incurred by
24 Ohio Power customers in the 2009 to 2011 period?

25 MR. NOURSE: Your Honor, I would just

1 object to this. If we're leaving the FAC out and
2 we're talking about the PIRR, not about the delay but
3 what the PIRR will collect, I believe that's within
4 the scope of the separate dockets in 4920 and 4921
5 cases and, per the Commission's March 7th entry,
6 those issues are to be decided and addressed in that
7 separate case.

8 EXAMINER TAUBER: Ms. Hand, do you have a
9 response?

10 MS. HAND: I believe it is part of the
11 proposal in this case to merge the PIRR and the FAC
12 simultaneously. I'm just probing what the impacts of
13 merging the PIRR are.

14 MR. NOURSE: But I believe the question,
15 your Honor, wasn't about the timing. The timing is
16 the issue in this case. But what's included in the
17 PIRR, and she said leaving the FAC aside, is what's
18 in the scope of that separate proceeding.

19 EXAMINER TAUBER: Ms. Hand, I'm going to
20 ask you to rephrase your question to keep it within
21 the scope of this proceeding if possible.

22 MS. HAND: Okay.

23 Q. (By Ms. Hand) You stated a moment ago
24 that when you merged the FAC and the PIRR
25 simultaneously, that it's your belief that the CSP

1 customers are advantaged by that; is that correct?

2 A. That is correct.

3 Q. But even within that, isn't it true that
4 they are ultimately paying for some of the costs that
5 were incurred by Ohio Power customers in the 2009 to
6 2011 period?

7 A. I don't think that's true from a rate
8 impact perspective. CSP, once you merge fuel and the
9 PIRR, which is my recommendation to do them
10 simultaneously, CSP customers are advantaged. Under
11 nonmerging, they actually have a slight increase.

12 If you don't merge the PIRR and you don't
13 merge the FAC, CSP customers have a slight increase.
14 If you merge both the FAC and the PIRR, CSP customers
15 see a decrease, a rate impact -- in terms of rate
16 impact.

17 Q. And what happens if you merge the FAC but
18 not the PIRR?

19 A. If you actually merge the FAC and the
20 PIRR, based on Company Witness Roush's testimony,
21 actually CSP even sees a larger decrease than they
22 normally -- than they would if both were merged
23 [verbatim].

24 Q. So the --

25 A. And the reason for that is if -- you were

1 mentioning just fuel, if you're merging fuel, CSP
2 typically has higher fuel costs, Ohio Power has
3 lower, so they would be much more advantaged if you
4 merged just fuel and not PIRR.

5 Q. So then the impact of merging the PIRR at
6 the same time that you merge the FAC is to reduce the
7 benefit to the CSP customers; is that correct?

8 A. That's not my testimony. I think there's
9 several reasons why you should merge. I do think if
10 you're going to merge fuel, you should merge fuel.
11 So if you merge the FAC, you should merge the PIRR.

12 But absent that, from a rate impact
13 standpoint, the company is a merged company and, as I
14 stated before, there really is little effect or
15 little difference, I guess, in terms of CSP customers
16 do benefit a little bit, but in terms of Ohio Power
17 merging or not merging is really essentially the same
18 as Company Witness Roush pointed out that I agree
19 with. So it makes no sense to not merge. We should
20 merge.

21 Q. Okay. But you would agree, wouldn't you,
22 that at the time the balances that are in the PIRR
23 account were incurred, the companies were not merged;
24 is that correct?

25 A. I would agree.

1 Q. One last question on the PIRR. If the
2 implementation of the PIRR were delayed as proposed
3 by AEP, and if AEP were able to securitize the
4 deferred balances in the PIRR prior to June of 2013,
5 that would substantially mitigate the impact on
6 ratepayers by the PIRR would it not?

7 A. It would.

8 MS. HAND: Thank you. That's all, your
9 Honor.

10 EXAMINER TAUBER: Thank you.

11 Mr. Yurick?

12 MR. YURICK: No questions.

13 EXAMINER TAUBER: Ms. Thompson?

14 MS. THOMPSON: No questions, your Honor.

15 EXAMINER TAUBER: Mr. Boehm?

16 MR. K. BOEHM: No questions, your Honor.

17 EXAMINER TAUBER: Mr. Stinson?

18 MR. STINSON: No questions, your Honor.

19 EXAMINER TAUBER: Mr. Sineneng?

20 MR. SINENENG: No questions, your Honor.

21 EXAMINER TAUBER: Mr. Darr?

22 MR. DARR: No questions.

23 EXAMINER TAUBER: Mr. Lang?

24 MR. LANG: No. Thank you.

25 EXAMINER TAUBER: Mr. Maskovyak?

1 MR. MASKOVYAK: No. Thank you, your
2 Honor.

3 EXAMINER TAUBER: Mr. Etter?

4 MR. ETTER: Just a couple questions, your
5 Honor.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Etter:

9 Q. Good morning, Ms. Turkenton.

10 A. Good morning.

11 Q. Glad to see a fellow graduate of Ohio
12 University this morning.

13 A. Oh, really?

14 Q. Turning to page 5 of your testimony, you
15 discuss there the company's proposal to delay the
16 selection period regarding the carrying charge or
17 regarding the PIRR and that they continue, the
18 company continues to, or proposes to continue a
19 pretax weighted average cost of capital to the PIRR,
20 and that it results in \$71 million in carrying
21 charges; is that right?

22 A. That's correct. That's -- the 71 million
23 is from the March 31st, 2012, balance which is
24 549 million, and then if you look at Mr. Roush's
25 workpaper, he estimates a balance of 621 million at

1 June of 2013. That's where the 71 million comes --
2 and that is, again, as you stated, under the
3 assumption that the company during the collection
4 period would continue to accrue the 11.26, the pretax
5 weighted average cost of capital.

6 Q. And it's your recommendation that it
7 shouldn't be delayed. Implementation should not be
8 delayed in order to save customers those carrying
9 charges; is that right?

10 A. That's correct. They would save a
11 portion of those carrying charges.

12 Q. And would those carrying charges then
13 still be calculated using the weighted average cost
14 of capital?

15 A. That is not my recommendation. I think
16 at the time of collection that a debt rate should be
17 used. But, again, that's the company's proposal, not
18 my proposal. I would propose a debt rate.

19 Q. I didn't see in your testimony any
20 calculation using the debt rate. Has that made such
21 a calculation?

22 MR. NOURSE: Your Honor, I'm just going
23 to object, getting further into this, I think
24 Ms. Turkenton, in her testimony, refers to the
25 position the staff has taken in the 4920 and 4921

1 docket, and I believe Ms. Turkenton recognizes that
2 that, through her testimony on page 7 and 8, that
3 that issue would be addressed in that separate
4 docket. So getting further into this and talking
5 about calculations, I think, is inappropriate here.

6 MR. ETTER: Well, your Honor,
7 Ms. Turkenton just said that using the weighted
8 average cost of capital is not her recommendation,
9 that it's the long-term -- or, it's the cost of debt
10 rate and, therefore, I think I have a right to
11 explore just a little bit at least as to what those
12 calculations might be as a comparison to the WACC.

13 EXAMINER TAUBER: I'll allow
14 Ms. Turkenton to answer the question to the extent
15 she's aware of it but I'm going to ask that we keep
16 the questions on track and keep it contained.

17 MR. ETTER: I intend to, your Honor.

18 EXAMINER TAUBER: Thank you.

19 A. It's a very complex question because, as
20 you know, some of these issues are in a separate
21 proceeding, 4920, and, yes, we have made various
22 calculations. Obviously, this carrying cost balance
23 changes as we sit here.

24 But, along with the debt rate -- the debt
25 rate itself, if you just look at the principal

1 balance around the March 2012 timeframe, you know
2 there are other ADIT issues and other issues that
3 come into play. It's about \$130 million.

4 Q. Is that the --

5 A. The difference between the debt rate and
6 the WACC rate.

7 Q. Okay. The debt rate is \$130 million
8 lower?

9 A. Lower, correct.

10 Q. Okay.

11 MR. ETTER: That's all the questions I
12 have. Thank you, your Honor.

13 EXAMINER TAUBER: Thank you.

14 Mr. Nourse?

15 MR. NOURSE: Thank you, your Honor.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Nourse:

19 Q. Good morning, Ms. Turkenton.

20 A. Good morning.

21 Q. Let me first ask you a follow-up question
22 that you were asked by Ormet counsel about
23 securitization.

24 A. Yes.

25 Q. And I can't remember the bill number, but

1 are you aware of recent legislation regarding
2 securitization?

3 A. I am.

4 Q. And is it your understanding that in
5 order to securitize a balance of a regulatory asset
6 under that new legislation, that the underlying
7 orders of the Commission relating to that principal
8 balance have to become final and unappealable?

9 A. Yes, that's my understanding.

10 Q. So that would have to, relative to the
11 fuel deferrals we're talking about here, that final
12 nonappealable order would have to occur, to your
13 understanding, as a condition or -- a condition
14 precedent to doing securitization, correct?

15 A. I'm obviously not an attorney, but that
16 is my general understanding.

17 Q. Okay. Now, you had a couple questions
18 from counsel about your statements and testimony
19 about the 71 million of carrying charges that you
20 referred to, for example, on page 5. Do you recall
21 that?

22 A. I do.

23 Q. And is it fair to say that the debate
24 between implementing the PIRR now, or as soon as the
25 4920 and '21 cases are decided, versus the proposed

1 delay that's reflected in the company's application,
2 is a trade-off between immediate rate impact and the
3 potential for some reduction of carrying charges
4 under the PIRR?

5 A. I think that's fair, yes.

6 Q. Okay. So have you --

7 A. The two --

8 Q. I'm sorry.

9 A. I'm sorry. I think those are the two
10 diverging views. Obviously, my recommendation is
11 that we should start paying now. But, yes, I do
12 think those are the views.

13 Q. I understand. Okay.

14 So I'm just asking you if you agree that
15 implementing the PIRR sooner rather than the delay
16 the company proposes, first of all, that will have a
17 rate impact, correct?

18 A. Correct.

19 Q. Okay. And has staff evaluated the rate
20 impact and how that compares to the company's
21 proposed plan and the rate impacts attached to the
22 company's proposed plan?

23 A. I have.

24 Q. And so you would agree that that -- the
25 result of your recommendation is a rate impact on

1 customers sooner rather than later.

2 A. Yeah, it's more -- it's a higher cost to
3 the customer to delay the collection of the PIRR
4 until June of 2013, versus starting earlier.

5 Q. Okay. And that concept would apply to
6 any financing or generally with deferred regulatory
7 asset recovery, you're going to incur some kind of
8 carrying charge, and that's the price of paying later
9 instead of paying now, correct?

10 A. Yeah. I agree there would be still --
11 whatever the actual carrying charges are, there's
12 still going to be some carrying charges, so there
13 would be some costs that the customer would pay; it
14 would just be less because we would be paying off
15 principal earlier if we started the collection
16 sooner.

17 Q. Okay. And with respect to the
18 \$71 million figure that you do use in your testimony,
19 the customers, by starting early, they would still
20 pay most of that. Whatever the carrying charge is,
21 they would still pay most of it, correct?

22 A. In fact, Mr. Nourse, I have done that
23 calculation and in my assumption I had starting the
24 collections starting in August, maybe a little
25 aggressive, but an August 1st Commission order where

1 rates would go into effect August 1st, under that
2 scenario, if the Commission went with my proposal to
3 start August 1st the collection, the cost to the
4 customers, including the principal balance, is about
5 800 million.

6 Under the company's scenario, and again
7 this is utilizing the 11.26, I used the company's
8 methodology in terms of weighted average cost of
9 capital. But if you used the company's proposal to
10 delay until June of '13, the cost to customers is
11 about 845 million.

12 So to answer your question, the
13 difference between 845 to 800 is 40, around 40 to
14 45 million. So of the 71 million, 40 to 45 is what
15 we would save, and 30 is what we would have paid
16 anyway under your scenario.

17 Q. Okay. And then on page 6 of your
18 testimony, I guess it was answer 11, I believe you're
19 making a recommendation here that if there is a
20 delay, the Commission should deny the company the
21 ability to apply carrying charges during the period
22 of the delay.

23 A. That is correct. And my last answer was
24 just apples-to-apples comparison, a weighted average
25 cost of capital in both scenarios starting June 1st,

1 versus, in my scenario, August 1st. That was where I
2 came up with the 40.

3 But, yes, my recommendation to the
4 Commission, as I believe that this was the company's
5 choice to delay the implementation of the PIRR, that
6 effective of the date of the order from the
7 Commission, that there should not be carrying charges
8 accrued to the company.

9 Q. Okay. And let me clarify, and you can
10 correct me if I'm wrong, so are you saying that the
11 only recommendation or the only proposal for a delay
12 that's acceptable would be one that delays and also
13 contains no carrying charges during the period of the
14 delay?

15 A. That's my recommendation, yes.

16 Q. But, in that recommendation, the company
17 would otherwise be entitled to collect carrying
18 charges, whatever the carrying charges are, they'd be
19 entitled to collect carrying charges during the
20 period prior to full recovery, correct?

21 A. I would agree, in a different scenario,
22 that during any collection period, which is our
23 recommendation in 4920, that you should be able to
24 collect some carrying charges.

25 In this scenario, though, it's different

1 because it is the company's choice, I presume, to
2 mitigate rate impacts to delay the implementation of
3 the PIRR, so because it's the company's choice, I
4 believe that you should not accrue carrying charges.
5 That's my recommendation.

6 Q. Well, I'm just trying to clarify, I
7 guess. You do agree that absent the company's
8 agreement, they would be otherwise entitled to
9 collect some carrying charge prior to recovery of a
10 regulatory asset, correct?

11 A. Yes. Absent -- absent -- you know, in a
12 different scenario where it's not the company's
13 choice to delay the implementation.

14 Q. And, again, I'm just trying to
15 recharacterize your recommendation, and you can tell
16 me if it's inaccurate, but you're saying the only
17 acceptable proposal for delay would be if the company
18 also agreed to forego recovery of carrying charges.

19 A. That's my recommendation.

20 MR. NOURSE: Thank you, Ms. Turkenton.
21 That's all I have.

22 THE WITNESS: You're welcome.

23 EXAMINER TAUBER: Mr. Margard, redirect?

24 MR. MARGARD: No redirect, your Honor.
25 Thank you.

1 EXAMINER TAUBER: You may be excused.

2 Thank you.

3 THE WITNESS: Thank you.

4 MR. MARGARD: Your Honor, staff would
5 call Mr. Robert Fortney to the stand, please.

6 EXAMINER TAUBER: Would you care to move
7 in your exhibit first?

8 MR. MARGARD: I was just going to move
9 them both at the end, but if it please your Honor, I
10 would renew my motion to admit Staff Exhibit 109.

11 EXAMINER TAUBER: Thank you, Mr. Margard.
12 Are there any objections to Staff Exhibit
13 109?

14 (No response.)

15 EXAMINER TAUBER: Hearing none, it shall
16 be admitted into the record.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 EXAMINER TAUBER: Mr. Fortney, if you
19 could please raise your right hand.

20 (Witness sworn.)

21 EXAMINER TAUBER: Thank you.

22 MR. MARGARD: Your Honor, I respectfully
23 request that the staff exhibit of Mr. Fortney's
24 testimony filed in this case on May 9th, 2012, be
25 marked for purposes of identification as Staff

1 Exhibit 110.

2 EXAMINER TAUBER: The exhibit shall be so
3 marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MR. MARGARD: Your Honor, filed with
6 Mr. Fortney's testimony was an exhibit that was not
7 very clear on DIS. I have provided the Bench with
8 clean copies of that exhibit as Attachment A, and I
9 have copies for anyone else who would like a clean
10 copy of Attachment A.

11 - - -

12 ROBERT B. FORTNEY
13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Margard:

17 Q. Sir, would you state your name and your
18 position, please.

19 A. My name is Robert B. Fortney. I'm a
20 Public Utilities Administrator 3 in the Rates and
21 Tariffs Division of the Utilities Department.

22 Q. And do you have before you what's been
23 marked as Staff Exhibit 110?

24 A. Yes, I do.

25 Q. And is this the prefiled testimony that

1 was prepared by you or at your direction in this
2 case?

3 A. It was prepared by me.

4 Q. And that also includes the Attachment A
5 which we've distributed?

6 A. Yes.

7 Q. Do you have any changes, corrections,
8 additions, modifications to your testimony as filed?

9 A. One minor change. Page 5 of my
10 testimony, the answer -- the first line right below
11 the table, that assumed for the period of
12 January 2015 through May of 20 -- it now reads
13 "2013," that "2013" should also read "2015."

14 Q. Any other changes?

15 A. No; that's the only correction.

16 Q. If I were to, with that change in mind,
17 ask you the same questions contained in this document
18 today, would your responses be the same?

19 A. Yes, they would.

20 Q. And are your responses true, accurate,
21 and reasonable to the best of your knowledge and
22 belief?

23 A. Yes, they are.

24 MR. MARGARD: Your Honor, I respectfully
25 move the admission of Staff Exhibit 110, subject to

1 cross-examination, and I tender Mr. Fortney for that
2 purpose.

3 EXAMINER TAUBER: Ms. Hand?
4 Mr. Barnowski?

5 MR. BARNOWSKI: Just a few.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Barnowski:

9 Q. Good afternoon, Mr. Fortney.

10 A. Good afternoon.

11 Q. Do you support the company's
12 recommendation contained in the application with
13 respect to the retail stability rider?

14 A. Well, Lord, I thought you were supposed
15 to start me out with a softball question to put me at
16 ease.

17 Yes. Staff supports some form of a
18 rate -- retail stability rider, but that
19 recommendation would come with some caveats and some
20 conditions.

21 Q. Could you state those caveats and
22 conditions for me?

23 A. Well, first of all, the first caveat is
24 that, as you might have expected, staff has
25 thoroughly discussed the whole idea or the whole

1 issue of capacity rates and how they relate to a
2 retail stability rider, and, as you might imagine,
3 there are -- there is a divergence of opinion from
4 staff, but I believe that the recommendation that I
5 am about to give is a conscientious staff
6 recommendation.

7 The conditions are that, first of all,
8 there are circumstances in which staff fully supports
9 a -- we can call this an "RSR," we can call it the
10 "glide path," we can call it a "bridge," we can call
11 it a "transition," whatever you want to call it,
12 there are obvious conditions that staff would support
13 that concept.

14 In the Duke case, staff signed a
15 stipulation that had such a provision; that was in
16 return for Duke going to a competitive bid for their
17 full SSO load immediately.

18 AEP has not proposed that. So the next
19 question became, is there value in their application
20 where they propose to go to a auction for their SSO
21 load in 2015. And staff feels that, yes, there is
22 value in that proposal.

23 Well, now we get to the hard part and
24 that is what should the level of the RSR be. And
25 it's hard because while we agree, in concept, with

1 AEP's proposal, that a bridge rider should represent
2 some difference between their cost of capacity and
3 the state-mandated rate which they will be allowed to
4 charge CRES providers for capacity -- I lost my train
5 of thought -- but those are the two components of an
6 RSR.

7 What AEP's cost rate -- cost-based rate
8 is and what they would be allowed to charge CRES
9 providers and those numbers are going to be, as I
10 understand 2929 -- and I used to have a button that
11 says "I have never really completely understood
12 anything," and that's pretty much where I'm at.

13 I don't know whether -- and Examiner See
14 hasn't given me any insider information, so I don't
15 know whether the result of that case will be to
16 determine a cost-based capacity rate for AEP and also
17 determine a state-mandated rate which they are
18 allowed to charge CRES providers.

19 But those are the two numbers that you
20 need to have in order to calculate what staff's
21 recommendation for a bridge rider would be. And I
22 will give some examples, and I'm not trying to
23 influence the outcome of the 2929 case, I'm just
24 giving some examples.

25 If, for example, in the 2929 case, the

1 Commission decides that \$355 is AEP's cost of
2 capacity and that they are allowed to charge CRES
3 providers \$255 for their tier 2 shopping, then the
4 RSR, as proposed by AEP, is appropriate. Two-tenths
5 of a cent.

6 If, on the other hand, the Commission
7 were to say that AEP's cost of capacity is, and I
8 believe the staff recommendation was \$146, and AEP
9 should charge CRES providers \$146 for capacity, then
10 there is no need for an RSR; they are fully
11 recovering their cost.

12 So those two numbers are needed in order
13 to determine what the actual RSR magnitude would be,
14 and I do not have those two numbers to make that
15 recommendation.

16 Q. Understood. Just a couple of follow-up
17 questions. So it is your recommendation that the
18 only way the present application for the RSR at
19 \$2 per megawatt-hour should be approved at that rate,
20 is if the Commission decides that the cost of
21 capacity for the company is 355; is that accurate?
22 Otherwise it should be lower.

23 A. Well, not exactly, but the two-tenths of
24 a cent is basically to recover the difference between
25 355 and 255. So if those two numbers were different

1 but one was \$100 less than the other, then the
2 two-tenths of a cent would still be the correct
3 number.

4 MR. BARNOWSKI: Understood. Okay.

5 No further questions. Thank you.

6 EXAMINER TAUBER: Ms. Thompson?

7 MS. THOMPSON: No questions, your Honor.

8 Thank you.

9 EXAMINER TAUBER: Mr. Boehm?

10 MR. K. BOEHM: No questions, your Honor.

11 EXAMINER TAUBER: Mr. Stinson?

12 MR. STINSON: Yes, a few questions.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Stinson:

16 Q. Good morning, Mr. Fortney.

17 A. Good morning.

18 Q. Just going through your testimony a bit
19 here. I note that on your question No. 1, you're
20 Public Utilities Administrator 3 in the Rates and
21 Tariffs Division, correct?

22 A. Correct.

23 Q. And question 3, you've been with the
24 Commission for 26 years, you've been involved in all
25 aspects of electric utilities, rates, rules, and

1 regulations.

2 A. Correct.

3 Q. And, at question 5, you state that you
4 are responsible for the rate design issues in this
5 case.

6 A. Correct.

7 Q. And, at the same question and answer,
8 that you reviewed revenue impacts on the various
9 classes of customers?

10 A. I'm sorry, could I have the question --

11 Q. I'll just restate.

12 Your testimony states that you have
13 reviewed the revenue impacts on various classes of
14 customers?

15 A. Yes.

16 Q. And did you review the revenue impacts
17 with respect to GS-1, GS-2, and GS-3 customers?

18 A. Yes; I looked at all the typical bill
19 impacts that were provided.

20 Q. And what was the result of that review?

21 A. I don't have them and I don't remember,
22 but, in general, if the application were approved as
23 filed, most of the rate increases were in the range
24 of 2 percent.

25 Q. Did you look at the average of the rate

1 increases or did you look at a range of rate
2 increases for the customer classes?

3 A. I was looking at the typical bills, and I
4 could go to Mr. Roush's exhibit that is broken down
5 by classes and do that comparison, which I probably
6 did at one time, but I don't have those numbers
7 available. Although, you know, as I'm looking here
8 at Mr. Roush's DMR-1 exhibit, he does provide those
9 numbers by class.

10 Q. And those are an average basis?

11 A. That would be on an average-class basis,
12 yes.

13 Q. I'm asking if you looked at the bill
14 impacts on an individual basis, if you can determine
15 whether there was any range or if there were any
16 outliers as to a maximum increase for any of those
17 customers. Did you go to that detail?

18 A. I only looked at the typical bills as
19 provided. Obviously, there may be some -- maybe and
20 probably are outliers that fall outside of that
21 range, but I did not look at all of those impacts.

22 Q. I'd like to talk a little bit now about
23 special rate treatment that the Commission has
24 recognized for schools. Would you agree that one way
25 the Commission's recognized special rate treatments

1 for schools is through a class cost-of-service study?

2 A. I've been here for 27 years and, yes, I
3 am sure that, through that time, there have been rate
4 designs that are based upon class cost-of-service
5 studies that may be specific to schools.

6 Q. Thank you.

7 And there was no class cost-of-service
8 study prepared in this case; is that correct?

9 A. There was no cost-of-service study in the
10 ESP proceeding.

11 Q. And do you agree that the last generation
12 cost-of-service study for AEP Ohio, the Columbus
13 Southern Power and Ohio Power operating companies at
14 the time, was in the early- to mid-'90s?

15 A. Yes, I agree.

16 Q. And do you also agree that those
17 cost-of-service studies were the basis for the rates
18 that were set in the -- in AEP Ohio's electric
19 transition plan?

20 A. The transition plans simply took the
21 current rates that were in effect as of the last rate
22 case and unbundled them into generation,
23 transmission, and distribution.

24 Q. And did those rates survive as a basis
25 for the rates that we're considering in this

1 proceeding too, meaning that, over the years, was the
2 various ESPs, RCPs, and different modifications to
3 the ETP, those rates were developed in the
4 early-'90s, mid-'90s, served as the basis for the
5 rates we're considering today?

6 A. I believe that's true. They took current
7 rates and, through the RSP process and the ESP
8 process, they have maintained those rate structures
9 with basically some overall percent increase to each
10 of the rates.

11 Q. And would you agree that there remain,
12 within those rates, still certain interclass and
13 intraclass subsidies?

14 A. To the degree that the original rates had
15 interclass or intraclass subsidies, those
16 relationships have probably been maintained, but then
17 again, since there are no more cost-of-service
18 studies, we don't know whether those are still
19 subsidies or not.

20 Q. Thank you.

21 You mentioned before that you are sure
22 that there were separate classes specific to schools.
23 Just to refresh you, would that be the case with the
24 FirstEnergy operating companies would have a special
25 school customer class that was established back in

1 the mid-'90s as well? Are you aware of that?

2 A. I don't remember exactly. It could be
3 that at least one of the FirstEnergy operating
4 companies, or maybe more, have a special school rate.
5 I don't know if all three of them do or not.

6 Q. And are you aware that or whether
7 AEP Ohio in the Ohio Power rate zone has a separate
8 school tariff?

9 A. I honestly don't recall.

10 Q. I'm going to shift gears a little bit now
11 and I just want to ask if you're aware of whether the
12 Commission has also given schools special rate
13 treatments based upon their unique characteristics.

14 A. I believe they have in the past.

15 Q. And are you aware of what those unique
16 characteristics are? The standards that the
17 Commission used.

18 A. Well, many times the theory was that
19 schools do not operate in the summer, which may or
20 may not be true -- more or less true today than it
21 was whenever those rates were approved.

22 Q. And that would be back to the class
23 cost-of-service distinctions, correct?

24 A. Yes.

25 Q. What you're referring to is that during

1 the company's system peak, if it would occur in the
2 summer, the schools would not be in session during
3 that summer and their peak contribution would be
4 lower.

5 A. That was always the theory behind special
6 school rates, yes.

7 Q. For a special school class, correct?

8 A. Yes.

9 Q. I'm shifting gears a little bit away from
10 that and want to know whether there were any other
11 unique characteristics upon which the Commission
12 based special rate treatment for schools.

13 A. I'm sure there are, but I don't recall
14 what they are.

15 MR. STINSON: Can I approach, your Honor?

16 EXAMINER TAUBER: You may.

17 MR. STINSON: If I could have this
18 marked, please, as Schools Exhibit No. 103.

19 EXAMINER TAUBER: The exhibit shall be so
20 marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 Q. I'll give you a moment to review that,
23 Mr. Fortney. You can tell me when you're finished.

24 A. Can you give me some clue as to what it
25 is I'm supposed to be reviewing?

1 Q. You can generally review the order, then
2 I can walk through the points that I would be looking
3 at, would be the first paragraph under the opinion,
4 the second full paragraph on page 2, and then the
5 final paragraph just above the findings of fact and
6 conclusions of law on page 2.

7 A. First of all, just for clarification, I
8 cannot read the caption in this case number.
9 79-what-what?

10 Q. This was taken from microfiche and this
11 is the best we could do. The case caption is
12 Case No. 79-629-TP-COI.

13 A. TP.

14 Q. Right.

15 A. So this was not an electric.

16 Q. Not an electric, but it's a -- no, it's
17 not an electric.

18 A. I have read the paragraphs that you
19 indicated.

20 Q. Thank you, Mr. Fortney.

21 The caption to the case is "In the Matter
22 of the Investigation into Ohio Bell Telephone Company
23 Exchange Rate Tariff, PUCO No. 3, as it relates to
24 the treatment of Ohio Schools as respect to Local
25 Measured Business Telephone Service; is that correct?

1 A. Yes.

2 Q. And then focusing on the first paragraph
3 just beneath the word "Opinion," would you agree that
4 the issue in this case was that the Commission had
5 approved a measured-rate service for business
6 customers and placed a cap on the measured rate
7 charged to schools?

8 A. Yes.

9 Q. Thank you.

10 And then on page 2, the last paragraph
11 just above the "Findings of Fact and Conclusions of
12 Law," the first sentence, the Commission concluded
13 that the tariff treatment was reasonable in light of
14 the schools' unique situation.

15 MR. MARGARD: Your Honor, I'm going to
16 object at this point. We've gone quite a ways down
17 this road. This is a fairly old telephone case.
18 Mr. Fortney hasn't indicated any familiarity either
19 with the case or the document.

20 The Commission's order certainly speaks
21 for itself. I have no problems with the Bench taking
22 notice of it or what the Commission said in it, but I
23 think inquiring further along these lines with
24 Mr. Fortney, who has previously indicated he was
25 unaware of any other special circumstances that

1 specifically related to the schools, is of little
2 additional benefit to this record.

3 EXAMINER TAUBER: Mr. Stinson, do you
4 have a response?

5 MR. STINSON: Yes. First of all, I
6 thought that Mr. Fortney did respond that there
7 probably were other special rate treatments afforded
8 schools. Second of all, I'm trying to lay a
9 foundation to get to the point where I could ask
10 Mr. Fortney whether the criteria the schools used is
11 valid.

12 EXAMINER TAUBER: Could we get to that
13 point quickly, please?

14 MR. STINSON: We're heading there.

15 EXAMINER TAUBER: Thank you.

16 MR. STINSON: Just a few more minutes.

17 Q. (By Mr. Stinson) I believe the last
18 question was, in that last paragraph above the
19 findings, that the schools -- the Commission did find
20 the tariff reasonable because of the schools' unique
21 situation.

22 A. That's how it reads.

23 Q. Thank you.

24 And then, finally, in the second full
25 paragraph on the page, I believe the second sentence,

1 to speed this up, the Commission then listed those
2 unique circumstances and those were the public
3 service schools provided, legal mandates for student
4 attendance, limited funding mechanisms available to
5 schools, budgeting problems facing schools, and
6 schools' inability to pass through additional costs.

7 Did I state that accurately?

8 A. You've stated that accurately.

9 Q. Thank you.

10 Now, I just want to ask, to your
11 knowledge, do you agree that these factors still
12 serve as a valid basis for special rate treatment for
13 Ohio's public schools?

14 A. I would say that the results of a 1979
15 order regarding the telecommunications industry is
16 totally valueless in terms of the electric structure
17 in Ohio in 2012.

18 Q. Has the Commission ever issued an entry
19 that overruled this decision or this order?

20 A. Not to my knowledge.

21 Q. Shifting gears again -- no, let me -- let
22 me ask why you think it's valueless. What's
23 different in this proceeding than in the other case
24 with those factors I've outlined?

25 A. I'm sure some of these factors that they

1 listed, budgetary problems still exist today, I do
2 not dispute that, but as far as any cost basis, I
3 have no idea whether those issues are the same today
4 as they were in 1979.

5 Q. Well --

6 A. I believe, first of all, I believe in the
7 electric industry that most schools today do operate
8 during the summer. I believe that they either have
9 summer school or they have activities that they are
10 indeed open in the summer, and that the understanding
11 that they do not cause any demand in the summer is
12 probably erroneous for most schools.

13 I just don't find this to be of any
14 value.

15 Q. Well --

16 A. If we're talking about social reasons,
17 then those reasons have probably -- have not changed.

18 Q. Well, I think that's what this case goes
19 to are some of the social reasons that you addressed,
20 some of the cost-causation reasons that we talked
21 about several minutes ago that would relate to a
22 class cost-of-service study. When you're talking
23 about schools would be in session. We switched gears
24 to this case to look at the social reasons.

25 Since you brought up the class

1 cost-of-service issues again, if a school is -- do
2 you have any criteria to say schools are in session
3 during the summer? Do you have any data or documents
4 or knowledge to back that up?

5 A. Not at my hand, but I have seen those
6 documents in FirstEnergy proceedings, and there was
7 certainly some question as to whether the idea that
8 schools did not operate in the summer or operated at
9 a very low level was brought into question, and I
10 actually believe that the case was probably settled
11 and not litigated, so I don't know that they were
12 ever -- those issues were ever resolved.

13 Q. And what case are you referring to?

14 A. I forget the case numbers, and I do my
15 best to forget case numbers anymore.

16 Q. Do you remember the specific testimony?
17 Who gave the testimony?

18 A. I remember that Mr. Krassen was the
19 attorney for the schools.

20 Q. But you don't know who gave the testimony
21 or what that testimony was?

22 A. I don't believe there was ever -- I don't
23 know whether there was testimony or not. It was the
24 subject of discussions, there probably was testimony,
25 but I don't know what the case number was.

1 Q. You also stated that you doubted that
2 schools did not cause any demand in the summer. Did
3 I state that correctly?

4 A. Yes.

5 Q. Schools would cause some demand in the
6 summer, right?

7 A. Yes.

8 Q. But they wouldn't have their peak demands
9 necessarily in the summer, correct?

10 A. I don't know. If they are open for
11 summer school on August 4th when it's 106 degrees,
12 then they probably would reach their peak demand.

13 Q. What about if the peak demand was in July
14 when the schools had recessed through the entire
15 month of July?

16 A. Not if there are summer classes.

17 Q. Would the summer classes be full classes
18 in the entire school in all the buildings?

19 A. I have no idea.

20 Q. That's my point. Thank you.

21 Now, you were -- going back again, you
22 made a distinction between the cost-of-service
23 studies and then the social factors that you talked
24 about in the telephone case, 79-629, which is Schools
25 Exhibit No. 103. Now, looking at those factors in

1 the second paragraph on page 2, would you agree that
2 schools still provide a public service?

3 A. Where are we at again here? Can you give
4 me a reference?

5 Q. Page 2, first full paragraph, second
6 sentence. Looking at the criteria on which the
7 Commission found schools had unique characteristics.

8 A. Yes, I agree they provide a public
9 service.

10 Q. And you agree that there are legal
11 mandates for compulsory school attendance?

12 A. I am well aware of that.

13 Q. And are you aware that there's limited
14 funding mechanisms available to schools, such as
15 schools obtain their funding mechanism through
16 property tax, some schools income taxes, state
17 revenues, federal revenues?

18 A. I'm sure those are all still true; maybe
19 the casino will fix that.

20 Q. And are you aware that the schools are
21 facing budgetary problems?

22 A. I'm sure that's true.

23 Q. And are you also aware that schools won't
24 have the ability to pass through their additional
25 costs?

1 A. And I don't mean to quibble, I believe
2 that's true in general, but schools, for instance,
3 many schools now charge for participation in
4 athletics. So, yeah, to some degree they are able to
5 pass through what were formerly their costs.

6 Q. The cost of education I'm concerned
7 about, not the cost of athletics.

8 A. They can raise their fees, they can apply
9 for property tax increases, they can apply for
10 levies. They have the ability to do things. Now,
11 it's hard to do that, I agree. I'm not arguing with
12 you that they have the ability to pass on all of
13 their costs.

14 Q. Well, let me clarify it. Unlike a
15 business, if there's a cost increase, a business
16 could increase the cost of their product; whereas, a
17 school, you're correct, would have to go back to the
18 voters and depend on the voters to pass a property or
19 levy increase.

20 A. That's correct.

21 Q. Now, were you involved in this proceeding
22 which gave rise to the stipulation of September 7th,
23 2011, and the Opinion and Order of December 14th,
24 2011?

25 A. Which proceeding?

1 Q. This proceeding. 11, the ESP proceeding.

2 A. Yes.

3 Q. Now, am I correct that the stipulation
4 and the Opinion and Order exempted Ohio schools from
5 paying the market transition rider?

6 A. I am not entirely sure, but I believe
7 that's correct. That is my recollection.

8 Q. And do you know the reason for that
9 exemption?

10 A. It was probably an element of the
11 stipulation that the schools won.

12 Q. Turning to page 6 of your testimony, at
13 line 17, I believe you state that an ESP can offer
14 advantages to ratepayers, AEP Ohio, and the public at
15 large.

16 A. I'm there, yes.

17 Q. And then you list three examples, those
18 being a quicker move to full market rates, rate
19 certainty and stability, and the availability of the
20 GRR.

21 A. Those are the three that I have listed,
22 yes.

23 Q. Is that an exclusive list of the
24 potential qualitative benefits?

25 A. I am sure that in one or more of the AEP

1 testimonies they have listed other benefits. These
2 are the three that staff recommends that the
3 Commission consider.

4 Q. Going back to the stipulation and the
5 Opinion and Order of December 14th of 2011. We
6 talked about the exemption of the schools from the
7 market transition rider. Was that considered a
8 qualitative benefit to the ESP?

9 A. Probably was, yes.

10 Q. And, in your opinion, would it be a
11 qualitative benefit to that ESP?

12 A. Yes.

13 Q. And why would you consider it to be a
14 qualitative benefit to exempt the schools from that
15 rider?

16 A. I believe that if it's a provision of the
17 ESP, it would be a provision that provides benefits
18 to, certainly to the schools, that would not be
19 available through an MRO process.

20 Q. And if that benefit were available to the
21 schools, would that benefit the public at large, too?

22 A. I would think, yes.

23 Q. Do you think a strong, financially-sound
24 education system benefits the public at large?

25 A. Yes, it does.

1 MR. STINSON: Thank you, Mr. Fortney. No
2 other questions.

3 EXAMINER TAUBER: Mr. Sineneng?

4 MR. SINENENG: No questions, your Honor.

5 EXAMINER TAUBER: Mr. Darr?

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Darr:

9 Q. Mr. Fortney, let's start with the
10 discussion that you had with counsel for Ormet with
11 regard to the RSR recommendation. Would you agree
12 with me that the RSR is a generation-related rider?

13 A. Yes, it is related primarily to the cost
14 of capacity. So, yes, it's generation related.

15 Q. Would you also agree with me that, as
16 presented by the company, the RSR was intended to
17 protect a -- or, produce, excuse me, a certain level
18 of revenue independent of any changes in cost or
19 other factors?

20 A. I believe that is part of Mr. Allen's
21 testimony, yes.

22 Q. And could you advise us when this
23 consensus developed among the staff as to the
24 propriety or the appropriateness of the RSR or some
25 similar sort of device?

1 A. The discussions took place from the day
2 it was filed until the day staff testimony was filed
3 and beyond.

4 Q. Well, there's nothing in the staff
5 testimony concerning either approval or design or,
6 for that matter, pretty much anything concerning the
7 RSR, so I'm just curious as to when this consensus
8 developed.

9 A. Well, part of my testimony, and probably
10 part of other testimonies, says that staff is only
11 testifying to things which we disagree with. As I
12 stated, we agree, in concept, with AEP's proposal for
13 a bridge rider. It is the magnitude which we
14 disagree with, and we cannot recommend a magnitude
15 until we know the results of the 2929 case.

16 Q. So it's fair to say that you support of
17 some sort of bridge, what you described earlier today
18 as a bridge rider, but you don't know how much it
19 should be.

20 A. We cannot know how much. It's a formula
21 that was based upon two unknowns.

22 Q. And as far as the testimony that you
23 prepared for today, would it be fair to say that
24 among the things that the consensus developed around
25 was that the -- well, you tell me. There's a

1 problem, as I understand it, from the statement that
2 you just made, with the way the company has proposed
3 to put this together; is that correct?

4 A. I don't know that there's a problem. I
5 don't believe there is a problem with the way they
6 have proposed to put it together, but staff does not
7 agree with the numbers that they used to create their
8 proposed RSR.

9 Q. Is it the -- is it your view that the
10 period for the collection of a generation-related
11 transition charge has ended? And when I speak of the
12 "generation-related transition charge," I mean a
13 transition charge that would be permitted by Senate
14 Bill 3.

15 MR. MARGARD: Obviously, your Honor, to
16 the extent that he can offer that opinion as a
17 nonattorney.

18 MR. DARR: With that understanding.

19 A. It is my view that in -- beginning in
20 1999, companies had a chance to recover what are in
21 their transition plans what we have traditionally
22 called "stranded cost recovery" and "regulatory asset
23 recovery," but, since the Commission has approved
24 this type of bridge rider in other proceedings,
25 apparently it is not the Commission's view that that

1 opportunity to recover some costs -- related costs is
2 over.

3 Q. And specifically you point to the Duke
4 case, correct?

5 A. Correct.

6 Q. And that's the case that is based on a
7 stipulation between various parties and Duke Energy?

8 A. Which was approved by the Commission.

9 Q. I understand that, but it was based on a
10 stipulation between those parties or among those
11 parties, correct?

12 A. Yes.

13 Q. Going back to my original question, based
14 on your answer, I would assume that you agree that as
15 of 2005, the period for the collection of
16 generation-related transition costs was ended,
17 correct?

18 A. Well, first of all, there were some
19 regulatory asset --

20 Q. I'm speaking now --

21 A. -- charges that continued beyond 2005,
22 but, yes, that was my understanding, and I am not a
23 lawyer.

24 Q. And with regard to regulatory assets, the
25 period for the collection of those has ended by law

1 as well, correct?

2 A. I believe they were -- yeah, they were
3 supposed to end by 2010 or approximately that date.

4 Q. And are you taking any view here today
5 that a temporary lowering of earnings constitutes an
6 emergency warranting a rate increase?

7 A. I am taking no view regarding earnings.

8 Q. Now, with regard to the RSR, that's the
9 only rider that you used for purposes of your
10 comparison of the ESP versus MRO; is that correct?

11 MR. CONWAY: Excuse me, can I have that
12 question read back?

13 EXAMINER TAUBER: Yes.

14 (Record read.)

15 MR. CONWAY: Your Honor, that's a
16 mischaracterization, I believe, of his testimony. I
17 think what he said was he did not address the RSR in
18 his testimony. So I object. It's also well beyond
19 the scope of his testimony.

20 MR. DARR: I'm looking at page 3,
21 question 7, "What assumptions did you make?"

22 MR. LANG: Lines 14 and 15.

23 MR. CONWAY: Okay. I'll withdraw the
24 objection.

25 MR. DARR: Thank you, Mr. Conway.

1 Q. (By Mr. Darr) I'm correct that, for
2 purposes of doing the comparison, the only rider you
3 looked at was the RSR, correct?

4 A. Yes. As I have stated on page 3, lines
5 14 and 15, the only rider I have chosen to include in
6 my analysis is the proposed retail stability rider.

7 Q. And for purposes of Attachment A, I
8 believe you assumed a capacity price at RPM per the
9 staff recommendation; is that correct?

10 A. That's with the market-based numbers that
11 I used to blend with the current rates over the three
12 years, were given to me by Mr. Johnson and
13 Dr. Choueiki; and, yes, Attachment A, it's my
14 understanding, reflected an RPM capacity cost in
15 their calculation of that number which they provided
16 to me.

17 Q. Now, is it your understanding that the
18 RSR is designed to generate a level of revenue up to
19 \$929 million annually, correct?

20 A. I understand that my analysis, all three
21 of my analysis, Attachments A, B, and C, are probably
22 overly simplistic. They are all based upon
23 Mr. Roush's exhibit which shows a retail stability
24 charge two-tenths of a cent.

25 If you read further and if you read

1 Mr. Allen's testimony, that two-tenths of a cent is,
2 and there again, there are other things, but
3 basically it's the difference between the revenue
4 difference between a \$355 capacity rate and the
5 tier-2 rate of \$255. I believe Mr. Allen testifies
6 that for every change in that capacity rate of \$10,
7 there is a overall revenue impact of \$33 million
8 which would be adjusted in the retail security rider.

9 So, in other words, at a capacity rate of
10 145, that would be \$110 less than the 255, you divide
11 that by 10, gives you 11, multiply that by 33, and I
12 believe it gives you \$363 million. So I believe you
13 would have to add that figure to the, if you -- at
14 the \$145 capacity rate, you would have to add that
15 number to the cost of the ESP.

16 Q. Actually, you probably anticipated my
17 next two or three questions, but going back to the
18 point of my initial question, it is -- the RSR
19 assumed, as presented -- let me start again.

20 The RSR, as presented, was designed to
21 generate a level of revenue of \$929 million annually,
22 correct?

23 MR. CONWAY: Objection, your Honor.
24 That's just a complete mischaracterization of the
25 RSR.

1 EXAMINER TAUBER: Mr. Darr?

2 MR. DARR: I'm asking for this witness's
3 understanding of the RSR.

4 EXAMINER TAUBER: I'll allow the
5 question.

6 A. I know that 929 was Mr. Allen's
7 characterization of the benefit of AEP's application.
8 I don't know how the 929 relates to your question.

9 Q. We talked earlier that the RSR is
10 designed to produce a revenue stream, correct?

11 A. Yes.

12 Q. And that revenue stream is based on an
13 assumption of a certain level of return, roughly
14 10-1/2 percent, correct?

15 A. That was the basis of Mr. Allen's
16 testimony, yes.

17 Q. And as a result of those calculations, as
18 you pointed out a second ago, based on the company's
19 assumption of a two-tiered pricing methodology for
20 capacity, to reach that level they would need a rider
21 rate of about two-tenths of a cent, correct, per
22 kilowatt-hour?

23 A. Well, that's why I'm not sure where the
24 929 comes in as I'm sitting here, because two-tenths
25 of a cent, times however many kilowatt-hours there

1 are over the term of the proposed ESP, is like
2 \$285 million.

3 Q. Right. And when you add that to the
4 rate -- the revenues generated by the base generation
5 and the SSO and capacity revenues, that 929 is
6 projected to result in a total revenue number of
7 about 929 million, correct?

8 A. Could you point me to --

9 MR. CONWAY: Excuse me, can I have the
10 question read back, please?

11 EXAMINER TAUBER: Yes.

12 (Record read.)

13 MR. CONWAY: I'll object to the form of
14 the question. I think it's confusing. It's vague as
15 to what he's asking him to agree to.

16 EXAMINER TAUBER: Could you rephrase your
17 question, Mr. Darr?

18 MR. DARR: I'm sorry, I didn't hear the
19 objection. I apologize.

20 MR. CONWAY: The objection is that the
21 question is confusing and vague as to what it is that
22 you're asking the witness to agree with.

23 MR. DARR: May I start again?

24 EXAMINER TAUBER: Yes.

25 Q. (By Mr. Darr) You reviewed Mr. Allen's

1 testimony; is that correct?

2 A. That's correct.

3 Q. Do you have it in front of you?

4 A. Yes, I do.

5 Q. Could you turn to Exhibit WAA-6 to his
6 testimony.

7 A. I'm there, yes.

8 Q. And would you agree with me that the
9 total revenues projected for 2013 -- for the planning
10 year 2012-2013, planning year 2013-'14, and planning
11 year 2014-'15, is \$929 million?

12 A. Yes, that's the number.

13 Q. And, to get there, we sum the retail
14 nonfuel generation revenues, the CRES capacity
15 revenues, the auction capacity revenues, and the
16 credit for shopped load, and then add to that the
17 retail stability rider for each of those planning
18 years.

19 A. Yes, I agree. That's what the exhibit
20 says.

21 Q. And as a result of that, you see, at the
22 bottom of that page, a retail stability rider average
23 calculation that's about \$2 per megawatt-hour or
24 about two-tenths of a cent per kilowatt-hour,
25 correct?

1 A. That is correct.

2 Q. And you understood that to reach that
3 calculation, the company was using its proposed
4 two-tiered pricing model, correct?

5 THE WITNESS: Could I have that reread?

6 EXAMINER TAUBER: Sure.

7 (Record read.)

8 A. That's correct. The 146 and the 255,
9 yes. I believe that's correct.

10 Q. So if we look at the use of an RPM price,
11 that amount over the life of the three planning years
12 would be, on average, lower than the capacity
13 revenues, on average, over the life of the proposed
14 ESP, correct?

15 A. If you use an RPM capacity rate, yes.

16 Q. And directionally that would increase the
17 amount of the RSR, correct?

18 A. Yes, that's correct.

19 Q. Now, with regard to --

20 A. Under their proposal.

21 Q. As compared to their -- as compared to
22 what -- and as compared to what you included in
23 Attachment A, correct?

24 A. Yes.

25 Q. And, directionally, that would make the

1 ESP less favorable in the aggregate under the price
2 test that you propose than the MRO, correct?

3 A. The higher the RSR, the less favorable an
4 ESP becomes, yes.

5 Q. Now if --

6 A. So if it already is not favorable, it
7 becomes more not favorable.

8 Q. And, moving on, you did not include in
9 your calculation anything for the proposed GRR,
10 correct?

11 A. That's correct.

12 Q. Now, you previously addressed the GRR in
13 your testimony with regard to the stipulation,
14 correct?

15 A. With the previous stipulation that was
16 ultimately rejected; is that what you're asking me?

17 Q. Yes, sir.

18 A. Yes, I included a dollar amount for the
19 GRR in that analysis.

20 Q. And you testified in that case that it
21 was reasonable to include such a charge for the GRR
22 as well, correct?

23 A. I believe to the degree that those
24 numbers are known, it would be reasonable to include
25 those numbers as a cost of the ESP.

1 Q. And, in fact, the Commission in its
2 December 14th, 2011, order, Opinion and Order, agreed
3 with you, did it not? Would you like to see the
4 order?

5 A. No. I'm just -- I don't believe the GRR
6 circumstances are quite the same in this application
7 as they were in that application.

8 Q. And what significant difference do you
9 perceive?

10 A. In this application, well, the reason I
11 haven't included it in my analysis for this
12 application, and I don't remember whether it was true
13 in the previous application, is that they are simply
14 applying for a placeholder; and whether or how much
15 the Commission will allow them to recover for in the
16 GRR rider is the subject of another hearing at a
17 future time, future unknown time, and they will be
18 applying for future unknown costs, and I just did not
19 believe it was a valid cost to include as part of the
20 ESP because it's unknown.

21 Q. At the time that the stipulation was
22 reviewed, was there an amount included in the
23 company's testimony for the -- in the initial
24 supporting testimony for the GRR, if you recall?

25 A. My recollection, and I could be wrong, is

1 that there was not an amount included in the
2 company's application. It may have been provided
3 later as a data request response to FirstEnergy
4 Solutions, and I probably got the number that I used
5 in that first analysis from that -- the results of
6 that data request.

7 Q. Would you agree with me that the GRR is
8 not available in an MRO?

9 A. I'm not a lawyer. I would agree with
10 you. I'm not sure the company would agree with you.

11 Q. And, directionally, if we add the amount
12 of the GRR to the proposed ESP, it fails by even
13 more, correct?

14 A. That's correct. There again, that would
15 increase the cost of an ESP.

16 Q. Now, as part of this proposal the company
17 is also recommending that there be a delay in the
18 initiation of the phase-in recovery rider, or PIRR,
19 correct?

20 A. That's correct.

21 Q. And, in your calculation, you did not
22 have an offsetting cost or an additional cost to the
23 ESP associated with that delay, did you?

24 A. Well, I'm not -- I don't believe that the
25 PIRR has anything to do with an ESP or an MRO, and if

1 I listen to Ms. Turkenton, there are -- by delaying
2 the -- or, by accelerating the collection of the PIRR
3 by a year, there are cost savings in carrying costs
4 which, yeah, I did not include the PIRR in my
5 analysis, period. So you're correct.

6 Q. Excuse me.

7 And you're aware that the company is
8 claiming a benefit of the ESP associated by that
9 delay, are you not?

10 A. I did not list it as a benefit.

11 Q. No, you didn't. But you're aware that
12 the company has listed it as a benefit, correct?

13 A. Yes, generally. That's one of the
14 benefits that they listed that I don't necessarily
15 agree with.

16 Q. And, as we learned a few minutes ago and
17 in the prefiled testimony, there's potentially, using
18 a \$71 million additional carrying charge effect, up
19 to 71 million let's put it that way, associated with
20 that delay, correct?

21 A. I believe that was the testimony, yes.

22 Q. Now, with regard to your analysis of the
23 ESP versus MRO, again, the company is proposing that
24 there is a benefit associated with the two-tiered
25 pricing compared to the \$355 per megawatt-day rate

1 that they've sought in the capacity case. You
2 understand that?

3 A. Yes, generally.

4 Q. You did not identify that as a benefit to
5 the ESP versus MRO, correct?

6 A. Well, that's correct.

7 Q. You also did not cost the difference
8 between an RPM rate and the proposed two-tiered
9 capacity price either, did you?

10 A. I'm sorry. I don't understand that
11 question.

12 Q. Let me try again. Did you assign any
13 value to an increase in the capacity charge from the
14 RPM rate to the proposed two-tiered rate contained in
15 the ESP?

16 A. No.

17 Q. In the past you have indicated that it
18 would be inappropriate to assign a benefit for
19 reducing capacity prices below a level that AEP Ohio
20 was not entitled to charge; is that correct?

21 A. I don't know that what I testified to in
22 the past are those exact words, but I agree with the
23 premise.

24 Q. In any case, it would not be good to
25 promise lottery proceeds to Ms. Grady --

1 MR. CONWAY: Objection.

2 MR. DARR: I'll withdraw.

3 A. To the degree that any benefit --

4 MR. DARR: I withdraw the question,
5 Mr. Fortney.

6 EXAMINER SEE: There is no question.

7 Q. Let's turn to the nonquantifiable
8 benefits that you identified. One is with regard to
9 the benefits associated with the GRR; is that a fair
10 understanding of the testimony that you provided?

11 A. I assume you're referring to page 7,
12 line 9.

13 Q. Yes, sir.

14 A. I believe that it's a quantitative --
15 qualitative, rather, I'm sorry, qualitative benefit
16 before the Commission that there is a mechanism to
17 enable the Commission to allow for the construction
18 of generation facilities.

19 Q. Are you aware of any need for
20 construction of generation facilities at this time?

21 A. No.

22 Q. And you understand that the GRR is being
23 used as a placeholder for a revenue stream associated
24 with Turning Point?

25 A. That's my understanding.

1 Q. And you're familiar with the fact that
2 Turning Point is proposed to be a 50 watt --
3 megawatt -- excuse me, 50-megawatt solar facility,
4 ballpark, 49.5, I think it is.

5 A. Slightly less than 50.

6 Q. Yes. And we all know why.

7 A. Yes, I understand.

8 Q. Solar facilities are generally not
9 recognized for planning purposes at the full
10 nameplate, are they?

11 A. I didn't hear the last part.

12 Q. Sure. Solar facilities generally are not
13 recognized for full nameplate, are they? In terms of
14 availability.

15 A. I don't know what the "full nameplate"
16 means.

17 Q. Well, is there an expectation that this
18 facility will be able to produce on a regular basis,
19 on a continuous basis, 49.5 megawatts of generation;
20 will be available for that?

21 MR. CONWAY: Could I have the question
22 read back, please?

23 EXAMINER TAUBER: Yes.

24 (Record read.)

25 MR. CONWAY: Your Honor, I just object to

1 the line of questions here. The witness is a rate
2 design topical witness and has not been presented as
3 an engineering expert on the capability and design of
4 generation facilities, let alone solar-powered
5 facilities, so I object. It's outside the scope of
6 his question -- excuse me, it's outside the scope of
7 his testimony --

8 EXAMINER TAUBER: The objection is
9 sustained.

10 MR. CONWAY: -- and expertise.

11 MR. DARR: Your Honor, if I may, please.
12 The witness has identified that there's -- that the
13 GRR will provide a mechanism to enable construction
14 of generation facilities. He's claiming that as a
15 benefit. I should be allowed to explore whether or
16 not --

17 EXAMINER TAUBER: We're going beyond the
18 scope of what the witness has testified to in his
19 direct testimony and what he's expressed on the
20 witness stand.

21 MR. DARR: I understand, your Honor.

22 Q. (By Mr. Darr) Did you, in terms of your
23 calculation of the need or lack of established need
24 of an additional generation facility, address the
25 role of solar point -- or, excuse me, Turning Point

1 with regard to the ability to satisfy FRR obligations
2 of any of the companies?

3 A. No, I did not.

4 Q. Did you address the effect of Amos and
5 Mitchell on the ability to satisfy any obligations
6 the company may have?

7 A. No, I did not.

8 Q. Another benefit that you identify with
9 regard to the qualitative tests of the proposed ESP
10 is rate stability, correct?

11 A. Correct.

12 Q. Is it fair to say that there are a number
13 of adjustable components of this proposed ESP? That
14 is, items that could be adjusted throughout the
15 period of the ESP.

16 A. Well, there are a number of adjustable
17 components. I'm not sure how many of those
18 adjustable components are a result of this particular
19 application. There are some adjustable components
20 that are in place and have been in place for some
21 time now.

22 So if you would like to point out to me
23 the adjustable components that result from this ESP,
24 I'll be glad to listen.

25 Q. Well, I'm hoping you'll be able to

1 answer. For example, the proposed ESP would be a
2 continuation of the fuel adjustment clause, correct?

3 A. And the fuel adjustment clause is
4 adjustable.

5 Q. It proposes a rider that could go from
6 zero to some number yet to be determined in the
7 generation resource rider, correct?

8 A. That's correct.

9 Q. It includes a retail stability rider that
10 could vary from year to year and also includes, as we
11 understood from the testimony of the company, a
12 provision that may extend into the next SSO period,
13 correct?

14 A. Correct.

15 Q. It contains a DIR, or distribution
16 investment rider, which is capped at three different
17 levels over the life of the ESP, correct?

18 A. And the fact that it's capped at levels
19 gives some price security and certainty.

20 Q. And it goes up from year to year to year,
21 correct?

22 A. Yes.

23 Q. And the proposal presented by the company
24 also includes a mechanism that may allow for the
25 recovery, subject to Commission approval, of pool

1 termination or modification costs, correct?

2 A. I believe so. I'm not familiar with
3 those issues.

4 Q. Finally, with regard to the move to --
5 the qualitative benefit of moving to market more
6 quickly, you make the comparison to what would be
7 available under a market rate offer, correct? Or
8 market rate option.

9 A. Yes, sir.

10 Q. And is it fair to say, under the Duke
11 stipulation that you referred to earlier, that the
12 SSO rates are going to be set through a competitive
13 auction similar to what would occur under a
14 full-blown market rate offer?

15 A. Well, there again, yes, you are referring
16 to the Duke stipulation and that --

17 Q. That's the same as --

18 A. -- that is true in that stipulation.

19 Q. Very good. I didn't mean to step on your
20 answer. I thought you were done.

21 And it's fair to say that as a result of
22 the first auction in Duke, there was a 17 percent
23 reduction in SSO rates as reported by the Commission?

24 A. That was a result of the auction that
25 took place as a result of the Duke stipulation.

1 Q. And that Duke stipulation carries with it
2 the same price stability or instability as an MRO,
3 does it not?

4 A. Once the auction is conducted there is
5 rate stability and certainty, but until the auction
6 is conducted, you don't know what that rate will be.

7 Q. So it's basically the same with regard to
8 whether the competitive bid is in an ESP or an MRO,
9 correct?

10 A. That's true.

11 Q. Now, you did not provide a calculation
12 for the last five months of the proposed ESP; is that
13 correct?

14 A. Only --

15 Q. And I'm speaking now of your ESP versus
16 MRO test.

17 A. Yes. And only to the degree that I
18 considered that the RSR rider was going to be
19 continued through May of 2015, but I did not -- I
20 assumed that if AEP goes to a competitive auction for
21 their standard service supply beginning in 2015, that
22 the market rate and the ESP generation rate would be
23 the same.

24 Q. And you anticipated my next question. So
25 let's go on to my, what I hope is my last question.

4600

1 Would I be correct in that you have forecasted an SSO
2 price that would be identical to the MRO price for
3 the last five months?

4 A. What I'm saying is if there is a
5 competitive auction for the last five months, that it
6 will be equivalent to whatever the market rate would
7 have been, whether that was what the number was
8 forecast or not. I assume that they are one and the
9 same.

10 Q. And that would constitute a forecast that
11 those would be, in fact, the same, correct?

12 A. I'm sorry?

13 Q. Let me try it again. You're not
14 suggesting that the forward price -- that the ESP
15 price, let me correct that, that the ESP price would
16 be the blended amount in that last period, correct?

17 A. No. I'm assuming that the ESP price
18 would be the equivalent to the results of the
19 competitive bid.

20 Q. And that would be a forecast that would
21 be -- and the MRO price and, in this case, the ESP
22 price, based on your assumption, would be a forecast,
23 correct?

24 A. I'm lost in the "forecast" part. The
25 number would be what the number is. It doesn't --

1 and it doesn't matter what that number is for my
2 comparison.

3 MR. DARR: Very good. That's all I have.
4 Thank you very much.

5 EXAMINER TAUBER: Mr. Lang?

6 MR. LANG: Thank you, your Honor.

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Lang:

10 Q. Good afternoon, Mr. Fortney.

11 A. Good afternoon.

12 Q. Given your first comment to the first
13 question of Ormet's counsel, I'm going to start you
14 with this question which is: Would it be fair to say
15 that the staff supports upholding state policy?

16 A. Yes.

17 Q. All right. And that would include the
18 elimination of anticompetitive practices, correct?

19 A. I'm sure that would be part of it, yes.

20 Q. And that would also include the
21 elimination of discriminatory rates.

22 A. I'm sure that would be part of it.

23 MR. CONWAY: Just a second. I'm going to
24 object to the extent he's calling for a legal
25 conclusion from this witness. The phrases that

1 you're using are fairly charged with legal content
2 and I think it's misleading.

3 Oftentimes people mistakenly refer to
4 discriminatory rates as if there's something
5 inherently incorrect about them when the legal
6 standard is unreasonably or unlawfully
7 discriminatory, not simply discriminatory. So I
8 object to this line of questions; it seeks,
9 apparently, legal opinions and conclusions from the
10 witness.

11 EXAMINER TAUBER: We'll allow Mr. Fortney
12 to answer the question, noting that he's not an
13 attorney, and to the extent he needs something
14 clarified, he will be able to do so. So the
15 objection is overruled.

16 MR. LANG: And he also did answer the
17 question, I believe, so I can move on.

18 Q. So in preparation of your testimony, you
19 reviewed AEP Ohio's two-tiered pricing proposal for
20 capacity, correct?

21 A. I reviewed AEP Ohio's proposal.

22 Q. And under that proposal, you understand
23 that shopping customers will pay two different prices
24 for capacity, either the \$146 per megawatt-day or the
25 \$255 per megawatt-day; is that your understanding?

1 A. That's my understand, yes.

2 Q. And as far as you know, the capacity
3 provided at \$146 per megawatt-day is no different
4 from the capacity provided at \$255 per megawatt-day.

5 A. As far as I know.

6 Q. So the only distinction in the proposal
7 is the time that the customer signed up for service
8 from a CRES provider; is that right?

9 A. Could I have that --

10 Q. Sure. The only distinction would be that
11 the -- would be the time that a customer signed up
12 for service from a CRES provider.

13 A. The timing on whoever qualified for tier
14 1 and whoever qualified for tier 2, yes.

15 Q. Would you agree that having to pay
16 \$255 per megawatt-day for capacity as opposed to the
17 RPM-based price over the next three years would tend
18 to discourage shopping?

19 A. I believe that the higher the capacity
20 charge that AEP charges to a CRES provider, would
21 more than likely force the CRES provider to increase
22 the price of their offer, yes. Which, I guess I
23 should -- then the next step is if the CRES provider
24 has to offer a higher price, the likelihood of
25 shopping would be reduced.

1 Q. Now, I think the primary piece of your
2 testimony is quantifying the modified ESP pricing
3 over the next three years and comparing it to the
4 expected results of an MRO for AEP Ohio; is that
5 fair?

6 A. Comparing it to the expected results of
7 a -- yes. Of an MRO, which includes the blending of
8 current prices with market projections.

9 Q. And do you believe that the
10 quantification you provided in your testimony is
11 fair, accurate, and reasonable?

12 A. Yes, all of those things, and with the
13 addition of Mr. Darr's questions on the -- once the
14 level of the capacity cost is changed, then the level
15 of the RSR is changed, so those numbers fluctuate.

16 Q. Now, Mr. Darr had asked you about your
17 approach to the GRR and the Turning Point costs in
18 the analysis you did for purposes of the stipulated
19 ESP. Are you aware that at the Commission's request
20 in this modified ESP proceeding, AEP Ohio provided a
21 cost estimate for the GRR, or for the Turning Point
22 project, that would start in 2014?

23 A. I'm aware that the Commission required
24 and that the company complied, but I have not seen
25 that document.

1 Q. Okay. So with regard to the Commission
2 request to provide an estimate of Turning Point
3 costs, you are aware that AEP -- AEP Ohio filed that
4 information with the Commission.

5 A. That's my understanding, yes.

6 Q. But you did not review what was filed
7 and -- did you not review it, is that --

8 A. That's correct.

9 Q. Okay. Now, Mr. Darr had also asked you
10 about the last five months of the modified ESP, the
11 January through May 2015 period, and your calculation
12 for that time period does include the cost of the
13 RSR, correct?

14 A. That's correct.

15 Q. And, according to your Attachment A that
16 shows a, for that time period, January through
17 May 2015, that shows a RSR cost of about
18 \$39.5 million.

19 A. Yes, that's correct.

20 Q. Now, are you aware that for this
21 five-month period in 2015, AEP Ohio is proposing an
22 energy-only auction that is supported by capacity
23 price at \$255 per megawatt-day?

24 A. I am not aware of the specifics of the
25 auction beginning in -- the results of which would

1 begin in January of 2015.

2 Q. Are you familiar with the piece of that
3 which is that regardless of how the auction works on
4 the energy side, that AEP is proposing that the
5 capacity would be priced at \$255 per megawatt-day?

6 A. If I was aware of it at one time, I did
7 not take that into account in my analysis.

8 Q. Okay. Now, the generation service price
9 for that time period, the first five months of 2015,
10 according to Mr. Roush's testimony, is approximately
11 \$62 per megawatt-hour. Are you aware of that?

12 A. I need to have that question reread.

13 (Record read.)

14 A. I'm not disputing that, but could you
15 give me a reference so I can look and see what
16 Mr. Roush has used?

17 Q. If you have his Exhibit DMR-2, it would
18 be the last column of that exhibit.

19 A. I am there, and the last column which is
20 labeled "January through May 2015 current," the
21 market comparable total G for AEP Ohio is \$62.08.

22 Q. Now, Staff Witness Johnson also
23 calculated for this time period, the first five
24 months of 2015, a competitive benchmark price using
25 RPM pricing that would also produce a price of about

1 of \$62 per megawatt-hour. And I can give you that
2 reference if you need that to --

3 A. I have no doubt, I mean, I know that
4 Mr. Johnson gave me a number on his market --
5 projected market rate for that time period. I did
6 not use his number in my analysis.

7 MR. LANG: May I approach, your Honor?

8 EXAMINER TAUBER: You may.

9 Q. I just want to make sure we're on the
10 same page. I handed you Staff Witness Johnson's
11 exhibit showing capacity at RPM, and that does show
12 his specific number for the January through May 2015
13 period, correct?

14 A. January 1st, 2015, through May 31st,
15 2015, and the staff MRO price is \$61.98 per
16 megawatt-hour.

17 Q. So on the MRO side of the calculation for
18 those first five months of 2015, Roush's generation
19 service price is about \$62, Mr. Johnson's market
20 price is about \$62, so regardless of what the blend
21 would be, you're going to be at about \$62; is that
22 fair?

23 A. I think that's fair, yes.

24 Q. I like the easy math.

25 Now, Mr. Johnson also calculated the

1 proposed ESP price for the energy-only auction and
2 capacity priced at \$255 per megawatt-day for that
3 same January through May 2015 period. Are you
4 familiar with that?

5 A. I believe he did, but, once again, I did
6 not use any of the numbers that Mr. Johnson provided
7 me in my January through May 2015 analysis. But,
8 yes, I'm sure he provided it.

9 Q. And do you have his Attachment DRJ-6 in
10 front of you?

11 A. No, I don't.

12 Q. Mr. Johnson, I gave you -- I'm sorry,
13 Mr. Fortney, I gave you Mr. Johnson's Attachment
14 DRJ-6. And under the "Staff MRO Capacity at \$255"
15 column for that January 1, 2015, through May 31,
16 2015, period, Mr. Johnson's calculation there would
17 be \$70.31 per megawatt-hour; is that correct?

18 A. That's correct.

19 Q. So an MRO using RPM pricing would beat
20 the proposed ESP pricing with the \$255 capacity for
21 the first five months of 2015 by about \$8 per
22 megawatt-hour, correct?

23 A. The difference between 70 and 62, yes.

24 Q. Looking at your Attachment A, this would
25 add, that \$8 per megawatt-hour difference would add

1 approximately \$158 million to the cost of the ESP as
2 compared to the MRO; is that fair?

3 A. Would you care to say that again so I can
4 go to Attachment A?

5 Q. Well, again, since I said I like the easy
6 math, but on Attachment A, the retail stability rider
7 cost that you show of slightly under 40 million,
8 that's \$2 per megawatt-hour, correct?

9 A. That is correct, yes.

10 Q. So \$8 per megawatt-hour would be four
11 times that number or approximately 158 million.

12 A. And I agree, yes. There again, if the
13 retail -- the lower the cost of capacity, the higher
14 the retail stability rider is going to be.

15 Q. Well, and the added cost of the company's
16 proposal of the charging \$255 for capacity in that
17 five-month period, as opposed to RPM pricing, would
18 be approximately \$158 million based on what we've
19 looked at here. Is that fair?

20 A. Well, now I'm lost as to where the
21 \$158 million came from. But there is an increased
22 cost to the ESP that I have not reflected in my
23 attachments.

24 Q. And on your Attachment A you show, it
25 looks like approximately slightly under 20 million,

1 it looks like slightly under 20 million
2 megawatt-hours for that five-month period in 2015; is
3 that right?

4 A. Yes.

5 Q. So another way to run that calculation
6 would be the \$8 times that slightly under 20 million
7 megawatt-hours, right?

8 A. I understand, yes.

9 Q. All right. Now, the testimony of Staff
10 Witness Choueiki supports capacity pricing at RPM; is
11 that your understanding?

12 A. I believe that's correct.

13 Q. Is it fair to say that in this proceeding
14 you are not advocating a cost-based rate for
15 capacity?

16 A. I'm not advocating any capacity rate in
17 this proceeding.

18 Q. All right. Now, you didn't list, on
19 Attachment A, any alleged benefit as a result of
20 customers not having to pay a capacity price of
21 \$355 per megawatt-day; is that correct?

22 A. That's correct.

23 Q. Would it be fair to say that if one was
24 going to have a benefit calculated from not having to
25 pay a capacity price of \$355 per megawatt-day, one

1 would have to assume that AEP was entitled to charge
2 that amount?

3 A. That's absolutely correct, yes.

4 Q. And is it fair to say that you did not
5 attempt to calculate that benefit because you did not
6 think it was a benefit?

7 A. Well, until we know what the Commission
8 determines AEP's cost of capacity to be, that number
9 to me is irrelevant. It can't be calculated. You
10 can calculate it based upon \$355 that, assuming that
11 that is a cost of capacity, but, to my knowledge,
12 that number has not been approved by this Commission
13 or anyone else.

14 Q. Now, for purposes of the analysis, your
15 ESP versus MRO analysis, you're blending the current
16 ESP price with a competitive benchmark price,
17 correct?

18 A. Blending it with the market rate number
19 that Mr. Johnson and Mr. Choueiki have provided me.
20 I guess I never heard it referred to as to what you
21 called it, "competitive benchmark price." That's
22 what I'm comparing it to.

23 Q. But, in either case, the blending they're
24 using and the percentages of blending that are in
25 your testimony is set out in the MRO part of the

1 statute.

2 A. Yes, the blend -- the 10-percent,
3 20-percent, 30-percent blending process, I believe,
4 is set out, yeah, in the law.

5 Q. Now, would it be correct to say that if
6 one has an MRO, the Commission can change the blend
7 in the second year?

8 A. I believe that's part of the -- part of
9 the law. If -- my recollection's that, yes.

10 Q. Now, you had several questions about the
11 RSR earlier today. Just so I'm clear, the staff's
12 position on the RSR is not set out in your testimony
13 or in other staff testimony in this case; is that
14 right?

15 A. I believe you're right, yes.

16 Q. Now, in your testimony you look primarily
17 at the quantifiable benefits.

18 A. Correct.

19 Q. And the reason why your testimony is
20 based primarily on the quantifiable benefits is that
21 the Commission needs to be careful in how it applies
22 qualitative benefits; would you agree?

23 A. I think that goes without saying, yes,
24 the Commission will apply qualitative benefits and
25 they will give whatever weight they deem appropriate

1 to those benefits.

2 Q. Now, if the Commission could deem
3 anything a qualitative benefit or give any kind of
4 weight to a qualitative benefit, there would be no
5 limit to the Commission's discretion as to how they
6 could weigh or give weight to an MRO versus ESP
7 comparison; is that fair?

8 A. That's fair. And I would not be the one
9 to tell them how to weight those qualitative
10 benefits.

11 Q. And, by definition, if the Commission
12 labels something as a qualitative benefit, there's no
13 way to measure it.

14 A. That's why they're called "qualitative."

15 Q. And if something is unmeasurable, there
16 is no real way to determine whether the Commission is
17 right or wrong in terms of how much weight they give
18 it, correct?

19 A. That's my understanding.

20 Q. As you said, you're not going to be the
21 one that tells them that they gave it the wrong
22 weight.

23 A. Though I might later on yell. But not
24 right now.

25 Q. Now, as we sit here today, we don't know

1 whether any of the alleged -- the alleged benefits
2 that AEP has identified as qualitative benefits will
3 occur in the future; is that fair?

4 A. I obviously have read, and I assume that
5 those come from either Mr. Allen or Mr. Roush or
6 someone, and I have read the testimonies, the
7 qualitative benefits that I agreed with are in my
8 testimony. To the degree they have other qualitative
9 benefits, I will let them defend those as benefits.

10 Q. With regard to the three benefits that
11 you discuss in your testimony, we don't know whether
12 those will come to fruition in the future and we
13 certainly, at this time, can't place a weight on the
14 importance of those; is that fair?

15 A. I think it's fair to say there are a lot
16 of unknowns.

17 Q. Well, but with regard to the move to the
18 full market rate that you discuss starting June 1,
19 2015, the one thing we do know today is that capacity
20 pricing, under the reliability pricing mechanism,
21 will be at a full market rate starting June 1, 2015.

22 A. That's my understanding.

23 Q. And are you also aware that the AEP East
24 entities gave notice, prior to the start of this
25 case, to terminate the AEP East pool agreement

1 sometimes referred to as "the interconnection
2 agreement"?

3 A. I am not aware of the issues regarding
4 pool termination, no.

5 Q. Well, to your understanding, is the pool
6 termination part of this modified ESP or is it
7 separate?

8 A. I don't know the answer.

9 Q. Now, do you believe there's value in
10 AEP Ohio going to the full market pricing in 2015;
11 would you agree that there's even more value in
12 AEP Ohio going to market sooner than June 1, 2015?

13 A. I believe that would be staff's
14 preference.

15 MR. LANG: Thank you, Mr. Fortney.

16 And, thank you, your Honors. I have no
17 further questions.

18 EXAMINER TAUBER: Thank you.

19 Let's take a ten-minute break.

20 Let's go off the record.

21 (Discussion off the record.)

22 EXAMINER TAUBER: Let's take thirty
23 minutes for lunch and come back at twenty after.

24 (Thereupon, at 1:48 p.m. a lunch recess
25 was taken until 2:30 p.m.)

1 Friday Afternoon Session,
2 June 8, 2012.

3 - - -

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

6 Mr. Maskovyak.

7 MR. MASKOVYAK: Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Maskovyak:

11 Q. Good afternoon, Mr. Fortney.

12 A. Good afternoon.

13 Q. Can you hear me?

14 A. Yes, I can.

15 Q. Good.

16 I want to take you to page 6 and 7 of
17 your testimony, question and answer No. 10, the
18 nonquantifiable or qualitative benefits. This we've
19 already explored.

20 A. I am there.

21 Q. All right. You've named three of them.
22 Can you tell me what you reviewed in formulating your
23 list?

24 A. In formulating my what?

25 Q. Your list. The list of three, as we've

1 discussed.

2 A. I reviewed the application and the
3 testimony filed by the company in this case.

4 Q. So, as a result of that review, are these
5 all the benefits that you could find in the ESP?

6 A. Well, as I think I previously answered, I
7 listed the three that staff finds to be clear-cut
8 benefits. I believe that AEP has offered other
9 benefits that very well may be benefits from their
10 perspective and others' perspective, but staff -- I
11 did not recognize them as a benefit in the ESP versus
12 MRO comparison.

13 Q. Yes, I remember. I understand that AEP
14 lists other benefits; we've heard plenty about those.
15 So I'm concentrating on -- so this is the exclusive
16 list, then.

17 A. Those are the three that I would
18 recommend that the Commission consider.

19 Q. And since the time that you filed your
20 testimony, you have not had any reason to think that
21 there should be any others added to this list.

22 A. No.

23 Q. Okay. A couple of times you've mentioned
24 that your opinion represents a consensus of staff.
25 Would the benefits you list here fall into that list

1 of benefits that were a consensus of the staff?

2 A. Yes.

3 Q. What benefits that you could see flow to
4 low-income residential customers from the modified
5 ESP application?

6 A. Well, I believe low-income customers
7 would benefit from rate stability and rate certainty;
8 I believe that, in the long run, they would benefit
9 from AEP agreeing to go to market sooner than they
10 may otherwise have done through an MRO process. So I
11 believe that the benefits that I've mentioned, you
12 know, are applicable to all customers, low income
13 included.

14 Q. I understand that those would be benefits
15 that possibly would flow to all customers. Are there
16 any benefits specifically named for low-income
17 customers or that directly flow to low-income
18 customers that you saw?

19 A. I can't think of any offhand.

20 Q. Are you familiar with something called
21 the "Partnership With Ohio"?

22 A. I'm familiar with that name, but I forget
23 what it includes.

24 Q. Do you remember that that was one of the
25 benefits included in the original application?

1 A. I believe that's correct, yes.

2 Q. And did you find any mention of the
3 Partnership With Ohio in the modified application?

4 A. I do not believe it's part of the
5 modified application.

6 Q. If there was a Partnership With Ohio
7 stated in the modified application, would you
8 consider it a benefit?

9 A. I believe in my previous testimony I had
10 a little box over in the left-hand side that included
11 that and some type of economic development that was
12 being funded by the shareholders of the company. So,
13 yes, I would consider that a benefit to the ESP if
14 that were included in this application.

15 MR. MASKOVYAK: I think that's right.

16 No further questions, your Honor.

17 EXAMINER TAUBER: Thank you.

18 Mr. Etter?

19 MR. ETTER: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Etter:

23 Q. Good afternoon, Mr. Fortney.

24 A. Good afternoon.

25 Q. Let's turn to page 2 of your testimony,

1 and lines 1 and 2, you indicate that you reviewed
2 issues related to the rate design and the resulting
3 revenue impacts to the various classes of customers,
4 and you also indicate that there's nothing in the
5 application that you find to be unreasonable
6 regarding those areas of the application, correct?

7 A. That's what I state, yes.

8 Q. Did you look at the allocation of the
9 retail stability rider?

10 A. Retail stability rider is allocated on a
11 kilowatt-hour basis.

12 Q. And it's also allocated to the customer
13 classes based upon the class's average contribution
14 to AEP load during PJM's five highest peak loads; is
15 that correct?

16 A. I believe that's correct, yes.

17 Q. Would you agree that the retail stability
18 rider, in large part, is designed to compensate the
19 company for discounted capacity being sold to CRES
20 providers?

21 A. I don't know that the term "discounted
22 capacity" is accurate, but I agree with you in
23 concept, yes.

24 Q. Okay.

25 A. Lower capacity.

1 Q. Okay. And it's also tied to the early
2 auctions that are to occur to the company's proposal
3 in January 2015?

4 A. I understand that from Mr. Lang.

5 Q. Thank you.

6 And it's your -- is it your understanding
7 that the CRES providers then provide service to
8 retail customers based, in part, on the capacity
9 price paid to AEP?

10 A. Yes. I would imagine that the price that
11 a CRES provider can offer is based, in part, upon the
12 capacity price that they have to pay to AEP.

13 Q. And the retail providers, the retail
14 customers who receive that service are customers who
15 shop; is that correct?

16 A. That's correct, yes.

17 Q. Are you generally aware of the levels of
18 shopping in AEP's service territory?

19 A. Generally, I have heard a lot of things
20 in the previous proceeding, and I know that there is
21 a table in Mr. Allen's testimony that I looked at,
22 so, yes, generally.

23 Q. And are you aware, generally, of the
24 amount of shopping that residential customers are
25 engaging in?

1 A. Not without looking at Mr. Allen's chart.

2 Q. Okay. So would you agree, generally,
3 with the concept that rates should be designed to
4 collect costs from the cost causer?

5 A. I used to believe that. That's not what
6 market-based rates are. In distribution rates that
7 are cost-based revenue requirement, yeah, I agree
8 wholeheartedly, but market rates are what they are.

9 Q. Now, let's go back to page 6 and page 7
10 which have been well thought about today. You
11 discuss the nonquantifiable, the qualified benefits
12 or the things that the Commission should take into
13 consideration when issuing its decision.

14 A. The qualitative benefits.

15 Q. Yeah, the qualitative, thank you.

16 And you refer to staff's comments in
17 DP&L's pending MRO case that an ESP can offer
18 advantages for the customers, the applicant, and the
19 public at large. Do you see that?

20 A. Yes.

21 Q. One advantage you mention is that the
22 transition to competitive markets, that you testify
23 is beneficial to ratepayers, because the move to a
24 full market rate can be achieved more quickly through
25 the blending phase-in of the MRO, correct?

1 A. That's what my testimony says, yes.

2 Q. Is this benefit important to those
3 customers seeking to shop or those customers who
4 actually shop?

5 A. I think it's a benefit to all customers
6 that it would increase the opportunity for them to
7 shop if that was a better deal.

8 Q. So it's just the opportunity to shop that
9 is the benefit; is that correct?

10 A. It goes beyond that. The whole -- it
11 doesn't even really have to do necessarily with
12 shopping or nonshopping customers, it's the whole
13 generation rate that the Commission staff believes is
14 better established through a competitive bid process.
15 And those rates would apply to all customers.

16 Q. Including customers who don't shop?

17 A. It would set a generation rate for all
18 customers and then customers would have to decide
19 whether a CRES provider's offer is the better deal
20 for them.

21 Q. Now, at lines 9 through 13, you discuss
22 the GRR and that it provides a mechanism to enable
23 the Commission to allow for a construction of
24 generation facilities. Do you believe that a GRR can
25 be contained in an MRO?

1 A. I think I answered that question
2 previously. I am not a lawyer. I would say I don't
3 see where it is, but I believe that the company would
4 have a different opinion.

5 Q. And, as a nonlawyer, what's the basis for
6 that belief?

7 A. I don't believe that the MRO has any
8 explicit mechanism for the recovery of costs
9 associated with a new generation facility.

10 Q. Now, is it your understanding that the
11 need for generation in the future is being determined
12 in a separate case?

13 A. I believe there are still resource
14 planning cases that come before the Commission, so
15 the need would probably be determined in one of those
16 cases, and I also believe that whenever the company
17 applies to recover costs associated from Turning
18 Point through the GRR, that that will be the whole
19 topic of a hearing.

20 Q. But there's been no established need here
21 in this proceeding; is that correct?

22 A. Not to my knowledge.

23 Q. And if there is no established need, the
24 benefit associated with the GRR, then, is reduced; is
25 that correct?

1 A. Well, you also have the requirements of
2 the law for percentage of generation supplied through
3 solar and alternative energy, all of those
4 provisions. It's my understanding that the
5 Commission staff has determined that -- or at least,
6 I don't know if they have determined in a formal
7 hearing, but they see some benefit in Turning Point
8 to meet those standards.

9 Q. But if the need has yet to be
10 established -- and there's been no final
11 determination in that case, as I understand it,
12 correct?

13 A. I don't know the answer.

14 Q. Oh, okay. So if the need has not been
15 established, then the present benefit of the GRR is
16 reduced; is that correct? Or should be reduced. Is
17 that correct?

18 A. I don't know the answer.

19 Q. Fair enough. Thank you.

20 Now, one final question regarding your
21 Attachment A, and Mr. Lang, I believe, discussed
22 earlier 39 million, 39-plus million, for the January
23 through May value for the RSR.

24 Just to be clear, when you provided the
25 three scenarios regarding AEP Ohio's ESP, the

1 comparison to the MRO in your testimony on page 6,
2 that comparison does not consider the additional
3 \$39.5 million in the RSR for January through
4 May 2015; is that correct?

5 A. No, that's not correct. If you, for
6 instance, if you look at Attachment A, and look in
7 the lower right-hand corner, there is a row there
8 that's labeled "2015 January through 2015 May" and
9 there's -- that's the 39,000 that the retail
10 stability rider revenues would be for that time
11 period.

12 Q. Okay. But back on page 6, you have the
13 pages -- excuse me, pages 4 through 6 on your
14 testimony, you have the summary of the ESP MRO
15 comparison that you produced from Attachment A, you
16 know, especially in the table on page 6, is the
17 \$39 million included in this -- in that table?

18 A. It is included on the table on page 6.
19 It is not included on the tables on page 5, 4 -- on
20 pages 4 and 5. In other words, on page 6, when I'm
21 taking the average rate, that 2015 January through
22 2015 May retail stability rider revenue is included
23 in those averages.

24 MR. ETTER: That's all, Mr. Fortney.

25 Thank you, your Honors.

1 THE WITNESS: Thank you.

2 EXAMINER TAUBER: Mr. Conway.

3 MR. CONWAY: Thank you, your Honor.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Conway:

7 Q. Good afternoon, Mr. Fortney.

8 A. Good afternoon, Mr. Conway.

9 Q. With regard to the GRR, assume for me
10 that the GRR is approved and the generation resource
11 is determined to qualify for cost recovery through
12 the GRR over the life of the project and a rate is
13 established at some point, and the initial rider is
14 established during an ESP, and then the need and the
15 cost recovery for a particular project is either
16 determined during the course of the ESP or in a
17 subsequent ESP. Are you with me?

18 A. So far.

19 Q. Okay. So assume all that.

20 And then assume that in a subsequent SSO
21 proceeding, the EDU elects to adopt or implement an
22 MRO instead of an ESP. That will be in a subsequent
23 SSO proceeding. Okay?

24 We've already got a GRR that's been
25 approved, there's been a project, at least at some

1 point, whose cost recovery has also been approved,
2 and the cost -- and the project's life is continuing
3 for some longer term period, say 25 years, and, yet,
4 there's an MRO that the EDU has implemented
5 subsequently to the ESP where the rider was
6 established. Okay?

7 A. I think I'm with you.

8 Q. Okay. In that scenario, would you
9 believe or agree that the GRR would continue on even
10 though -- and cost recovery of the project would
11 continue even though the EDU has opted, or
12 implemented an MRO?

13 A. I believe that unless there was some
14 explicit provision in the order that disallowed that,
15 that that recovery would continue.

16 Q. So there's an example, potentially, of a
17 GRR including cost recovery of a specific generation
18 resource which could occur even in a subsequent MRO
19 context, right?

20 A. In addition to Turning Point?

21 Q. I wasn't really hypothesizing any
22 specific one, but suppose it's Turning Point if you
23 would like, yes.

24 A. Okay, you lost me now.

25 Q. Okay. I'm just asking, I'm just trying

1 to sum up there at the end.

2 So you would agree with me, would you,
3 that the hypothetical illustrates a circumstance
4 where a GRR could be ongoing even while the EDU has
5 migrated to an MRO?

6 A. I believe, it would be my opinion, that
7 once the Commission has given you the authority to
8 recover those costs, that that would continue even if
9 you switch to an MRO.

10 Q. With regard to the phase-in recovery
11 rider in the fuel adjustment clause mechanism and the
12 proposed merger of each of those rates for the
13 combined service territories of Ohio Power Company,
14 with regard to that topic, would you agree that the
15 benefit that Ms. Thomas identified that would result
16 from the company's proposal in that regard is a
17 benefit of bill impact management for customers?
18 That was the benefit that she identified.

19 A. The benefit of bill impact management.

20 Q. Doing that, merging the two rates
21 simultaneously, has the benefit of managing bill
22 impacts for customers.

23 A. I believe from Ms. Turkenton's testimony
24 this morning that if those two components, the fuel
25 and the PIRR are merged, that it amounts to better --

1 better stability and less fluctuation for both Ohio
2 Power and Columbus & Southern Power customers.

3 Q. I recall that conversation also from this
4 morning. My focus is really on the nature of the
5 benefit that Ms. Thomas has identified that results
6 from a company's proposals for merging the two rates
7 across the service areas of the company. And I'm
8 simply asking you whether it's your understanding
9 that the benefit that she identified as part of her
10 list of benefits is the bill impact benefit of doing
11 that, of merging the two rates at the same time.

12 A. I do not recall Ms. Thomas's testimony on
13 that, but in terms of bill-impact benefits, I believe
14 that merging both of those components into one rate
15 for AEP Ohio is a benefit to customers.

16 Q. Do you have Mr. Allen's testimony with
17 you?

18 A. Yes.

19 Q. Do you recall the several lines of
20 questions that focused on the retail stability rider
21 and Mr. Allen's testimony?

22 A. Oh, yes.

23 Q. I wanted to at least clarify, in certain
24 respects, the company's position on the retail
25 stability rider and Mr. Allen's testimony about it,

1 so if you could find his testimony and, first, turn
2 to his Exhibit 6.

3 A. I have Exhibit WAA-6.

4 Q. That's the one, thank you.

5 And, just to be clear, under the
6 company's proposal, the retail stability rider would
7 produce roughly \$44 million in the planning year
8 2012-'13, and then 103 million in planning year
9 2013-'14, and then 137 million in planning year
10 2014-2015. Correct?

11 MR. DARR: Objection. Misstates the
12 Allen testimony, also appears to be friendly cross.

13 EXAMINER TAUBER: Mr. Conway.

14 MR. CONWAY: Well, with regard to
15 misstating Mr. Allen's testimony, I'm simply
16 referring to the Exhibit WAA-6, your Honor, and
17 reciting values that appear in that exhibit and
18 asking him what his understanding of those dollar
19 values is.

20 And, secondly, with regard to friendly
21 cross, I can assure you that my cross is not
22 friendly, although I wish it were friendly cross, but
23 it isn't. And I think there's some -- potentially
24 some inaccuracies in the record about the company's
25 proposal and I'm trying to clarify them and I think I

1 should be allowed to do so.

2 EXAMINER TAUBER: I'll allow the
3 question.

4 A. In Exhibit WAA-6 there is a line item
5 called "Retail Stability Rider" and it reads across
6 for the three years: 44.1, 102.9, 137.2, for a total
7 of 284.1.

8 Q. And that's the revenue annually or
9 periodically and then over the entire period that
10 would be generated under the company's proposal,
11 correct?

12 A. I believe that Mr. Allen or Mr. Roush
13 then took the 284.1 and divided it by some number of
14 kilowatt-hours as supplied by Ms. Thomas to get the
15 \$2 per megawatt-hour.

16 Q. Okay. But, in any event, the retail
17 stability rider is not intended to generate
18 \$929 million per year during the ESP, is it?

19 A. I think that's where I got confused when
20 Mr. Lang was asking me questions.

21 The retail stability rider at \$2 per
22 megawatt-hour will generate, and I think it's a
23 slightly different calculation on my exhibit,
24 \$289 million at the \$2 per megawatt-hour.

25 Q. Thank you.

1 Then what is your understanding of what
2 the \$929 million figure represents that we see on
3 Exhibit WAA-6 in the "Total Revenues" row for the
4 three planning years?

5 And, at this point, I'd also ask, if you
6 can keep your finger at that page, to also turn to
7 page 13 of Mr. Allen's testimony.

8 A. I've got my finger on the pulse.

9 Q. Okay. So the question is: What does the
10 929 million represent? Mr. Allen's testimony,
11 actually at pages 13 and 14, provide you with any
12 insight as to the meaning of the role of the
13 \$929 million figure? I would refer you to page 14,
14 actually, lines 6 through 8.

15 A. Well, it refers -- lines 6 through 8, the
16 \$929 million refers to the nonfuel generation
17 revenues for AEP Ohio.

18 Q. And that's what the -- and that's what
19 the RSR is intended to stabilize, that revenue figure
20 over the course of the ESP?

21 A. I believe so, yes.

22 Q. Okay. And then go back to Exhibit 6
23 again. WAA-6. And the nonfuel -- are you there?

24 A. Yes.

25 Q. Okay. And the nonfuel generation

1 revenues that this rider is supposed to stabilize at
2 the \$929 million level, they're composed of retail
3 nonfuel generation revenues, right?

4 A. That's the first line, yes.

5 Q. And then CRES capacity revenues, that's
6 another contributor; is that right?

7 A. Correct.

8 Q. And then when it happens, revenues from
9 an auction for -- an auction?

10 A. That's a line item, yes.

11 Q. And then -- and there's a credit that
12 also contributes to the total; is that right? For
13 shopped load.

14 A. That's correct. That's the fourth line
15 item.

16 Q. And then the value that makes up any
17 shortfall is that retail stability rider, right?

18 A. That's how I understand the exhibit, yes.

19 Q. And so, under the company's proposal,
20 would you agree that the retail stability rider is a
21 rider that seeks to stabilize or decouple generation
22 revenues?

23 A. I believe that's stated in Mr. Allen's
24 testimony, yes.

25 Q. Okay. So it's not simply tied to -- that

1 929 million, the goal of stabilizing that value, it's
2 not tied simply to capacity costs or capacity-related
3 revenues in the company's proposal, is it?

4 A. It appears to be related to the revenue
5 from nonfuel generation revenues.

6 Q. In addition to the capacity revenues,
7 right?

8 A. In addition to all the things that are
9 listed on WAA-6.

10 Q. And the RSR proposal that the company
11 made, is it also your understanding that it is being
12 made as a part of the total package of terms and
13 conditions of the proposed ESP?

14 A. Sure. Yes.

15 Q. And so it's not being proposed simply as
16 a mechanism that's related to capacity revenues.

17 A. No. You are correct.

18 Q. And I believe you mentioned, in the
19 course of one or another of your discussions on this
20 topic previously, that a driver of the RSR rate and
21 the revenues collected by the rate is the difference
22 between capacity price that's assumed in the RSR and
23 the capacity price that's ultimately allowed; is that
24 correct?

25 A. I believe that AEP's proposal, the RSR is

1 tied, and there again, I don't believe it's dollar
2 for dollar, there may be other things that are
3 included, but basically it's a difference between the
4 \$355 capacity -- cost of capacity and the \$255 tier 2
5 rate. And staff's recommendation would tie the RSR
6 to whatever the Commission determines the cost --
7 AEP's cost of capacity to be and whatever the
8 Commission mandates as the capacity rate that they
9 are allowed to charge CRES providers.

10 Q. And I'd like to focus, for the time
11 being, on the company's proposal, if you don't mind.

12 A. Okay.

13 Q. So is it your understanding, based on
14 your review of the company's proposal and Mr. Allen's
15 testimony, that under their proposal, that as you
16 toggle down the capacity price for the second tier
17 from 255, the RSR revenue requirement would increase
18 so instead of -- if you go from 255 to, say, 245, a
19 \$10 decrease, then the revenue requirement goes up
20 by, for the RSR, it goes up by some amount under the
21 company's proposal, correct?

22 A. I believe, in my understanding to
23 Mr. Allen's testimony, that if the capacity component
24 goes from 255 to 245, that the need for the RSR
25 revenue would go up by \$33 million over the term of

1 the ESP.

2 Q. And then I think you had mentioned in one
3 of your illustrations the impact of the -- on the RSR
4 revenue requirement of a decline in capacity price
5 from 355 to 245, or maybe it was 245 to 145, I don't
6 recall, but somewhere in that ballpark, a hundred
7 bucks?

8 A. I believe it was, from my example, if it
9 goes from 255 to 145, that would be a \$110 decrease,
10 and if you divide that by 10, that's 11, times the
11 33, and I don't have my calculator, and I can't do
12 anything in my head anymore, but I think that's
13 \$363 million.

14 Q. So that's what would happen if you, under
15 Mr. Allen's formula, if you were to reduce the
16 \$255 price for the tier 2 down to the \$145 level,
17 right?

18 A. That is my understanding.

19 Q. Okay. And if you kept decreasing it down
20 further under the company's proposal, according to
21 the formula that Mr. Allen presented, that tier 2
22 capacity chunk would continue to lead to higher
23 revenue requirement for the RSR, right?

24 A. Based upon AEP's proposal, the RSR
25 would -- at the RPM capacity price would be

1 significantly higher, yes.

2 Q. And we don't want to -- I don't want to
3 forget the portion of the proposal which would -- the
4 RSR proposal, which would be affected by the tier 1
5 capacity.

6 Would you agree with me that the impact,
7 if you -- on the RSR revenue requirement, would yet
8 also be affected, in addition to the affects that we
9 just have been discussing, if the tier 1 price that
10 the company has proposed were reduced below that
11 level?

12 A. Yes. I believe that's accurate. I
13 believe Mr. Allen is assuming a tier 1 price of
14 whatever the number was, 146, and I think that he's
15 kept that constant but, yes, I think he says it's --
16 if the tier 1 price has changed, then that would also
17 change the RSR reference.

18 Q. And if that happened, it would not be
19 subsumed into the -- the effect of the impact
20 wouldn't be subsumed into that equation that we just
21 discussed, the \$10 times 30 -- you know, the
22 incremental \$10 translated to -- divided by 10 times
23 33. That increment would not describe the additional
24 impact on reductions that affected the tier 1
25 capacity price.

1 A. I believe that's true. That would be an
2 additional impact.

3 Q. And is it your recollection that
4 Mr. Allen noted that that was the case, although he
5 may not have described what the formula would be for
6 reductions on the tier 1 increment?

7 A. That's my recollection, yes.

8 Q. Let me turn to your testimony now, and I
9 apologize if I cover territory that's already been
10 covered, but please bear with me.

11 I think you may have mentioned this
12 before, but you indicate at page 2, at the top of the
13 page, that the issues that you reviewed in connection
14 with your testimony are issues related to the rate
15 design and resulting revenue impacts of the company's
16 application; is that right?

17 A. That's correct.

18 Q. And you found nothing in the company's
19 proposals to be unreasonable regarding those matters,
20 rate design and resulting revenue impacts to the
21 various customers; is that right? I'm reciting to
22 you --

23 A. That's correct, based upon the company's
24 application, I found nothing that gave me great fear.

25 Q. So nothing unreasonable.

1 A. I believe that's a proper word, yes.

2 Q. Now, at page 4 of your testimony, you
3 note, at lines 7 to 8, that the market rate option is
4 subject to significant uncertainty -- I'm sorry,
5 strike that.

6 At page 4 of your testimony you note that
7 "...while...ESP rates can be determined with some
8 degree of objectivity, the market rate is subject to
9 significant uncertainty due to the volatility of
10 forward contract prices." Do you see that?

11 A. Yes, I see it. And I believe I made that
12 statement under advisement of Mr. Johnson.

13 Q. And I believe that you indicate at some
14 point that that uncertainty and volatility regarding
15 market rates is -- it illustrates one of the benefits
16 of an ESP; is that right? Because, conversely, the
17 ESP is not based on the market rates, it wouldn't be
18 accompanied by that uncertainty and volatility.

19 A. I believe that's a benefit, yes.

20 Q. That's one of the less readily or one of
21 the quantified or one of the qualitative benefits of
22 the ESP?

23 A. Yes.

24 Q. With regard to the ESP rates that the
25 company has proposed, the base generation rates, are

1 they the largest component of the nonfuel generation
2 rates that comprise the proposed ESP SSO rates?

3 A. Oh, certainly, yeah, they are by far the
4 largest component of the nonfuel rates.

5 Q. And the fuel rates that are established
6 through the fuel clause, they are rates that are a
7 continuation from the prior ESP, right? They're not
8 being established through this ESP.

9 A. Well, I don't think the fuel rates are
10 established through an ESP at all; only for
11 illustrative purposes. The fuel rates are
12 established in fuel proceedings.

13 Q. And getting back to the base generation
14 rates that the company has proposed for the term of
15 this ESP, what's your understanding of the stability
16 and certainty of those base generation rates that the
17 company has proposed?

18 MR. DARR: Objection, your Honor. So far
19 I've been waiting to see where the adversity is
20 between this questioner and this person being
21 questioned. All I've seen so far is an attempt to
22 rebut questions that I raised during my
23 cross-examination.

24 At some point, and I realize I've been
25 duly chastised for this once already, but at some

1 point we have to find questions that aren't simply a
2 reiteration of the witness's testimony.

3 I object to this friendly cross which has
4 been going on for the last 15 minutes.

5 MR. CONWAY: Your Honor, it's not
6 friendly cross. He discussed the stability and rate
7 certainty and predictability issue with each of the
8 other cross-examiners, and I think I'm entitled to
9 emphasize the aspects of the topic that I think are
10 important for the Commission to keep under -- to take
11 under consideration. So I don't think it's -- I
12 don't think it's friendly. I think it's -- I'm
13 trying to protect my own client's records on these
14 topics.

15 MR. DARR: May I respond, your Honor?

16 EXAMINER TAUBER: You may.

17 MR. DARR: I appreciate that Mr. Conway
18 has a responsibility to protect his client; it is not
19 through the process of cross-examination of this
20 witness where he's merely soliciting information that
21 is completely consistent with the witness's
22 testimony, primarily demonstrated by the fact that
23 he's had the witness read back into the record his
24 testimony through the examination.

25 And now we're on to another topic where,

1 basically, he's doing the same thing again. It is
2 not adverse and, therefore, I object.

3 MR. ETTER: OCC joins in the objection,
4 your Honor.

5 EXAMINER TAUBER: The objection is
6 overruled. I don't think we've reached the point of
7 friendly cross, but I just want to issue a warning
8 that, hopefully, we won't get into anything that is
9 friendly cross.

10 MR. CONWAY: Your Honor, thank you very
11 much.

12 EXAMINER TAUBER: Thank you.

13 MR. CONWAY: I'll try to avoid crossing
14 the line. I certainly am not intending to.

15 Could I have my question read back,
16 please?

17 EXAMINER TAUBER: Yes.

18 (Record read.)

19 A. In my attachments, my tables in my
20 attachments, I tried to duplicate the rates as
21 proposed by the company by taking them right from
22 Mr. Roush's testimony, his Exhibits DMR-2.

23 Exhibit DMR-2 has tariff generation
24 prices for AEP Ohio, over the three years, of 22.86,
25 22.86, 22.89. So I would say that that was a work

1 stable. I would say that those rates are stable.

2 Q. In your Attachments A, B, and C that are
3 contained in your testimony on pages 4 and 5, you
4 there compare the proposed ESP rates for each period
5 of the ESP with the staff blended market rate for the
6 three scenarios that you illustrate, correct?

7 A. Yes; and those numbers on that table
8 should be taken directly from my attachments.

9 Q. And when you refer to your "attachments,"
10 are you referring to your Attachments A, B, and C
11 also?

12 A. Yes.

13 Q. Okay. So these are just summaries -- in
14 your testimony, what we see in the tables, I think
15 you referred to them as "tables" once before, the
16 tables in your testimony are summaries of the
17 information that you conclude in the actual
18 attachments, A, B, and C; is that right?

19 A. That's correct.

20 Q. Now, the price of the staff blended
21 market rates that you present in your testimony on
22 pages 4 and 5 in the summaries, those are prices per
23 kilowatt-hour, right? Cents per kilowatt-hour?

24 A. Average rate in cents per kilowatt-hour.

25 Q. And it represents what the price would be

1 for a metered kilowatt-hour that a customer would
2 consume?

3 A. For generation plus the RSR. For the ESP
4 proposal.

5 Q. Right. So it's "yes" with that -- the
6 answer is "yes" with that explanation, correct?

7 A. And -- but the -- corresponding, the
8 second line of each comparison is for the staff
9 forecasted market rate blended at the appropriate
10 percentages.

11 Q. So the first line is the proposed ESP
12 price in cents per kilowatt-hour, right?

13 A. Including the RSR.

14 Q. And then the second line in each of these
15 pairs is the staff blended market rate in cents per
16 kilowatt-hour, right?

17 A. It's the staff forecasted market rate
18 blended with the current AEP price.

19 Q. And, in each case, the price that you
20 present is a price that reflects what a customer
21 would pay for a metered kilowatt-hour of generation
22 service, right?

23 A. That's the intent.

24 Q. And so you have an apples-to-apples
25 comparison there, right?

1 A. That was the intent.

2 Q. Now, are you aware that when a CRES
3 provider buys capacity from the RPM market or from an
4 FRR entity like AEP Ohio, it must pay for scaling
5 costs, forecast pool requirement costs, and capacity
6 lost costs?

7 A. No, I was not aware of that, nor is that
8 my area of expertise.

9 Q. And do you know whether the RPM prices
10 that you received from Mr. Johnson and/or
11 Dr. Choueiki are prices that have been adjusted for
12 those cost factors, the scaling, forecast pool
13 requirement, and the capacity?

14 A. I believe that the numbers that I
15 received from them do not include that because
16 Dr. Choueiki still maintains that they should not be
17 included.

18 Q. Okay. And did you make any adjustment to
19 the prices you got from Mr. Johnson or Mr. Choueiki
20 to reflect either of those factors?

21 A. Not in my written testimony.
22 Mr. Choueiki, very reluctantly I might add, gave me
23 numbers that he believes represent those factors and
24 translated that into a market rate number for me to
25 put into my formula, and the numbers that he gave me

1 I did put into the formula and ran the Attachment A.

2 Q. And can you share with me what the
3 results were of that modification?

4 A. Go to my Attachment A to my testimony and
5 see the line that reads "465 million" down in the
6 lower right-hand corner.

7 Q. Okay.

8 A. When I plugged in the numbers that
9 Dr. Choueiki provided me, that 465 million becomes
10 445 million.

11 Q. It's 400 and --

12 A. There was a --

13 Q. I'm sorry.

14 A. -- ESP using the scalers, loss factors,
15 whatever those three components were, becomes
16 \$20 million better than it previously was, but it
17 still exceeds the cost of the MRO by \$445 million.

18 Q. You gave me a rough figure of the
19 difference which is 20 million. Do you have a more
20 precise value than 20 million, or a more precise --

21 A. 465 --

22 Q. -- 445?

23 A. -- 728,932 minus whatever -- minus
24 445,731,868.

25 Q. Okay.

1 A. It's about \$20 million.

2 Q. Did you have a workpaper or an exhibit
3 which illustrates how you went about computing the
4 new value based on the application of the three
5 scalers?

6 A. No. I only had the new value that I was
7 provided. I don't have the workpaper that shows me
8 how that -- how Mr. Choueiki utilized those factors.
9 I don't know that answer.

10 Q. And do you know whether the 100 -- the
11 capacity price of \$146.41, which is evaluated in your
12 Attachment B as part of the staff blended market rate
13 that you used for that scenario, do you have any idea
14 whether the \$146.41 or the related market rate have
15 been adjusted to reflect those scaling factors, those
16 three factors?

17 A. My understanding from Dr. Choueiki is
18 those are cost-based rates and they would not include
19 any of those adjustments.

20 Q. Okay. How about the Attachment C in the
21 scenario that uses the \$255 per megawatt-day capacity
22 price; do you know whether those market rates that
23 were used in that analysis relying upon the \$255 per
24 megawatt-day value, whether those -- whether the 255
25 and the resulting market rate values reflect the

1 three scaling factors?

2 A. Well, I'm sure they don't because, there
3 again, the 255 was some representation of a potential
4 cost-based rate and it would not have been adjusted.

5 Q. Are you familiar with -- well, strike
6 that.

7 I want to go back to the scenario that
8 relies upon the market rate that includes the \$146.41
9 capacity value, okay? Attachment B.

10 A. All right. I have that.

11 Q. And the \$146.41 value results from the
12 work that Staff Witness Medine and Staff Witness
13 Harter did in the capacity pricing case, right? I'm
14 sorry, and Mr. Smith did in the capacity pricing
15 case, right?

16 A. I believe that represents Ms. Medine's
17 final -- final answer.

18 Q. So Ms. Medine's final -- final answer was
19 combined with Mr. Smith's final answer and that
20 produced the \$146.41 value?

21 A. I was not present. I thought the 146
22 represented Ms. Medine's final answer. But it
23 represented -- the witnesses testimony that were
24 representing staff in that proceeding.

25 Q. And is it your understanding that

1 Ms. Medine and Mr. Harter, to the extent of his
2 contribution, what they did was develop an energy
3 credit that was used to offset costs that Mr. Smith
4 calculated?

5 A. You are way beyond my area of expertise.

6 Q. So do you know whether Ms. Medine used
7 forecast energy prices in developing the energy
8 credit value that she sponsored?

9 A. I do not know.

10 Q. Do you know whether Mr. Johnson used, in
11 his market rate determination, a value for the energy
12 component that was based on forward prices?

13 A. I do not know what Mr. Johnson used.

14 Q. So you don't know whether or not the
15 measure of energy prices that Ms. Medine used was
16 different or the same as the measure of energy prices
17 that Mr. Johnson used.

18 A. That's correct, I do not know.

19 Q. Would you think that they would use
20 consistent values for the energy prices that they
21 used?

22 A. I do not know.

23 Q. I said would you think that they would?
24 You don't know?

25 A. I don't know what either one of them did

1 and how they did their analysis, so.

2 Q. Do you think, as a general matter, that
3 consistency is a good quality to have with the
4 analytical work?

5 A. Depends whether it's consistently bad or
6 consistently good.

7 Q. You would agree, would you not, that if
8 one of the inputs you got from the others, for
9 example the \$146.41 capacity-price-based market
10 rates, if those were off, if they were, for example,
11 understated, that that would cause an understatement
12 of the staff blended market rate itself?

13 A. If it were shown that that number is
14 understated, then that would -- that component would
15 cause the market rate forecast by Mr. Johnson to go
16 up, yes.

17 Q. Okay. This is a hypothetical, so steel
18 yourself. Assume that we have two different EDUs, A
19 and B, and EDU A has a legacy ESP price of 6 cents
20 per kilowatt-hour, EDU B has a legacy ESP price of 10
21 cents a kilowatt-hour, okay?

22 A. Before you go any farther, tell me what
23 you mean by "a legacy ESP price."

24 Q. The existing ESP price that's used in the
25 market rate option blending.

1 A. So A is 6 cents and B is 10 cents? Is
2 that the --

3 Q. One is higher than the other, but I'm
4 picking 6 and 10, if that's okay with you.

5 And then assume that the competitive bid
6 price or the market rate for each company is also 6
7 cents per kilowatt-hour, okay?

8 A. We shouldn't approve the ESP for company
9 B.

10 Q. Well, things change markets change,
11 right?

12 A. Right.

13 Q. Or maybe you should have approved the
14 bigger ESP for Company A, right? Or maybe Company A
15 should have asked for a bigger ESP, right?

16 A. I guess it depends on what the market
17 rate was at the time we approved those, that's
18 correct.

19 Q. Yes. Okay. So Company A has a, what I
20 would call a "legacy ESP price" of 6 cents that gets
21 factored into the blend, and EDU B has a 10-cent,
22 what I would call "legacy ESP price" that gets
23 factored into the blend, and each of them is facing,
24 over the course of their ESP, a 6-cent per
25 kilowatt-hour market price, okay? Are you with me?

1 A. Six-cent market price as determined by
2 what?

3 Q. As determined by Mr. Johnson. Okay?

4 A. Okay. I'm trying to follow you.

5 Q. Would you agree with me that in the ESP
6 for each separate company, that EDU B could propose
7 and get approved an ESP that has a higher price than
8 does EDU A?

9 A. If A or B were proposing to go to a
10 market rate offer and --

11 Q. Neither of them -- each of them is
12 proposing an ESP, say a three-year ESP.

13 A. Under your scenario, the current rate for
14 utility B, who has a higher rate, since it's higher
15 and would be blended with a forecasted market rate,
16 then their blended market rate would be higher.

17 Q. Which would allow them to have a higher
18 cost ESP that utility -- EDU B could have a higher
19 cost ESP than EDU A, right?

20 A. Yeah, you would still have to do the
21 analysis to see if it passed the test at all, but
22 yes, in general, under the hypothetical that you have
23 given, I agree with what you're saying.

24 MR. CONWAY: Okay. That's all I have,
25 your Honor.

1 Thank you, Mr. Fortney.

2 EXAMINER TAUBER: Mr. Margard, redirect?

3 MR. MARGARD: It would be very limited,
4 if any. If we may have a moment.

5 EXAMINER TAUBER: Sure.

6 MR. MARGARD: Thank you.

7 (Recess taken.)

8 EXAMINER TAUBER: Mr. Margard.

9 MR. MARGARD: Thank you, your Honor.
10 Just one or two questions very briefly.

11 - - -

12 REDIRECT EXAMINATION

13 By Mr. Margard:

14 Q. Mr. Fortney, let me ask you to turn to
15 page 6 of your testimony. Are you there, sir?

16 A. Yes.

17 Q. Okay. Just to clear up the record; make
18 sure that we don't have any misunderstandings. Do
19 you recall being asked some questions by Mr. Etter
20 regarding the table that appears on page 6?

21 A. I recall answering questions regarding
22 that table.

23 Q. Okay. Whether the values in this table
24 covered the entire ESP period.

25 A. Yes.

1 Q. And do you recall indicating to him that
2 you believe that that covered the entire 36 months?

3 A. I believe I misspoke. I believe I said
4 that that included the entire 36 months including the
5 months of January through May of 2015, and if I would
6 have read my own testimony, I would have seen that
7 that was an incorrect statement. That table reflects
8 average rates for the time period of June 2012
9 through December of 2014.

10 Q. It does not include those last five
11 months.

12 A. That's correct.

13 Q. Now, does that correction of your
14 testimony change any of your other responses or
15 conclusions on the stand today?

16 A. No, it does not.

17 MR. MARGARD: And, your Honor, as
18 tempting as it is, in Mr. Fortney's last appearance
19 on the stand before the Commission, to ask him if he
20 has anything else he would like to say, that
21 concludes my redirect examination.

22 MR. LANG: So we're not asking that
23 question.

24 MR. DARR: And we can't cross it either,
25 can we?

1 EXAMINER TAUBER: Ms. Hand?

2 MS. HAND: No questions, your Honor.

3 Thank you.

4 EXAMINER TAUBER: Mr. Yurick?

5 MR. YURICK: I would ask questions, but
6 anything would be considered friendly cross as
7 Mr. Fortney is such a friendly guy, so no questions.

8 Thank you.

9 EXAMINER TAUBER: Ms. Thompson?

10 MS. THOMPSON: No questions, your Honor.

11 Thank you.

12 EXAMINER TAUBER: Mr. Boehm?

13 MR. K. BOEHM: No questions, your Honor.

14 EXAMINER TAUBER: Mr. Stinson?

15 MR. STINSON: No questions.

16 EXAMINER TAUBER: Mr. Sineneng?

17 MR. SINENENG: No questions, your Honor.

18 EXAMINER TAUBER: Mr. Darr?

19 MR. DARR: No. Thank you.

20 EXAMINER TAUBER: Mr. Lang?

21 MR. LANG: I would suggest the Hearing
22 Examiners perhaps ask that last question, but I am
23 not going to try it, so no. Thank you.

24 EXAMINER TAUBER: Mr. Maskovyak?

25 MR. MASKOVYAK: No questions, your Honor.

1 EXAMINER TAUBER: Mr. Etter?

2 MR. ETTER: No questions, your Honor.

3 EXAMINER TAUBER: Mr. Conway?

4 MR. CONWAY: No questions, your Honor.

5 Thank you.

6 - - -

7 EXAMINATION

8 By Examiner See:

9 Q. I want to clear up some things in the
10 record, Mr. Fortney. Staff is a party to Case No.
11 10-2929, what we refer to as the "capacity charge
12 case," correct?

13 A. Yes.

14 Q. Okay. And, as is evident by the fact
15 you're here today, staff is also a party to AEP's
16 modified ESP case, correct?

17 A. That's correct.

18 MR. HAYDEN: Your Honor, I'm sorry, I'm
19 having a hard time --

20 EXAMINER SEE: You can't hear me?

21 MR. LANG: If you could use the mic,
22 please.

23 EXAMINER SEE: You can't hear me or
24 Mr. Fortney, Mr. Hayden?

25 MR. MASKOVYAK: It is hard to hear you,

1 your Honor.

2 (Discussion off the record.)

3 Q. (By Examiner See) As is evident by the
4 fact that you're here today, staff is also a party to
5 AEP's modified ESP case, correct?

6 A. That's correct.

7 Q. And when staff is a party to a Commission
8 proceeding, your counsel is an attorney from the
9 Attorney General's office; is that correct?

10 A. That's correct.

11 Q. And is it your understanding that in
12 Commission proceedings, the attorney examiners with
13 the Commission's Legal department are assigned to
14 address the procedural issues in a Commission
15 proceeding and to develop a recommended opinion for
16 the Commissioners' consideration? Is that your
17 understanding?

18 A. Yes.

19 Q. Okay. And have you or any staff member,
20 to your knowledge -- any other staff member, to your
21 knowledge, received information from either of the
22 attorney examiners assigned to the capacity charge
23 case regarding the ultimate outcome of the case?

24 A. I know I have not.

25 Q. And, in fact, for you, as a party to this

1 proceeding, it would be inappropriate for an attorney
2 examiner assigned to the case to give a party inside
3 information about the Commission's decision; is that
4 correct?

5 A. I believe that is accurate, yes.

6 EXAMINER SEE: Okay. Let's just make
7 sure the record is clear.

8 Thank you very much, Mr. Fortney.

9 THE WITNESS: Thank you.

10 EXAMINER SEE: Mr. Margard?

11 MR. MARGARD: Thank you, your Honor. I
12 respectfully renew my motion to admit Staff Exhibit
13 110.

14 EXAMINER TAUBER: Are there any
15 objections to Staff Exhibit 110?

16 (No response.)

17 EXAMINER TAUBER: Hearing none, it shall
18 be admitted into the record.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 EXAMINER TAUBER: Mr. Stinson.

21 MR. STINSON: Yes. I move the admission
22 of Schools Exhibit 103.

23 EXAMINER TAUBER: Are there any
24 objections to Schools Exhibit 103?

25 (No response.)

1 EXAMINER TAUBER: Hearing none, it shall
2 be admitted into the record.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

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

6 (Discussion off the record.)

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

9 AEP, counsel for the company has
10 represented that they want to file rebuttal testimony
11 for two witnesses, Mr. Allen and Mr. --

12 MR. CONWAY: Avera.

13 EXAMINER SEE: -- Avera.

14 Rebuttal testimony is due, meaning filed
15 with the Commission and served on the parties by
16 9:30 a.m., Wednesday. We will reconvene at 10:00
17 a.m. on Friday, with the intent of getting through
18 both witnesses; a long Friday. I take that back.

19 It's been suggested, the Bench will
20 revise that time to 9:00 a.m. on Friday, and 9:30 for
21 transmission and docketing of the rebuttal testimony.

22 Hearing is adjourned.

23 (Thereupon, the hearing was adjourned at
24 4:07 p.m.)
25

4661

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Friday, June 8, 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-4027)

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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 06/08/12 - Volume XVI electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Jones, Maria DiPaolo Mrs.