

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :  
Application of Duke Energy:  
Ohio for Authority to :  
Establish a Standard :  
Service Offer Pursuant to :  
Section 4928.143, Revised : Case No. 14-841-EL-SSO  
Code, in the Form of an :  
Electric Security Plan, :  
Accounting Modifications :  
and Tariffs for Generation:  
Service. :

- - -

In the Matter of the :  
Application of Duke Energy:  
Ohio for Authority to : Case No. 14-842-EL-ATA  
Amend its Certified :  
Supplier Tariff, P.U.C.O. :  
No. 20. :

- - -

PROCEEDINGS

before Ms. Christine M.T. Pirik and Mr. Nick Walstra,  
Attorney Examiners, at the Public Utilities  
Commission of Ohio, 180 East Broad Street, Room 11-A,  
Columbus, Ohio, called at 9:05 a.m. on Friday,  
October 24, 2014.

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VOLUME III

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1 Friday Friday Session,

2 October 24, 2014.

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4 EXAMINER PIRIK: We'll go on the record.

5 Mr. Darr.

6 MR. DARR: Thank you, your Honor.

7 Yesterday after I completed my cross-examination, I  
8 identified a calculation error on something I asked  
9 Mr. Wathen to accept, subject to correct. Beginning  
10 around page 460 in the transcript from yesterday, I  
11 asked him to go through a calculation where we took  
12 the percentage ownership of the OVEC entitlement that  
13 Duke has, which we have committed as 200 megawatts,  
14 applied an assumption that the plant would operate at  
15 100 percent for the full year. And I asked him to  
16 accept, subject to check, that the effect of that  
17 would be about 7 percent of total generation of Duke  
18 Energy's retail sales measured in megawatt-hours.

19 The point in the record where I asked him  
20 to accept that subject to check is at page 461, line  
21 23. It indicates there 7 percent. That should be  
22 corrected to 8.76 percent. I identified that problem  
23 to the company yesterday, and we met with you after  
24 the hearing yesterday to point out that there was a  
25 calculation error, and we are using this as an

1 opportunity to make that correction.

2 I had a brief discussion with counsel for  
3 Duke this morning, and I think they confirmed that  
4 the percentage should be 8.76 percent.

5 MS. KINGERY: Yes, we have.

6 EXAMINER PIRIK: Okay. Thank you for  
7 that correction.

8 Also, I just want to note that I  
9 appreciate everyone giving the websites for the  
10 different exhibits that have been provided. What we  
11 are going to do with those is we won't need to read  
12 them into the record. I've talked with the court  
13 reporter. She is going to put them in the listing of  
14 exhibits, and she will put those sites in there so  
15 that we will all have access to them in one location.  
16 So you won't have to mention it again on the record.

17 It's just if this comes up again and we  
18 ask for the website, or if you know that there is a  
19 website that you are getting something off of, please  
20 give it to the court reporters and let them know what  
21 exhibit specifically it goes with, and they will put  
22 it in the appropriate spot.

23 And be sure that when you review the  
24 transcript, because they are such long websites, that  
25 it's correct because it could be a slight error in

1 the writing or spelling, and we want to be sure that  
2 everyone has access to that information.

3 Can we go off the record for a minute?

4 (Discussion off the record.)

5 EXAMINER PIRIK: I believe we are at  
6 Sierra Club.

7 MR. MENDOZA: Yes, your Honor. Thank  
8 you. Thank you, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Mendoza:

12 Q. Good morning, Mr. Wathen.

13 A. Good morning.

14 Q. Would you please refer to page 14, line 1  
15 through 5 of your written testimony.

16 A. 1 through 5?

17 Q. Yep. Do you see at -- where it says, "At  
18 times of very low prices, a charge will flow through  
19 to customers"?

20 A. I do.

21 Q. And then the next sentence says at times  
22 of very high prices, a benefit will occur to  
23 customers. I'm paraphrasing. Do you see those  
24 sentences?

25 A. That's correct.

1           Q.    Have you determined how low energy prices  
2 would have to be in order for the PSR to result in  
3 net costs for customers?

4           A.    The net profit on the sales of capacity  
5 energy would have to be less than the demand charge.  
6 That's where it would essentially be.

7           Q.    I understand that.  But you haven't  
8 looked at a forecast of prices to determine what the  
9 level of prices would have to be in the future for  
10 there to be a net cost to your customers, correct?

11          A.    The level of prices is just one  
12 component.  You would need to know the level of costs  
13 as well.

14          Q.    I understand that.  But in your sentence  
15 here you only refer to prices -- I guess the  
16 assumption there is obviously that costs are at some  
17 level, but you haven't come up with a calculation of  
18 what the level of prices would have to be for the  
19 charge to exist; is that correct?

20          A.    This is a general comment.  All else  
21 being equal, the prices are high, OVEC would be more  
22 profitable.  If prices are low, market prices were  
23 low, then OVEC would be less profitable.

24          Q.    So you are sort of making a qualitative  
25 analysis there.  You didn't do a quantitative

1 calculation of what those prices would have to be?

2 A. I would characterize it as a quantitative  
3 analysis. It's just not a detailed analysis.

4 Q. Did you provide that quantitative  
5 analysis in discovery?

6 A. We have -- I did not, but there's a  
7 discovery response that showed at least one forecast  
8 that we had, the OEG DR-1-1 that we have talked about  
9 a number of times, that had the forecast of the  
10 market prices and our costs, but that's just a  
11 snapshot forecast.

12 Q. Okay. And so that's the only forecast  
13 that we can look to look at what customers face net  
14 costs; is that correct?

15 A. I believe that's the only forecast we  
16 provided that includes a period -- that one includes  
17 a period through 2024, but we weren't asked for  
18 anything beyond that.

19 Q. And then beyond 2024, there is no  
20 information in the record at all about what prices or  
21 what costs would have to be for your customers to get  
22 a net cost or a net benefit; is that correct?

23 A. Well, I would say there is. There is  
24 a -- we have provided a forecast of OVEC's costs  
25 through 2040. So you do have the break-even point,

1 essentially they're costs, so you know where your  
2 prices have to be, but it's not just prices. It's  
3 volume as well. So, you know, a price that we sell a  
4 million megawatts into the market may be different  
5 than a price that we sell 1.2 million megawatt hours.  
6 One may be more profitable than the other.

7 Q. Okay. Let's turn to the next page, page  
8 15 of your testimony. And I would just like you to  
9 look at the last full paragraph on that page that  
10 begins with "finally." You do not state anywhere in  
11 your testimony that the OVEC plant is at risk of  
12 retirement, correct?

13 A. We have not suggested that OVEC is  
14 planning to be retired any time before 2040.

15 Q. Okay. So this so-called steel in the  
16 ground benefit will remain regardless of the outcome  
17 of this case, correct?

18 A. It should.

19 Q. And so then why -- can you tell me how  
20 this steel in the ground benefit is connected in any  
21 way to the PSR?

22 A. Because we are giving the benefit of that  
23 steel in the ground to customers.

24 Q. So essentially what you're saying this  
25 paragraph is another way of restating the so-called



1 hedge benefit then, that they will either get a net  
2 charge or net benefit. It doesn't have anything to  
3 do with the actual existence of the plan or the  
4 output of that generation. It's either the charge or  
5 the credit that your customers will receive; is that  
6 correct?

7 A. The fact that we have entitlement to  
8 OVEC, which is a physical asset, dependable, reliable  
9 energy, and capacity, we're giving customers the  
10 benefit of that hedge. So that's the nexus that I am  
11 trying to draw here.

12 Q. Right. I understand that you've talked  
13 about this hedge. I'm just curious why you've  
14 asserted this steel in the ground benefit is  
15 something that is a separate qualitative benefit that  
16 the Commission should consider.

17 A. Because this is a proposal that we are  
18 giving customers the benefit of that steel in the  
19 ground.

20 Q. Okay. And then on the same page in that  
21 same paragraph, you say the continued access -- I'm  
22 sorry. On lines 19 through 20, you say "The  
23 continued access to this benefit." Do you see that?

24 A. I do.

25 Q. Should we read "continued access" to mean

1 that Duke intends to sell with OVEC the contractual  
2 entitlement the PRS has denied?

3 A. That's not what this implies. The access  
4 we're talking about is the PSR. Without the PSR,  
5 customers do not have access to that benefit.

6 Q. Okay. Let's look at line 17 through 19  
7 up there. I believe you talked about this with  
8 Ms. Bojko yesterday. You say that "we observed  
9 during the polar vortex, plants such as these were on  
10 line." I think you told Ms. Bojko yesterday that one  
11 or more of these units were not actually operating  
12 during the polar vortex; is that correct?

13 A. I believe we have a discovery request --  
14 a response to a discovery response that a unit or two  
15 might have been offline during a time during a polar  
16 vortex.

17 Q. Do you know which units were offline and  
18 for how long?

19 A. Not without looking at the discovery  
20 report.

21 MR. MENDOZA: Your Honor, I'd request  
22 that the Bench take notice of the publicly available  
23 USEPA database known as EPA's Air Market Database  
24 Program for the month of January, 2014. The database  
25 contains data reported by OVEC by all generation

1 facilities to USEPA about various things, including  
2 the air emissions data and operational data.

3 The company has put the operation of  
4 these plants during the polar vortex at issue, and I  
5 think the Commission would benefit from having the  
6 actual performance of those plants as reported by  
7 OVEC, considering the request by the company.

8 MS. SPILLER: Your Honor, I would simply  
9 note that we have no detailed information to even  
10 begin to identify the database to which counsel  
11 refers.

12 MR. MENDOZA: The website address is  
13 [ampd.epa.gov](http://ampd.epa.gov), and I wouldn't ask --

14 MS. SPILLER: It's still not particularly  
15 helpful.

16 MR. MENDOZA: I wouldn't ask that the  
17 Commission take notice of the entire database, but  
18 just of the gross load. I think the parameters that  
19 we would request, the facility name, of course, the  
20 unit IDs, the year, the date, the hours of operation,  
21 and then just the gross load, which would be the  
22 measure of total output for January, 2014, would  
23 allow the Commission to see which units were, in  
24 fact, in operation and which ones were not during  
25 that period which the -- you know, the company has

1 made -- the witness just said now that these were  
2 reliable units. And I think looking at how they  
3 performed at that time of stress on the electric  
4 system would be an important consideration for the  
5 Commission as it considers this application.

6 EXAMINER PIRIK: I'm not questioning  
7 whether or not it's information that we should have  
8 in the record. I'm questioning in my mind whether or  
9 not the appropriate way to do this is through  
10 administrative notice or actual documents that we  
11 could actually look at.

12 I mean, you referenced a lot of things in  
13 the database, a database that we're not really  
14 familiar with. It's not like referencing a  
15 Commission order or an administrative notice of a  
16 Commission order. It's, you know, much bigger than  
17 that. I do understand that it's a government site  
18 and whatnot, but I don't have any concept of what  
19 you're asking us to take notice of.

20 MR. MENDOZA: Alternatively, I could ask  
21 the witness to look at -- this is a printout of the  
22 operational -- I have enough copies that the witness  
23 and the Bench could have one and the company could  
24 have one. We could look at just the printout of the  
25 database from January, 2014.

1           The only thing that we've -- Sierra Club  
2       has changed is we've added the name of the database  
3       and the website at the bottom and a page number. All  
4       the rest of the information on this page is directly  
5       from the USEPA website.

6           EXAMINER PIRIK: Is that the breadth of  
7       what you are asking us to look at? Like if we went  
8       to that database and went to January, 2014, is that  
9       what we would be looking at specifically?

10          MR. MENDOZA: If you went to the  
11       database, it would ask you to click a bunch of  
12       things, you know, state, unit ID. You could pick  
13       these parameters, and then it would generate an Excel  
14       spreadsheet for you. And if you printed it out, this  
15       is what you would get.

16          EXAMINER PIRIK: That's what we would  
17       get?

18          MR. MENDOZA: Except we have added, as I  
19       say, the name of the database and the website, in  
20       addition to the pages numbers, so it's not just 130  
21       pages of white paper that's difficult to comprehend.

22          EXAMINER PIRIK: So that's the breadth of  
23       it? That's it?

24          MR. MENDOZA: This is it.

25          EXAMINER PIRIK: That's the whole thing?

1 MR. MENDOZA: This is it.

2 EXAMINER PIRIK: I think, especially if  
3 you are going to be referencing it in your briefs and  
4 you're going to be working with it throughout with  
5 the witnesses and whatnot, that it would be more  
6 appropriate to mark it as an exhibit that we could  
7 actually cite to than to randomly be looking at it  
8 online. So I don't know if the other parties  
9 actually need a copy of it, but at least the Bench  
10 does, the court reporter does, the company does.

11 MR. DARR: May I offer a suggestion here?

12 EXAMINER PIRIK: Yes, Mr. Darr.

13 MR. DARR: Given the breadth of the  
14 document and the inherent copy costs associated with  
15 that --

16 EXAMINER PIRIK: Yeah. I don't think we  
17 need any more copies.

18 MR. DARR: -- would it be possible to do  
19 this as a PDF and circulate the PDF to the parties?

20 EXAMINER PIRIK: I think you could do  
21 that with the other parties, but the company, the  
22 Bench, the witness, and reporters will need a hard  
23 copy. I mean, you don't have to give us copies right  
24 now.

25 MR. MENDOZA: Okay.

1 EXAMINER PIRIK: And then if you can PDF  
2 it to the rest of the parties, that would be fine.  
3 That's an excellent suggestion, Mr. Darr.

4 MR. MENDOZA: Thank you, Mr. Darr.  
5 Could I go ahead and ask Mr. Wathen  
6 questions about the exhibit?

7 EXAMINER PIRIK: It looks like you have a  
8 few copies. So even if you could give the Bench one  
9 copy and Duke and the witness and a promised copy to  
10 the court reporters, then we can go from there.

11 MR. MENDOZA: I promise.  
12 May I approach?

13 EXAMINER PIRIK: Yes.

14 MR. MENDOZA: Thank you.

15 EXAMINER PIRIK: So we are going to mark  
16 this as Sierra Club Exhibit 3?

17 MR. MENDOZA: That's correct. Thank you.

18 EXAMINER PIRIK: And then we will need  
19 another copy for the Bench when you give a copy to  
20 the court reporter.

21 MR. MENDOZA: I appreciate that. Thank  
22 you.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MR. MENDOZA: And so just to be clear, I  
25 would like to have this marked as Sierra Exhibit 3.

1 Thank you.

2 EXAMINER PIRIK: The document is so  
3 marked.

4 Q. (By Mr. Mendoza) Mr. Wathen, are you  
5 familiar with generation facilities' reporting  
6 requirements used by USEPA regarding the Air Market's  
7 program?

8 A. I am not.

9 Q. Do you know what gross load is?

10 A. I know what gross output is. I am not  
11 sure what gross load means here.

12 Q. Would you agree with me that it is a  
13 measure of total output?

14 MS. SPILLER: I am going to object. The  
15 witness just said he doesn't know what gross load  
16 means.

17 EXAMINER PIRIK: I'll allow the witness  
18 to answer.

19 A. I can only assume you have a definition.  
20 I mean, if that's the definition, I'll accept it, but  
21 I don't know.

22 Q. Okay. Would you please turn to page 12  
23 of Sierra Club Exhibit 3, please.

24 A. Are there page numbers on it?

25 Q. They are on the bottom, yes. The first



1 page is not numbered. All the other subsequent pages  
2 are numbered.

3 A. Okay.

4 Q. Do you see that Clifty Creek Unit 1 had  
5 zero gross load on January 30?

6 A. I do. I don't believe that's the date of  
7 the vortex issue, though.

8 Q. Okay. Please turn to page 26 and 27. Do  
9 you see that Clifty Creek Unit 3 had zero gross load  
10 on January 6, 7, and 8?

11 A. I do. I think we've already agreed to  
12 this and admitted this in the discovery request.

13 Q. Okay. Would you please turn to page 32  
14 and 33, please. Do you see that Clifty Creek Unit 3  
15 had zero gross load January 22, 23, and 24?

16 A. I see what it says on the paper.

17 Q. Okay. Would you please turn to page 68  
18 and 69, please. Do you see that Clifty Creek Unit 6  
19 had zero gross load on January 22, 23, and 24?

20 A. I see that's indicated on the paper.

21 Q. Thank you, Mr. Wathen.

22 Would you please turn to page 82 and 83.  
23 Do you see that Kyger Creek Unit 1 had zero gross  
24 load for January 29 and January 30?

25 A. I see that on the paper, yes.

1           Q.    And, lastly, would you please turn to  
2           pages 94 and 95.  Do you see that Kyger Creek Unit 2  
3           had zero gross load for January 29 and 30?

4           A.    That's what it indicates.

5           Q.    Okay.  And I think you questioned whether  
6           some of these days were appropriate for consideration  
7           in the polar vortex context.  I would like to ask you  
8           to take a look at Sierra Club Exhibit 2, the Kormos  
9           statement that was cited in Mr. Henning's testimony.  
10          If you don't have a copy, I can bring you one.

11               MR. MENDOZA:  May I approach?

12               EXAMINER PIRIK:  Yes.

13          Q.    Mr. Henning, would you please turn to  
14          page 10.

15          A.    Mr. Henning or Mr. Wathen?

16          Q.    Mr. Wathen.  I had Mr. Henning's exhibit  
17          in my head.

18          A.    He tried to swap jobs with me too the  
19          other day.

20               MS. SPILLER:  You're getting promoted,  
21          Don.

22          A.    What page, please?

23          Q.    I'm sorry.  Page 10, please.  And do you  
24          see there's a Figure 3 at the top of that page titled  
25          "Emergency Operations"?

1           A.    I do.

2           Q.    And do you see that there are various  
3 types of emergency operations listed on the left side  
4 of that chart?

5           A.    I see what's on the paper, yeah.

6           Q.    Okay. And do you see that January 30 is  
7 one of those days listed on that chart that was  
8 prepared by Mr. Michael Kormos of PJM?

9           A.    There's two bullets on the column for  
10 January 30. I'm not sure what role you are referring  
11 to.

12          Q.    It's just a simple question. Was  
13 January 30 one of the days in which PJM took  
14 emergency action response to the cold weather of  
15 January -- of that year?

16          A.    Well, it says -- on January 30, the line  
17 that says "cold weather" is not a bullet for  
18 January 30.

19          Q.    I think the point of the chart is that  
20 some of the emergency operations extended beyond to  
21 the next day; isn't that correct?

22          A.    I don't argue that, but you asked me  
23 whether it was cold weather or not.

24          Q.    No, no. I am asking you if PJM took  
25 emergency operations in response to cold weather on

1 January 30.

2 A. Well, now, you are asking me that, but it  
3 looks like they had a voltage reduction and a max  
4 emergency on January 30.

5 Q. Okay.

6 A. You know, again, if there's 11 units,  
7 we've got -- each unit could have run 740 hours.  
8 That's 80,000 hours. So I think it's a relatively  
9 small amount of time that it was out for the whole  
10 month, and the important point is we made money on  
11 OVEC in January which would have flowed through the  
12 PSR.

13 Q. Okay. I think we can move on.

14 In 2012, Mr. Wathen, were there losses  
15 related to the OVEC entitlement for Duke?

16 A. Yes, there were.

17 Q. In 2013, were there losses related to the  
18 OVEC entitlement for Duke?

19 A. Yes, there were.

20 Q. So far in 2014, have there been losses on  
21 the OVEC entitlement for Duke?

22 A. I believe net right now we're ahead.

23 Q. Okay. Would you attribute the fact that  
24 you're net ahead in 2014, at least in part, to the  
25 high prices of the polar vortex?

1           A.    It's a combination of things.

2           Q.    Mr. Wathen, do operations and maintenance  
3 costs for generation facilities tend to increase as  
4 facilities age?

5           A.    Operation and maintenance costs across  
6 the industry tend to increase with inflation period.

7           Q.    Okay. Thank you. But what about the age  
8 of the facility, is the age of the facility a  
9 relevant consideration when you're looking at, for  
10 example, projecting future operation and maintenance  
11 costs?

12          A.    I don't necessarily agree with that. I  
13 mean, it depends on how well maintained the unit is,  
14 period, all together. It is a function of how well  
15 the company manages the unit.

16          Q.    Are you aware of when the Kyger Creek and  
17 Clifty Creek units came into operation?

18          A.    I believe they -- the start date was  
19 1955.

20          Q.    Okay. I think we can agree that makes  
21 them about 59 years old?

22          A.    Thankfully, it makes them older than me,  
23 yes.

24          Q.    When you -- I don't think we need to look  
25 at the actual -- but do you recall that you stated

1 that the costs of these plants are relative -- maybe  
2 we should look at the statement. It's page 15 of  
3 your testimony. Excuse me, page 14 of your  
4 testimony. Do you see on line 10 where you say that  
5 fixed costs are generally very stable?

6 A. Yes.

7 Q. Now, when you are looking forward to  
8 predict fixed costs of the facility, do you consider  
9 the age of these plants?

10 A. I generally looked at the OVEC projection  
11 of its demand costs as a rationale for that  
12 statement.

13 Q. So is it fair to say you just depended on  
14 the numbers that OVEC gave you?

15 A. That is fair to say.

16 Q. Okay. It's correct that if the plants  
17 are 59 years old right now, that in 2040 at the end  
18 of the OVEC entitlement, they will be 85 years old,  
19 correct?

20 A. That seems like reasonable math, 2040  
21 minus 1955, yes.

22 Q. Are you aware of any coal-fired unit in  
23 the United States currently operating that's 85 years  
24 old?

25 A. I don't have a complete list of the

1 inventory in my head, but I am aware that OVEC  
2 commissioned a study that evaluated the life of  
3 units, and the URS Consulting Group in 2011 said the  
4 units would last to at least 2040, an independent  
5 engineering firm.

6 Q. Was that study produced in discovery?

7 A. It was. There was at least a link to it.

8 Q. Okay. Did you consider entering into a  
9 PSR rider with a generation facility other than those  
10 operated by OVEC?

11 A. I think we've established that we have  
12 not.

13 Q. But there's no reason why the same hedge  
14 couldn't be created by entering into such an  
15 agreement with another company, correct?

16 A. It's possible, sure.

17 Q. Okay. I think you just answered my next  
18 question, which was you never considered an  
19 alternative mechanism for reducing price volatility,  
20 correct?

21 A. I did answer that question, that's  
22 correct.

23 Q. Okay. Because you didn't consider  
24 alternatives, how do you know that this is the least  
25 cost alternative for your customers?

1 MS. SPILLER: Objection. Assumes facts  
2 not in evidence or that there is a requirement to do  
3 so.

4 EXAMINER PIRIK: Overruled.

5 A. This is an asset that we -- this is a  
6 resource that we have access to that we think is a  
7 good resource. We have not done an IRP. We didn't  
8 really feel the need to. Because the IRP would mean  
9 accessing generation, and we are not in the business  
10 of selling generation. So it never occurred to us to  
11 do that. We are offering this to the Commission.  
12 It's their prerogative to take it or not based on all  
13 the facts we presented here, and that's our proposal.

14 Q. Have you ever discussed any aspect of the  
15 proposed ESP, including the PSR, with the governor's  
16 office?

17 MS. SPILLER: Objection. Asked and  
18 answered of Mr. Henning.

19 EXAMINER PIRIK: Overruled.

20 Q. I am just asking if you personally,  
21 Mr. Wathen, ever discussed --

22 A. I have never met anybody from the  
23 governor's office for anything.

24 Q. Have you ever met any of the five  
25 Commissioners?



1           A.    I have met the Commissioners.

2           Q.    Did you discuss the proposed ESP,  
3 including the PSR, with any of the five  
4 Commissioners?

5           A.    As Mr. Henning alluded to yesterday, we  
6 did meet with the Commissioners to preview our filing  
7 as a courtesy, we met with all of them at one time or  
8 another.

9           Q.    So you participated in the meetings that  
10 Mr. Henning referred to in his testimony?

11          A.    I did.

12          Q.    Do you recall if the PSR was discussed in  
13 those meetings?

14          A.    It was.

15          Q.    Do you recall if the Commissioners stated  
16 any opinion to you about the PSR?

17          A.    I can't recall any statements one way or  
18 the other. They typically don't give us any  
19 direction at that time.

20          Q.    Have you ever discussed this  
21 anti-volatility proposal or the PSR rider with  
22 employees or agents of Ohio Power Company?

23          A.    I have not had any conversations with  
24 Ohio Power.

25          Q.    Have you discussed the same with any

1 employees or agents of FirstEnergy's three Ohio  
2 distribution utilities?

3 A. I have not.

4 MR. MENDOZA: I have no further  
5 questions.

6 EXAMINER PIRIK: Ms. Kyler.

7 MS. KYLER COHN: Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Ms. Kyler Cohn:

11 Q. Good afternoon, Mr. Wathen.

12 A. Good morning.

13 Q. Or morning. Sorry.

14 You proposed that Duke's current large  
15 customer interruptible program be terminated,  
16 correct?

17 A. Are you speaking of the demand response  
18 program stipulated to in the ESP?

19 Q. Yes.

20 A. That's correct.

21 Q. Did Duke bid any of the load currently  
22 participating in the large customer demand response  
23 program into the PJM 2017; 18 base residual auction?

24 A. I have no personal knowledge of that, but  
25 I would expect we did.

1 MS. KYLER COHN: Your Honor, I would --

2 A. Honestly, I just don't know. I would  
3 have to ask someone else.

4 MS. KYLER COHN: Your Honor, I would like  
5 to mark an exhibit. May I approach? The exhibit is  
6 SJB-7 to Mr. Barons' testimony. So could I just mark  
7 Mr. Barons' testimony as OEG Exhibit 2 at this time  
8 and reflect this as a portion of that?

9 EXAMINER PIRIK: That would be  
10 appropriate.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 EXAMINER PIRIK: What number did you give  
13 that?

14 MS. KYLER COHN: OEG 2.

15 Q. Okay. Can you identify this document,  
16 Mr. Wathen?

17 A. I didn't respond. This is not my  
18 response, but I can identify it. It's a response to  
19 a discovery request from OEG.

20 Q. Did you review the testimony and exhibits  
21 that Mr. Barons filed in this case?

22 A. I did, but it's been a while.

23 Q. Okay. In this discovery request, OEG  
24 asked "If Duke did not bid its interruptible load (as  
25 a CSP) into the 2017/2018 BRA, what options are now

1 available to Duke's customers to participate in the  
2 PJM DR program for the 2017/2018 delivery year?"

3 Correct?

4 A. I think you read the question accurately.

5 Q. All right. And at the bottom of this  
6 response, Duke provided three options, correct?

7 A. That's what the response says here.

8 Q. One of which is "participating with Duke  
9 Energy Ohio under the PowerShare program," correct?

10 A. That's what it says.

11 Q. Okay. Are you familiar with Duke's  
12 PowerShare program?

13 A. Vaguely.

14 Q. Do you know how many customers are  
15 participating in that program?

16 A. I don't.

17 Q. Do you know if customers receive a rate  
18 credit for participating in the PowerShare demand  
19 response program?

20 A. I would assume there is some incentive.

21 Q. So you don't know the level of that  
22 credit?

23 A. I don't.

24 Q. Do you know if Duke recovers the costs  
25 associated with the PowerShare program credit from

1 other customers?

2 A. I believe -- I'm sure to the extent there  
3 is an incentive paid at all, it would be applied to  
4 the EEDR rider.

5 Q. And you don't know in what months  
6 customers participating in the PowerShare program can  
7 have their service curtailed?

8 A. I don't.

9 Q. Do you know if there is a limit on how  
10 much load can participate in the PowerShare program?

11 A. I don't know.

12 Q. Do you know how long Duke's current  
13 PowerShare program is approved by the Commission to  
14 continue?

15 A. It's part of our EE program. I think  
16 it's a five-year approval, if I recall. I'm not sure  
17 when it was approved. I thought it was a five-year  
18 plan.

19 Q. Do you know the end date of that plan?

20 A. I don't.

21 Q. What benefits would a program like Duke's  
22 PowerShare demand response program provide?

23 A. Predominantly the reason we go through  
24 PowerShare was to meet the State's EE obligations,  
25 peak demand response, the green rules, if you will.

1 We have an obligation to reduce our demand in energy,  
2 and this is one program we use to do that.

3 Q. Can a demand response program like  
4 PowerShare provide reliability benefits?

5 A. If that customer is willing to take peak  
6 at a time PJM asks, then, yes, it would provide  
7 benefits.

8 Q. Can a program like Duke's PowerShare  
9 program provide energy conservation benefits?

10 A. If it's reducing energy, then it must be  
11 giving you energy benefits.

12 Q. Can a program like Duke's PowerShare  
13 program provide economic development benefits?

14 A. I assume that a customer would enter into  
15 an arrangement like that for its economic benefits,  
16 so I would assume that's an economic development  
17 benefit.

18 MS. KYLER: Thank you, your Honor. No  
19 further questions.

20 EXAMINER PIRIK: Mr. Olikar?

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Olikar:

24 Q. Good morning, Mr. Wathen.

25 A. You've got until 1:00, Joe.

1           Q.    I think it will be much quicker than  
2           that. Just a few questions this morning. And I  
3           apologize if I have an issue between what was asked  
4           today and yesterday, but I will try not to repeat  
5           anything.

6                     Starting with rider SCR, would you agree  
7           that that provision was approved as part of a  
8           stipulation?

9           A.    It was included in the stipulation,  
10          that's true, yeah.

11          Q.    Okay. Thank you. And looking in your  
12          testimony, a slightly different issue, do you believe  
13          that you testified that it would be detrimental to  
14          competition to create an advantage or disadvantage --

15          A.    What page?

16          Q.    Pages 20 and 21. And this is a general  
17          policy issue. You believe it would be detrimental to  
18          competition to create an advantage or disadvantage  
19          for either the SSO auction winners or CRES providers,  
20          correct?

21          A.    That's correct. We have no skin in the  
22          game, so we shouldn't be in the business of pushing  
23          customers to SSO or to CRES.

24          Q.    Okay. So effectively it's good policy to  
25          ensure all market participants have a level playing

1 field?

2 A. That's exactly right.

3 Q. Okay. And to ensure competitive parity,  
4 your testimony recommends that default rates and CRES  
5 rates be comparable and nondiscriminatory, correct?

6 A. We can't do that exactly. We can only  
7 try to do as well as we can within the parameters we  
8 have for rate design.

9 Q. Okay. But, for example, to achieve  
10 comparable and nondiscriminatory rates, CRES rates  
11 and SSO rates should be composed of the same  
12 categories of cost to the extent you can do that?

13 A. The only CRES rates and SSO rates that  
14 are really at issue are the generation rates. So we  
15 have capacity and energy that we provide under the  
16 SSO and the CRES providers provide capacity and  
17 energy in their contracts.

18 Q. But just to get to my question, to the  
19 extent that you can have the same categories of costs  
20 included in CRES rates and SSO rates, you would like  
21 to achieve that result, correct?

22 A. Again, the only costs that are in the SSO  
23 rates are again the costs of managing the auctions  
24 and the capacity and energy costs, period. We have  
25 no idea what CRES puts in the rates.



1           Q.    Okay.  Let me come at this from a  
2           different direction then.  Would you agree that if  
3           the SSO product the wholesale suppliers bid on does  
4           not require the wholesale providers to pay for costs  
5           the CRES providers must incur, the CRES providers  
6           would be at a competitive disadvantage?

7           A.    I don't think I agree with that.

8                   MR. OLIKER:  Can I have a minute, your  
9           Honor?

10                  EXAMINER PIRIK:  Yes.

11           Q.    I believe we can get to this in a  
12           hypothetical.

13           A.    I really, really enjoy hypotheticals.

14           Q.    I think you've heard this one before.  
15           Mr. Wathen, could you assume that default service in  
16           CRES providers must each purchase renewable energy  
17           credits, and assume that Duke Energy Ohio procured  
18           RECs for the default load and recovered those costs  
19           through distribution rates.  The CRES providers must  
20           recover those costs through competitive prices.  
21           Would you agree that the SSO rates and the CRES rates  
22           are not comparable?

23           A.    Your hypothetical is faulted because we  
24           don't recovery renewable through distribution rates.  
25           But if there was a cost that is not -- that is

1 included in SSO rates -- or not included in SSO rates  
2 that is mandatory in the generation component of the  
3 CRES, then it would not be comparable because your  
4 hypothetical is a false narrative.

5 Q. Okay. Thank you.

6 And you would agree under the  
7 hypothetical that I just provided, CRES providers are  
8 at a competitive disadvantage relative to wholesale  
9 auction providers?

10 A. If the wholesale auction providers aren't  
11 providing RECs and CRES is, then there's a  
12 difference. But the combination of the SSO price and  
13 our REC is what CRES competes against, not just the  
14 SSO that winning auction providers bid.

15 MR. OLIKER: Could I please have that  
16 answer repeated?

17 EXAMINER PIRIK: Yes.

18 (Record read.)

19 Q. So in the answer you just provided, if  
20 the REC is being recovered through distribution rates  
21 and the CRES provider has to include that competitive  
22 price, then clearly the REC is not being included in  
23 the price to compare?

24 A. The RECs aren't being recovered just in  
25 the distribution rates.

1           Q.    I understand that, Mr. Wathen. I am just  
2 talking about within the confines of my hypothetical.

3           A.    If that was -- however absurd, if that is  
4 the hypothetical, that would be the case, right.

5           Q.    Okay. Thank you.

6                   Mr. Wathen, would you agree that Duke  
7 Energy Ohio has a call center to take calls from  
8 customers that are on the standard service offer?

9           A.    We have customers from -- that take  
10 delivery service from us, period, whether they take  
11 SSO or CRES.

12           Q.    Okay. Would you agree that those call  
13 center expenses are recovered through distribution  
14 rates?

15           A.    They are.

16           Q.    Would you agree that Duke Energy Ohio has  
17 litigation expenses that it recovers through  
18 distribution rates?

19           A.    Incremental litigation expenses or just  
20 the cost of our attorneys?

21           Q.    There is an allowance in distribution  
22 rates for litigation expense.

23           A.    I honestly don't know in our last rate  
24 case we had litigation expenses, per se. We would  
25 only have that if we had active litigation in the

1 test year. We have a legal team and, you know, their  
2 labor costs would have been part of our allocated to  
3 DE Ohio, would have been included in the rates. But  
4 when you say litigation expenses, that implies to me  
5 that we've got active litigation.

6 Q. Okay. Let's just put a finer point on  
7 that. For example, the regulatory team of Duke  
8 Energy Ohio, that's funded through distribution  
9 rates?

10 A. A portion of their time is allocated to  
11 DE Ohio, which would have been included in  
12 distribution rates.

13 Q. Okay. Thank you.

14 MS. BOJKO: Your Honor, excuse me. I'm  
15 having trouble hearing over here. I think it might  
16 be because Ms. Spiller's mic is on, so it's  
17 drawing -- if we could try to turn off the mic.

18 EXAMINER PIRIK: I don't know that  
19 keeping the mic on -- it creates feedback. Who are  
20 you having trouble hearing?

21 MS. BOJKO: Mr. Wathen.

22 EXAMINER PIRIK: Maybe it just needs to  
23 be closer. Sometimes if you put it up on the ledge  
24 and put the mic down.

25 THE WITNESS: I'll try to speak up.

1 MS. BOJKO: That actually is louder.

2 Thank you. That helped.

3 EXAMINER PIRIK: Okay. Good.

4 THE WITNESS: It's Amy's fault.

5 MS. BOJKO: Did you just turn your mic  
6 back on, Amy?

7 MS. SPILLER: I did.

8 MS. BOJKO: We can't hear.

9 MS. SPILLER: I will be a lot more vocal  
10 in my objections then.

11 EXAMINER PIRIK: That helps.

12 MS. BOJKO: My apologies. Thank you.

13 Q. (By Mr. Olikar) Okay. Mr. Wathen, would  
14 you agree that there are information technology  
15 investments that are necessary to support the  
16 standard service offer?

17 A. I think the entire distribution function  
18 is required to support the standard service offer. I  
19 mean, all the cost that is -- we all are here to  
20 provide customers with a standard service offer,  
21 whether a customer is switching or not, you know,  
22 that standard service offer exists. It's their  
23 prerogative to come back to it or leave. So we have  
24 to be there for anyone that wants to come back to  
25 standard service.

1           Q.    And I think you answered my next  
2           question.  The cost to support the information  
3           technology that's used to support the standard  
4           service offer is recovered through distribution  
5           rates?

6           A.    We don't distinguish any of our costs  
7           that are in distribution from the SSO to CRES.

8           Q.    So the answer to my question is "yes"?

9           A.    It follows that it's yes then.

10          Q.    Thank you.  Turning to page 14 of your  
11          testimony.

12          A.    Okay.

13          Q.    This is regarding OVEC and the PSR as  
14          being a hedge.  You state that when market prices are  
15          low, the PSR could be charged to customers, but when  
16          market prices are very high, the profits from OVEC  
17          would serve to benefit customers by reducing overall  
18          rates.  Would you agree there is no certainty that  
19          OVEC will be profitable when market prices are high?

20          A.    There's no certainty either way, whether  
21          it's going to be a loss when it's low or a gain when  
22          it's high.  There is no certainty at all.

23          Q.    And you personally have not performed the  
24          analysis of the profitability of OVEC during the ESP  
25          period, correct?

1           A.    I think I've answered that about three  
2 times, but no.

3           Q.    You talked, I believe, yesterday about  
4 the fact both Clifty Creek and Kyger Creek are pseudo  
5 tied to PJM, correct?

6           A.    I don't believe both of them are. I  
7 believe one of them might be.

8           Q.    Have you ever scheduled these resources  
9 in the PJM?

10          A.    Have I?

11          Q.    Yes.

12          A.    I've never done it.

13          Q.    Would you agree that both resources clear  
14 at the OVEC node?

15          A.    I believe we indicated as much in a  
16 discovery response.

17          Q.    And would you agree the OVEC node is an  
18 external interface?

19          A.    I have no idea.

20          Q.    Would you agree that both resources are  
21 scheduled as an import to PJM?

22          A.    I don't manage OVEC dispatch, so I don't  
23 know.

24          Q.    And would you agree that both resources  
25 have ramping limitations because they're scheduled as

1 an import into PJM?

2 A. Every unit has ramping limitations.

3 Q. Would you agree that these resources have  
4 different ramping limitations because they are  
5 scheduled as an import of PJM?

6 MS. SPILLER: I am going to object to the  
7 extent it has not been established through this  
8 witness they're exports through PJM.

9 MR. OLIKER: He can answer if he knows.

10 EXAMINER PIRIK: Overruled.

11 A. I don't know the operating parameters of  
12 OVEC at all. Mr. Brodt might know.

13 Q. Did you say Mr. Whitlock?

14 A. Mr. Brodt might know since he is the OVEC  
15 officer.

16 Q. Mr. Wathen, assuming the Commission  
17 disallowed some of the costs -- let's take a step  
18 back. Assume for a second that the PSR is approved  
19 by the Commission and --

20 A. I'm with you so far.

21 Q. I thought you would be on that.

22 Now, assume that the Commission decided  
23 it would like to review the costs that OVEC flows  
24 through Duke Energy Ohio for prudence, and now assume  
25 that the Commission disallowed some of the costs that



1 Duke Energy Ohio tried to flow through the PSR.

2 Would you agree that Duke would still feel required  
3 to pay OVEC for all of the costs that it was charged  
4 pursuant to the ICPA?

5 A. I do not believe the PUCO would have the  
6 authority to interject what we pay OVEC. However,  
7 they may decide what we can and can't pass through to  
8 customers.

9 Q. Thank you. And you agree that the  
10 consequence of disallowing costs that OVEC would pay  
11 to Duke -- or sorry. Would you agree that  
12 disallowing costs that Duke would pay to OVEC would  
13 in actuality be recorded as a loss of net income on  
14 the Duke books?

15 A. As I just indicated, I don't believe the  
16 PUCO has the authority to interject what we pay --  
17 what Duke Energy Ohio pays OVEC. They may have the  
18 authority to decide how we flow through the PSR. But  
19 as far as you are asking me what Duke Energy Ohio  
20 pays OVEC, and they wouldn't be able to -- it would  
21 be FERC preempting from doing that.

22 Q. And just to go a step further, because  
23 there would be a loss at the electric distribution  
24 utility, it would reduce the net income of the  
25 electric distribution utility, correct?

1           A.    Any loss by the EDU would be a loss to  
2   the company, that's true.

3           Q.    Okay.  Sorry to jump around, but I would  
4   like to ask questions about volatility in January of  
5   2014.  You testified to that issue; is that correct,  
6   Mr. Wathen?

7           A.    I discussed it a little bit.

8           Q.    And much of the problem in January was  
9   due to forced outages, correct?

10          A.    Most of the issues in January had to do  
11   with the cold weather and constraints on the system.  
12   Forced outages contributed to it, but it wasn't the  
13   sole cause.

14          Q.    Would you agree that PJM is taking action  
15   to address the forced outage problem that happened in  
16   January?

17          A.    I am aware of a number of actions going  
18   on right now to address the capacity issue.

19          Q.    For example, you are aware that PJM is  
20   going to institute larger testing requirements to  
21   ensure that units are available?

22          A.    Among the things I'm aware of are that.  
23   They are questioning the demand response as a  
24   reliable resource.  They are setting premiums for  
25   capacity that has reliable fuels and so on.  Some

1 ideas I've heard of.

2 Q. The answer is "yes" to my question?

3 A. And among other things, yes.

4 Q. Yesterday you addressed some questions  
5 about whether or not the PSR and OVEC is in the  
6 business -- just let me back up.

7 I believe you stated yesterday that by  
8 retaining OVEC, that entitlement, Duke would not be  
9 in the competitive retail service business, correct?

10 A. We are not now and won't be in the  
11 competitive retail electric generation service.

12 Q. And the basis for that conclusion is OVEC  
13 is generation that will be sold in the PJM wholesale  
14 market?

15 A. That's partly the basis, but the other  
16 basis is we are just not selling that into the retail  
17 market.

18 Q. And you mentioned that in the context of  
19 4928.17, right, which is Ohio's corporate separation  
20 statute?

21 A. I believe that phrase, competitive retail  
22 service, shows up throughout 4928 but including  
23 4928.17. My understanding of the definition is that  
24 we are not in that business, and OVEC doesn't -- our  
25 contractual entitlement to OVEC doesn't put us in

1       that business.

2               Q.     So I just have a question.  If Duke were  
3       to retain its generating assets, if they hadn't been  
4       transferred, and you merely sold its output to the  
5       PJM wholesale markets, is it your opinion that Duke  
6       would be in compliance with 4928.17?

7               A.     Yes.

8               Q.     And that's the same basis regarding why  
9       you're in compliance with 4928.17 now in that OVEC  
10      doesn't involve competitive retail electric service.

11              A.     My understanding of 4928.17 is we have to  
12      functionally separate at a minimum to ensure that we  
13      are -- we don't have any control essentially of  
14      competitive retail electric generation service, and  
15      we're not providing a subsidy to an affiliate or  
16      subsidiary.  OVEC is neither an affiliate or  
17      subsidiary.  Even if we had generation that we did  
18      own, as long as it wasn't being used for competitive  
19      retail electric service, to my knowledge, the  
20      Commission can't compel you to sell or transfer those  
21      assets.  You just have to make sure they are not  
22      being used for competitive retail electric service.

23              Q.     Okay.  You have got a part of my question  
24      there.  There is two parts to 4928.17.  You can  
25      either functionally separate it or legally separate

1     it. And it's your opinion that Duke Energy Ohio  
2     would be legally separated so long as it owned  
3     generating assets and didn't use them for  
4     competitive -- strike that.

5             Duke would be legally separated if it  
6     owned generating assets and merely sold their output  
7     into the wholesale market?

8             MS. SPILLER: Objection. Misstates his  
9     testimony.

10            EXAMINER PIRIK: Overruled.

11            MR. OLIKER: He can clarify.

12            A. I wouldn't call that legally. That's  
13     functionally separated. That's not legally  
14     separated.

15            Q. Is it your opinion that Duke is now  
16     legally separated of all ownership of generating  
17     assets?

18            A. We have not yet.

19            Q. And what is the basis for that statement?

20            A. We have transferred most of our  
21     statements to an affiliate, but at the moment we  
22     still have ownership of Duke's Beckjord station. It  
23     will be transferred before the end of the year.

24            Q. Mr. Wathen, you answered some questions  
25     yesterday about what exactly a PSR is. Did you call

1       it a financial product?

2               A.    It is essentially a financial  
3       transaction.

4               Q.    Would you agree that it's a financial  
5       transaction that allows Duke to collect the  
6       difference between a cost-based revenue requirement  
7       and wholesale PJM market revenues?

8               A.    I don't know if I would call it a  
9       cost-based revenue requirement. I mean, it's the  
10      difference between our costs from OVEC and the  
11      revenue received in PJM. That's not that different  
12      from what you said.

13              Q.    Thank you. And you would agree that all  
14      of those transactions are occurring at the wholesale  
15      level?

16              A.    Yeah. As we discussed earlier about the  
17      corporate separation, it's all being done at the  
18      wholesale level.

19              Q.    There was also a discussion yesterday  
20      about an increase in CRES offers after the polar  
21      vortex. Do you remember that?

22              A.    Increase in the price or the numbers?

23              Q.    I think you indicated prices went up  
24      after the polar vortex, correct?

25              A.    I did.

1 Q. And would you agree that the 2013-'14  
2 price for capacity in PJM was about \$27 per  
3 megawatt-day?

4 A. From the June 31 -- I'm sorry. June 1,  
5 '13, to May 31, '14, you're right, about \$27, \$28,  
6 give or take.

7 Q. And you would agree that starting June 1  
8 of 2014 the price for capacity increased to over \$100  
9 a megawatt-day.

10 A. About 127, yeah.

11 MR. OLIKER: If I could have just a  
12 minute, your Honor.

13 EXAMINER PIRIK: Yes.

14 MR. OLIKER: Thank you. I think that's  
15 all the questions I have, your Honor.

16 Thank you, Mr. Wathen.

17 EXAMINER PIRIK: Ms. Petrucci?

18 MS. PETRUCCI: Okay. Thank you.

19 - - -

20 CROSS-EXAMINATION

21 By Ms. Petrucci:

22 Q. Good morning, Mr. Wathen.

23 A. Hello.

24 Q. Could you turn to page 13 in your  
25 testimony, please. And specifically on line 3 you

1 indicate that OVEC includes a return on investment in  
2 calculating the fixed costs that it allocates to Duke  
3 and the other sponsoring companies; isn't that  
4 correct?

5 A. You read that correctly.

6 Q. The return on investment, is that the 2  
7 dollars and 8.9 cents that was discussed yesterday in  
8 questioning with Mr. Darr?

9 A. It is.

10 Q. The OVEC forecast that you've discussed,  
11 when was that conducted?

12 A. The OEG DR-1-1?

13 Q. Yes?

14 A. Mr. Dougherty could probably give you  
15 more details on it. I believe it was based on some  
16 January forecasts, but he produced that in June.

17 Q. So June of 2014?

18 A. Yes. Again, he is probably a better  
19 person to ask about those details.

20 Q. And June in 2014 was after the company  
21 had proposed this particular ESP and you had filed  
22 your testimony; isn't that correct?

23 A. That's the way the calendar worked, yes.

24 Q. Thank you. So as a result, at the time  
25 you've indicated that in your testimony that this was



1 a benefit to customers. You did not have -- neither  
2 you or Duke itself had a forecast of how the PSR  
3 would carry out?

4 A. Well, again, as we discussed earlier,  
5 there -- intuitively I know the way the  
6 countercyclicity works, that there is inherent  
7 benefit in OVEC relative to our market prices, and I  
8 knew that OVEC was not going to be a big loss or a  
9 big gain throughout the period. So I didn't really  
10 think about it as a potential huge loss to the  
11 customer, and we thought the insurance benefit, for  
12 lack of a better word, was worth it to offer to  
13 customers.

14 Q. Okay. But in answering then, you're  
15 saying that theoretically you understood how the PSR  
16 would work, and you had an anticipation as to how it  
17 would work, but an actual forecast was not available  
18 to you when you put together your testimony, correct?

19 A. I never ran the numbers through the PSR,  
20 but I do know how it works.

21 Q. Okay.

22 A. Again, we are proposing this for 25  
23 years, so it's kind of hard to do a forecast over 25  
24 years so.

25 Q. Thank you. If rider PSR is approved and

1 if it results in a charge to the customers, the  
2 shopping customers will pay their CRES provider for  
3 that provider's generation supply and pay Duke for  
4 Duke's allocation of generation; isn't that correct?

5  
6 A. That's correct.

7 Q. And if rider PSR is approved as proposed  
8 and it results in a charge to the customers, shopping  
9 customers will pay their CRES provider -- I'm sorry.  
10 I need another -- let me step back and start this  
11 again.

12 If rider PSR is approved as proposed and  
13 Duke also proposes additional PPAs to be included in  
14 rider PSR, and there is a charge to customers, again,  
15 the shopping customers will pay their CRES provider  
16 for the provider's generation supply and pay Duke for  
17 not just the OVEC-related allocation of generation  
18 but any additional PPAs that were included; isn't  
19 that correct?

20 A. Well, first of all, you're assuming --  
21 you didn't add the assumption that the Commission  
22 approves the additional PPAs?

23 Q. Well, let -- yes, let's add that in,  
24 sure.

25 A. Well, whether it's a gain or a loss on

1 the transaction, it would flow through to all  
2 customers whether they take CRES or not.

3 Q. If there were additional PPAs proposed by  
4 Duke and approved by the Commission and the end  
5 result is that the customer is charged under rider  
6 PSR, then shopping customers pay not just their CRES  
7 provider for that provider's generation, but then  
8 they also pay Duke for the OVEC and the additional  
9 PPAs; isn't that correct?

10 A. They are not paying -- through the PSR,  
11 they are not paying for additional generation. They  
12 are paying for the financial hedge. So your premise  
13 is a little off there.

14 Q. Duke has proposed that rider PSR apply  
15 for -- or be in effect for not just the ESP term but  
16 throughout the time period that they have their  
17 entitlement to OVEC, correct?

18 A. And I just indicated that, yes, for 25  
19 years.

20 Q. And we don't know at this time what any  
21 additional PPAs would actually be if they were  
22 proposed by Duke; isn't that correct?

23 A. Yeah. I think I discussed that  
24 yesterday. We have nothing on the table at the  
25 moment.

1           Q.    But it's simply the right to be able to  
2           request them in the future that's being sought by  
3           Duke at this moment, correct?

4           A.    Yes.  I suppose we could have the right  
5           to seek the amount in any case, but we're asking for  
6           that option here.

7           Q.    If rider PSR is approved as proposed, the  
8           shopping customers will be financially supporting --  
9           I'm sorry.  If rider PSR is approved as proposed and  
10          there is a charge to customers under the rider,  
11          shopping customers will be financially supporting  
12          Duke for an indefinite period of time specific to  
13          Duke's retention of the OVEC entitlement; isn't that  
14          correct?

15          A.    They'll be paying a charge as long as  
16          there is a charge, and they will be paying for the  
17          insurance product, not for our -- not for our  
18          financial stability.  They are paying for the  
19          insurance part.

20          Q.    And the effect of this particular rider  
21          is giving certainty to Duke; isn't that correct?

22          A.    Duke would have zero net income gain or  
23          loss on that, yes.

24          Q.    So, effectively, shopping customers,  
25          actually all customers, would be financially

1 supporting that certainty for Duke if there's a  
2 charge under rider PSR, correct?

3 A. If there's a charge, then we would get  
4 money from customers. If there's a credit, then we  
5 lose money to customers. So it works both ways.  
6 There's symmetry to it.

7 Q. Okay. But my question is if there is a  
8 charge, aren't the shopping customers and all other  
9 customers financially supporting the certainty that's  
10 being given to Duke as a result of rider PSR?

11 A. I've answered your question twice. If  
12 there's a charge, the customers will pay us and it  
13 will go -- there's alternate net income of zero to  
14 the company. And whether it's shopping customers or  
15 SSO customers, that's the way it would work if  
16 there's a charge.

17 Q. Let's turn to the allocation factor for  
18 rider RC. You indicated that the current allocation  
19 factor was the result of the stipulation in the last  
20 ESP case, 11-3549, correct?

21 A. That's correct.

22 Q. What is the current method that Duke uses  
23 to allocate those costs, capacity costs? Is there a  
24 name for it?

25 A. The name I would use is it's a hybrid.

1 It's a combination, and I don't have the document in  
2 front of me, but there's -- I know part of it is  
3 based on the LPP. Part of it was based on energy and  
4 depending on whether the customer was in a C&I group  
5 or not. I can't remember exactly. Somebody  
6 introduced the stipulation yesterday, and it's an  
7 attachment to that stipulation. It's a matter of  
8 record.

9 Q. Okay. Thank you. With regard to the  
10 proposal to eliminate the load factor adjustment  
11 rider, did Duke consider phasing out that rider  
12 before proposing its elimination?

13 A. We briefly considered it, but we just  
14 decided that the company would be better off taking  
15 the high road and trying to prevent subsidies between  
16 customers.

17 Q. If it's eliminated as Duke is proposing,  
18 will there be rate increases for certain customers?

19 A. There will be probably small rate  
20 increases for some and significant rate decreases for  
21 a lot.

22 Q. I believe the staff included --  
23 Mr. Donlon included in his testimony estimates of  
24 those rate increases. Did you review those?

25 A. I did.

1           Q.    And based on the answer that you just  
2           gave me, I'm not sure, do you agree with what they  
3           estimate, the staff estimated, or --

4           A.    I don't have his testimony in front of me  
5           to tell you.

6           Q.    Let me see if I can find it. Just a  
7           moment. I just have one copy. I'm sorry.

8           MS. PETRUCCI: Is it okay if I approach  
9           and provide the copy to the witness?

10          EXAMINER PIRIK: Yes.

11          Q.    Have you had a chance to take a look at  
12          that?

13          A.    Yes, I have.

14          Q.    And my question was did you have a  
15          disagreement as to what the staff had -- the staff's  
16          estimates of those rate increases?

17          A.    I did not review his numbers, but I have  
18          no reason to doubt the numbers. But these are a few  
19          customers, and out of those 3,700 DS customers when,  
20          the LFA was introduced, we had 20 plus percent  
21          increases to those customers, and I think avoiding  
22          that is an important thing for us. Mr. Donlon also  
23          ignored the ratcheting when he did his calculations  
24          as well.

25          Q.    I'm sorry to jump around. I would like

1 to go back a moment to the discussion yesterday with  
2 regard to the ICPA. And I believe you stated that  
3 the demand charge in the ICPA is the limit that will  
4 be recovered through the PSR. Am I correct in  
5 recalling that?

6 A. That's correct.

7 Q. When you use the word "limit," were you  
8 saying that that would be the lowest amount that  
9 would be recovered through the PSR?

10 A. The reason I used the word "limit" is  
11 that if all 11 units were out for the entire year or  
12 market prices didn't support any generation being  
13 sold in the market, and we are still on the hook to  
14 pay the demand charge, so that that would be the  
15 loss, if you will, that flowed through the -- that --  
16 I take that back. That minus the capacity price  
17 would be the loss. In other words, the floor is how  
18 much we had to pay them if no generation happens.

19 Q. And to make sure I'm following along, in  
20 that scenario where the units weren't operating, the  
21 demand charge minus the capacity cost is what would  
22 be flowed through the PSR and charged to Duke's  
23 customers?

24 A. That's correct.

25 MS. PETRUCCI: Thank you. Okay. I have



1 no further questions.

2 Thank you, Mr. Wathen.

3 EXAMINER PIRIK: Mr. Hart?

4 MR. HART: Yes, your Honor.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Hart:

8 Q. Mr. Wathen, let's talk a little bit about  
9 the history of OVEC. You mentioned in your testimony  
10 the plant started in the 1950s. In looking at one of  
11 the annual reports that was presented yesterday, just  
12 an example IEU 7, do you have that in front of you?

13 A. I know which one you're talking about.

14 Q. It's not necessary that you have it, but  
15 on the first page of that report is sort of a  
16 narrative of the history. It talks about the  
17 sponsoring utilities getting together in 1952. Was  
18 CG&E one of the original sponsoring utilities?

19 A. I actually found a document back in the  
20 1950s, and CG&E was one of the original sponsoring  
21 companies.

22 Q. Because I noticed on Form 1 where it  
23 identifies the original investors, the Duke entity  
24 was listed as CD&E, correct?

25 A. That's correct.

1           Q.    And the history that is recited in this  
2           annual report says that DOE canceled its power  
3           agreement in 2003. And at that point, the sponsoring  
4           companies entered into a power agreement or an  
5           agreement similar to what the ICPA is today; is that  
6           correct?

7           A.    I don't know the entire history, but I  
8           know there -- I know what that document says, and I  
9           agree with you.

10          Q.    So the ICPA that we have been looking at  
11          here, which was entered into in 2010, is actually the  
12          second one. There was one back in 2003.

13          A.    I believe it is essentially an extension  
14          of the one in '03 that takes us from 2026 to 2040.

15          Q.    So Duke or Duke's predecessors, CG&E or  
16          Cinergy, has had that contractual entitlement since  
17          2003?

18          A.    We've had the entitlement -- there's an  
19          entitlement essentially that goes back to '55.

20          Q.    For the power that DOE didn't use?

21          A.    Right, now that DOE is not taking the  
22          entire entitlement just like 2003.

23          Q.    But before 2003, DOE had first claim, so  
24          it could take 100 percent of the power; is that  
25          correct?

1 A. That's correct.

2 Q. And you get 9 percent of the remainder?

3 A. That's my understanding.

4 Q. But starting in 2003, you were entitled  
5 to 9 percent of everything.

6 A. That's correct.

7 Q. And responsible for 9 percent of  
8 everything?

9 A. In terms of paying?

10 Q. In terms of paying costs.

11 A. That's correct.

12 Q. Okay. Now, now Duke has -- this is our  
13 third ESP proceeding, correct? Actually, fourth, so  
14 third ESP case?

15 A. It's third ESP, fourth SSO.

16 Q. Okay. So Duke filed an ESP case in 2008,  
17 correct?

18 A. That's correct.

19 Q. And the OVEC entitlement was not offered  
20 up to customers in that case, correct?

21 A. OVEC has never been committed to retail  
22 customers.

23 Q. And OVEC wasn't even an issue in 2008 in  
24 the ESP case, was it?

25 A. To my knowledge, it has never been an

1 issue in any of our cases.

2 Q. In 2010, you filed an MRO case which did  
3 not succeed, correct?

4 A. It was basically ruled it wasn't even  
5 filed, so it was noncompliant.

6 Q. It didn't come into fruition?

7 A. That's correct.

8 Q. And OVEC was not introduced as an issue  
9 in that case?

10 A. Say that you again. I'm sorry.

11 Q. OVEC wasn't introduced as an issue in  
12 that case?

13 A. Not by us.

14 Q. In 2011, the current ESP that's in  
15 existence today was filed, correct?

16 A. June, '11, that's right.

17 Q. And the OVEC entitlement was not offered  
18 up in that case?

19 A. Again, it's never been offered or  
20 dedicated to retail customers.

21 Q. Now, do you follow other Ohio utilities'  
22 filings?

23 A. More than but I should.

24 Q. So you are aware in December of 2013 Ohio  
25 Power filed an ESP case in which it offered up its

1 OVEC entitlement?

2 A. AEP has been using OVEC for their retail  
3 customers since at least '11, maybe '08.

4 Q. But in 2013, December of 2013 was the  
5 first time they had proposed a stability rider  
6 similar to the PSR you're offering up here; is that  
7 correct?

8 A. AEP has had a different circumstance.  
9 They agreed to transfer OVEC and were prevented from  
10 it by the OVEC members. So they had a situation  
11 where they were kind of stuck with OVEC, so they put  
12 theirs in their ESP as an offer.

13 Q. December of 2013 was the first occasion  
14 where they did that, correct?

15 A. As far as I know.

16 Q. Isn't that what gave Duke the idea to put  
17 a rider PSR in its ESP case?

18 A. We thought about it before the AEP case  
19 was filed.

20 Q. But you never did it until they filed?

21 A. We didn't file a case until May.

22 Q. I think it's been well-established that  
23 at the time you filed the case, Duke had not done any  
24 analysis or projection of the expected results of  
25 OVEC; is that correct?

1           A.    I think you're right, that has been well  
2           established.

3           Q.    You attended the technical conference in  
4           this case, correct?

5           A.    I did.

6           Q.    And you recall me asking those questions;  
7           what are the expected results of OVEC?

8           A.    I don't recall.  Sorry.

9           Q.    You don't recall.  Okay.  Fair enough.

10          A.    I can go on the webcast and look at it  
11          again.

12          Q.    If you need that much entertainment,  
13          that's -- whatever.

14                Now, in the application and all the  
15                supporting documentation and the direct testimony  
16                from all the Duke witnesses, is it a correct  
17                statement that there's nothing in there that  
18                indicates what the actual financial results for Duke  
19                have been from its entitlement in OVEC?

20          A.    Our application doesn't really focus on  
21          historical anyway, so we wouldn't have put anything  
22          historical for anything in our case.  It was all  
23          projected with ESP.

24          Q.    Okay.  So there's nothing in there  
25          historical about OVEC either, correct?

1 A. Including OVEC.

2 Q. And there's nothing in there in the way  
3 of a projection with regard to OVEC.

4 A. Not in our case.

5 Q. And there's nothing in there -- for  
6 example, there's not even a copy of the OVEC  
7 agreement filed, is there?

8 A. We didn't file a copy. We alluded to it  
9 in our testimony.

10 Q. So there's no information in the case  
11 that Duke filed that would allow the Commission to  
12 make any determination as to whether OVEC would be  
13 profitable, break-even, or unprofitable?

14 A. Well, there's a lot of discover about it,  
15 and I think parties and staff had an opportunity in  
16 that discovery and believe they did.

17 Q. My question wasn't discovery. My  
18 question was the Duke case that's been presented  
19 here.

20 A. Again, it's well established we did not  
21 include analysis on that case.

22 Q. I didn't ask for analysis. I said  
23 "data." Is there any data in the record that Duke  
24 has filed that would allow the Commission to draw any  
25 conclusions as to profitability of OVEC?

1           A.    We discussed the size of the entitlement,  
2           if you will, the nature of the PJM markets.  There's  
3           no numerical data, if that's what you're looking for.

4           Q.    Okay.  And there's no information in  
5           there to describe the nature of Duke's liabilities to  
6           OVEC, is there?

7           A.    I think we did describe it because we  
8           described -- we said we have a commitment to pay OVEC  
9           and to the ICPA and then -- that's not something  
10          that's at issue here.  The question is whether or not  
11          we are going to share the profits on the sale.

12          Q.    Well, it's close to 9 percent, but you  
13          didn't disclose 9 percent of what, correct?

14          A.    We said we had 9 percent interest in the  
15          output and capacity to OVEC.

16          Q.    But the Commission has no way of knowing  
17          from Duke's case as filed whether Duke's entitlement  
18          to OVEC costs a dollar or a billion dollars, correct?

19          A.    As I've indicated multiple times, we did  
20          not include any numerical analysis in the case.  They  
21          do have a way to know because they, too, can ask  
22          discovery along with all the intervenors.

23          Q.    Well, you understand under the ESP  
24          statute Duke has the burden of proof?

25          A.    Our proposal is that the value of that is



1 a hedge because of the countercyclicality of that  
2 process. So whether it's a dollar or a million  
3 dollars, it has value in terms of a hedge. That's  
4 the nature of our request.

5 Q. You don't think it would be important for  
6 the Commission to know the magnitude of the risk  
7 that's either being taken on or hedged?

8 A. I think the Commission has a pretty good  
9 familiarity with OVEC that we don't really need to  
10 share with them additional details. I mean, it's  
11 well established throughout -- Dayton, FE, and we and  
12 AEP all have interest in OVEC. I think they have a  
13 very clear understanding what OVEC costs.

14 Q. So you believe the Commission should take  
15 into account in this case evidence that it's heard in  
16 other cases?

17 A. I think they should take into account  
18 their own knowledge of OVEC.

19 Q. Okay.

20 A. However they got that.

21 Q. All right. Let's talk about rider PSR  
22 for a moment. Since you're proposing that that would  
23 be nonbypassable, wouldn't it be correct that the  
24 rider PSR would become part of the price that  
25 customers will pay Duke?

1           A.     Distribution, transmission, all of it is  
2     part of our price, including the PSR.

3           Q.     Okay. And part of the aggregate  
4     balancing test that the Commission needs to engage in  
5     is to determine whether ESP as a whole, including  
6     pricing and all of its other terms, is more or less  
7     beneficial than an MRO, correct?

8           A.     That's my understanding of the rule.

9           Q.     So in order to make that balancing test,  
10    wouldn't it be fair to say the Commission needs to  
11    know what the prices would be?

12          A.     As I described, the nature of that PSR is  
13    that the price is not so important. It's because  
14    whatever the price is, it's going to be  
15    counterbalanced by the hedging benefit. So we  
16    have -- as you said, the MRO test is an aggregate  
17    test, and one of the benefits we see is that the  
18    hedging benefit certainly outweighs the cost, and  
19    it's not necessarily a numerical analysis because  
20    it's intuitive.

21          Q.     Well, let's talk about that for a moment.  
22    Now, you give an example, a reason for a hedge, the  
23    polar vortex that happened in January, correct?

24          A.     That's an example of one instance where a  
25    hedge would be useful.

1           Q.    Okay.  Now, I know you are going to tell  
2   me you already answered this, but I'll ask it anyway.  
3   Duke has not presented any data to show what its  
4   experience was with the OVEC investment as a hedge  
5   during the polar vortex, has it?

6           A.    I believe we asked a discovery request  
7   that showed the profitability of OVEC during January.  
8   So there is some information on that.

9           Q.    Again, this is information that was  
10  disclosed at the request of parties after Duke had  
11  already filed its case?

12          A.    That's correct.  That's part of  
13  discovery.

14          Q.    Okay.  So there's nothing in Duke's case  
15  that would show the Commission whether that hedge was  
16  successful or unsuccessful in that event?

17          A.    We can keep beating the horse, but we  
18  have not provided any analytical data on the PSR.

19          Q.    Now, the information that you say was  
20  provided in discovery -- again, I am going to have to  
21  try to avoid confidential information, but you agree,  
22  don't you, that during the ESP period, the three-year  
23  period of the plan, that projection shows OVEC to be  
24  a net loss?

25          A.    That one projection, that snapshot that

1 we provided, shows during that three-year period,  
2 it's a loss. You know, things have changed since  
3 then and there are other forecasts.

4 Q. Okay. That snapshot is the only  
5 information that's available in this case at this  
6 point, isn't it?

7 A. It's the only thing we provided.

8 Q. Okay. So that's the only information --  
9 if the Commission were to look at discovery beyond  
10 the affirmative case that Duke itself has presented,  
11 the only information available in the record shows  
12 that OVEC is a loss during the ESP period?

13 A. It's the only information that I'm aware  
14 of that we provided. However, there was other  
15 information that the Commission surely would have --  
16 I know the AEP case over the same period of time they  
17 had them forecasted as profitable. So that's the  
18 nature of forecasts if they are variable. They can  
19 be anything.

20 Q. Okay. Let me ask a slightly different  
21 issue. You were here for Ms. Mullins' testimony  
22 yesterday, correct?

23 A. I was.

24 Q. And she indicated that the profit and  
25 loss from OVEC did not go through the regulated

1 portion of Duke Energy Ohio's financial statement; is  
2 that correct?

3 A. Through the ESP financial statements or  
4 regularly? I am not sure. Which forecast are you  
5 talking about.

6 Q. I am not talking about -- I am talking  
7 historically. The profit and loss that Duke has  
8 realized from its investment, it flows through the  
9 Duke Energy Ohio statement but not the regulated  
10 portion of it?

11 A. Yeah. As we talked about with  
12 Mr. Olikier, we even now are functionally separated.  
13 So Ms. Mullins has one responsibility of doing the  
14 regulated business units, and Brian Dougherty, among  
15 others, has the responsibility for doing the  
16 commercial side of Duke Energy Ohio. Until the  
17 corporate separation, they will continue to do that.  
18 So OVEC's P&L responsibility, if you will, is on the  
19 commercial side and not with Ms. Mullins.

20 Q. Right. And if the rider PSR is approved,  
21 then the net profit or loss from OVEC would become a  
22 customer responsibility?

23 A. That's correct.

24 Q. And it would then become a regulated  
25 amount?

1           A.    It would be a regulated amount.  But,  
2           again, because of the nature of the request, it would  
3           be zero even on her statement in her forecast.

4           Q.    Well, it's zero on the regulated books,  
5           and let's explore why that is.  Let's say OVEC loses  
6           a dollar.  You are going to bill customers a dollar,  
7           correct?

8           A.    We will bill customers a dollar.  We will  
9           get revenue for a dollar.

10          Q.    And that will be the regulated company  
11          billing that dollar, right?

12          A.    Yeah, at that point in time, it would be  
13          regulated.

14          Q.    And then the regulated entity or  
15          regulated portion of your business would transfer a  
16          dollar to the unregulated portion of the business,  
17          correct?

18          A.    That's not correct.

19          Q.    Well, how does it become a net zero for  
20          the regulated business?

21          A.    Because the sum of the revenues that we  
22          collect from our entitlement to OVEC would be the sum  
23          of what we get in generation revenue from OVEC from  
24          the PJM day-ahead retail market, and add to that the  
25          capacity revenue.  And if that is not sufficient to

1 cover the cost that we pay OVEC, then that would be a  
2 charge to customers for your dollar. The sum of  
3 those components to be equal to the cost, and that  
4 would be a zero impact on the EBIT.

5 Q. Let's back up a second. You agree with  
6 me the regulated company would charge the customer a  
7 dollar?

8 A. The regulated company charges the  
9 customer a dollar, right.

10 Q. Okay. Right there. Now, if the impact  
11 of rider PSR is a net zero to the regulated entity,  
12 that means that dollar has to go somewhere.

13 A. The regulated entity, assuming we get  
14 PSR, is the one paying OVEC.

15 Q. Okay.

16 A. Okay?

17 Q. So the regulated entity would then pay  
18 OVEC the dollar instead of the unregulated entity  
19 paying OVEC the dollar?

20 A. It won't be an unregulated entity after  
21 the sale. There will only be the regulated side.

22 Q. Would the regulated entity then own the  
23 OVEC entitlement?

24 A. Duke Energy Ohio has the entitlement to  
25 OVEC.

1 Q. But it's currently not --

2 A. There won't be a commercial side anymore,  
3 so there will only be a regulated side that has the  
4 entitlement.

5 Q. Okay. Now, one of the other benefits  
6 that you indicated there was from the rider PSR was  
7 this competitively neutral, correct?

8 A. That's correct.

9 Q. Now, you also testified that you observed  
10 that CRES suppliers are increasing their prices in  
11 order to cover their risk of things like the polar  
12 vortex, correct?

13 A. I have really no direct understanding to  
14 what CRES providers do. I would assume, knowing what  
15 I know about the business, they would factor in such  
16 things.

17 Q. I thought you said you followed the  
18 Apples to Apples, and you noticed a trend upward.

19 A. I did, but you can only deduce that's  
20 from the polar vortex. I have specificity.

21 Q. Well, let's assume for the sake of  
22 argument that the CRES providers are increasing their  
23 prices to cover themselves against such a risk  
24 because they are subject to the LMPs, correct?

25 A. I think they more responded to the change



1 in the marketplace than a change in risk.

2 Q. Okay. Would that increase in price be  
3 the CRES provider hedging themselves against the  
4 market risk?

5 A. CRES providers, that's one of the ways  
6 they could do it, yeah.

7 Q. So the shopping customers who contracted  
8 with a CRES provider would be paying for that hedge  
9 through the price they pay the CRES provider?

10 A. If they choose to contract with that CRES  
11 for a long-term contract, then I agree.

12 Q. Okay. So by making rider PSR  
13 nonbypassable, you would require that customer to not  
14 only pay a hedge to the CRES provider but also to pay  
15 a hedge to Duke?

16 A. But you mentioned -- the word you  
17 mentioned was "nonbypassable." A nonbypassable  
18 charge inherently you can't influence competition.

19 Q. Well, answer the question I asked you,  
20 please.

21 A. I did. You can't -- a nonbypassable  
22 charge wouldn't impact that customer.

23 MR. HART: Could you read the question  
24 back that I asked?

25 (Record read.)

1           A.    I don't know what's in the CRES contract,  
2           but they would be paying the hedge to us, that's  
3           true.

4           Q.    And if there is a hedge built into the  
5           CRES contract, they would be paying for two hedges?

6           A.    If they have knowledge that there is a  
7           hedge in the contract, then they would be aware they  
8           are paying two hedges.

9           Q.    Now, a third benefit that you cited to  
10          the rider PSR was that OVEC represented what -- steel  
11          in the ground?

12          A.    That's correct.

13          Q.    Okay. Do you have the ICPA there?

14          A.    I do somewhere.

15          EXAMINER PIRIK: Could you state the  
16          exhibit number, Mr. Hart?

17          MR. HART: It's IEU 5.

18          A.    That helps. Do you have a page?

19          Q.    Yeah, page 10. Are you there?

20          A.    I'm here.

21          Q.    Okay. Referring to paragraph F there on  
22          page 10, am I reading this correctly, that part of  
23          the demand charge that OVEC can impose on Duke would  
24          be the cost to decommission these plants, including  
25          any environmental responsibilities?

1           A.     That's presented in F.

2           Q.     So there may come a day in which there is  
3 no longer steel in the ground, correct?

4           A.     Yes, but as we've provided in the PSR,  
5 the deal is that we would take it for as long as we  
6 are taking power if they decommission the plant, then  
7 we are not taking power anymore, so PSR would end.

8           Q.     And if they decommission the plant, then  
9 Duke becomes responsible for 9 percent of the costs  
10 of doing that, including all environmental cleanup?

11          A.     That's correct, but there would be no  
12 power flowing through there, so the PSR wouldn't be  
13 applicable anymore.

14          Q.     So are you excluding from any customer  
15 liability demand charges associated with  
16 decommissioning and environmental costs?

17          A.     All I'm saying is as long as we are  
18 taking power from OVEC, the PSR would be active.

19          Q.     Okay.

20          A.     If that ends, we wouldn't have any more  
21 PSR.

22          Q.     You understand there are multiple --  
23 well, first of all, there's two locations, and with  
24 each location, there is multiple generating units,  
25 correct?

1           A.    I think there's 11 all together.

2           Q.    And as long as Duke is taking power from  
3 one of those 11 generating units, it would still  
4 offer rider PSR?

5           A.    That's the way we framed the rider.

6           Q.    So as long as Duke is taking power under  
7 one of those units, it would have potential  
8 environmental and decommissioning liability for the  
9 other 10 units?

10          A.    We typically don't decommission one unit  
11 out of a station, but your scenario hypothetically  
12 works.

13          Q.    Hasn't Duke mothballed individual units?

14          A.    The way these units are structured out --  
15 I mean, mothballing is different to me than the cost  
16 of the total demolition.

17          Q.    Okay. Well, you might demolish one of  
18 the sites and leave the other one, right?

19          A.    That's possible.

20          Q.    And if that were to happen, Duke would  
21 continue to taking power and be responsible for the  
22 demolition costs of the one plant?

23          A.    That's the way it would work?

24          Q.    And the rider PSR would pass that all  
25 onto the customers.

1           A.     That's the way it's proposed here.

2           MR. HART:   That's all I have.

3           EXAMINER PIRIK:   Mr. Vickers?

4                               - - -

5                               CROSS-EXAMINATION

6     By Mr. Vickers:

7           Q.     Being last has the advantage of doing  
8     away with most of my questions.   So I really only  
9     have one question, Mr. Wathen, one set of questions.

10           You indicated that the PSR is -- the  
11     gains and loses flow through the customers on a  
12     quarterly basis, right?

13           A.     It would flow through every bill, but  
14     they would be updated on a quarterly basis.

15           Q.     Updated on a quarterly basis.   And you  
16     indicated this year the gains and losses from OVEC  
17     are positive -- you are in the gains for 2014 so far?

18           A.     Yeah, as Mr. Oliker alluded to, the  
19     capacity price increased -- the polar vortex or the  
20     impact on market prices, generation output resumed  
21     after the environmental controls were finally put on.  
22     So we have seen a positive this year so far.

23           Q.     Do you know -- on a quarterly basis then  
24     for this year, do you know if for Q1 if it was a gain  
25     or a loss?

1           A.    I know Q1 was absolutely a gain.

2           Q.    Do you know Q2?

3           A.    Q2 may have been nearly a push.  I don't  
4 remember the details.  It's in the discovery  
5 requests.

6           Q.    And Q3; do you know?

7           A.    I have no data on that.

8           MR. VICKERS:  No further questions.

9           EXAMINER PIRIK:  Thank you.  Staff?

10          MR. BEELEER:  No questions, your Honor.

11          EXAMINER PIRIK:  Redirect?

12          MS. SPILLER:  Your Honor, may we have a  
13 moment, please?

14          EXAMINER PIRIK:  Why don't we take a  
15 ten-minute break and we'll come back.

16          MS. SPILLER:  Certainly.  Thank you.

17          (Recess taken.)

18          EXAMINER PIRIK:  Go back on the record.

19          Ms. Spiller.

20          MS. SPILLER:  Thank you, your Honor.

21                               - - -

22                               REDIRECT EXAMINATION

23          By Ms. Spiller:

24               Q.    Mr. Wathen, do you recall questions from  
25 Ms. Bojko yesterday regarding rider DCI and

1 specifically portions of your testimony that appear  
2 on page 5?

3 A. I do.

4 Q. And Ms. Bojko was asking you whether or  
5 not Duke Energy Ohio would continue to meet its legal  
6 requirements in respect of reliability regardless of  
7 the DCI. Do you recall that exchange?

8 MS. BOJKO: Objection, your Honor.

9 EXAMINER PIRIK: And what's the  
10 objection?

11 MS. BOJKO: Misstated my question,  
12 misstated the record. That's not the question I  
13 posed.

14 EXAMINER PIRIK: I'll overrule.

15 Q. Do you recall those questions generally,  
16 sir?

17 A. I recall a series of questions about DCI.

18 Q. And Ms. Bojko specifically referred to  
19 page 5, line 13 of your testimony. Do you recall  
20 that?

21 A. I don't recall the specific reference.

22 Q. Go ahead and take a look at page 5, line  
23 13, please.

24 A. Okay.

25 Q. Now, there was a conversation. Do you

1 recall the conversation with Ms. Bojko about  
2 maintaining the present level of service reliability?

3 A. We discussed that.

4 Q. Do you recall Ms. Bojko asking you about  
5 the balance of your testimony on that line regarding  
6 DCI and how it would assist in continuing to meet our  
7 customers evolving expectations?

8 A. I do recall some discussion.

9 Q. And, Mr. Wathen, you had indicated to  
10 Mr. Hart that you are generally aware of the filings  
11 of other distribution utilities in Ohio. Do you  
12 recall that?

13 A. I do.

14 Q. And do you recall the Ohio Commission,  
15 sir, rendering any conclusions with regard to whether  
16 it's appropriate for an electric distribution utility  
17 to address customer expectations through proactive  
18 measures?

19 A. I remember in the AEP ESP II case --

20 MR. HART: Your Honor, I would object.  
21 That's not at all responsive to any question I asked.

22 MS. BOJKO: And objection, your Honor.  
23 She's leading the witness.

24 MS. SPILLER: I simply asked him whether  
25 he -- a couple of things, your Honor. No. 1, it was



1 not a leading question; but, No. 2, it's not related  
2 to Mr. Hart's conversation with Mr. Wathen but  
3 instead Ms. Bojko's conversation wherein she wanted  
4 to limit rider DCR to just meeting service  
5 reliability obligations and excluded a portion of the  
6 witness's testimony.

7 MS. BOJKO: Objection. I'd appreciate if  
8 counsel doesn't state my intent or my position in her  
9 questions or in her responses. That was not my  
10 intent. I didn't intend to limit anything. I was  
11 asking the witness questions.

12 EXAMINER PIRIK: Okay. First of all, we  
13 will have an opportunity for recross. So I would  
14 expect that any clarifications that need to be made  
15 can be made at that time.

16 Second of all, some of the questions are  
17 somewhat leading, so I think you need to try to tone  
18 those down a little bit and specifically try to refer  
19 to questions that have been asked by counsel on  
20 cross.

21 MS. SPILLER: Your Honor, I am trying to  
22 set up some of that to refresh his memory. I'll do  
23 the best I can in respect of your instruction.

24 EXAMINER PIRIK: Okay.

25 THE WITNESS: Would you repeat the

1 question, please?

2 (Record read.)

3 A. I'm aware in the FirstEnergy case,  
4 10-388, and in the AEP 11-346 case, at least I can  
5 remember that one very explicitly, the 8-8-12 order.  
6 The Commission said that it was important and in the  
7 customer's interests that the utility be proactive  
8 rather than reactive in addressing this reliability  
9 issue through investment.

10 Q. Thank you, sir. And do you recall  
11 conversations yesterday with Mr. Darr regarding  
12 options that the Commission would be presented with  
13 in respect of the company's OVEC entitlement?

14 A. Which options are you talking about?

15 Q. Well, do you recall the conversation with  
16 Mr. Darr about options and transfers of the OVEC  
17 entitlement?

18 A. Options we have to transfer?

19 Q. Just options among Ohio utilities, sir.

20 A. I'm still not sure what you mean.

21 Q. Do you recall, Mr. Wathen, when Mr. Darr  
22 said that the Commission has several alternatives  
23 that will be presented to it with regard to the OVEC  
24 entitlement, including options that have been  
25 discussed in other cases?

1 MR. DARR: Objection, your Honor. That  
2 was a response to an objection that was raised by, I  
3 believe, the company. I didn't testify obviously,  
4 and I don't know how Mr. Wathen can testify as to  
5 something that he didn't respond to.

6 EXAMINER PIRIK: Do you have the  
7 transcript in front of you?

8 MS. SPILLER: I do.

9 EXAMINER PIRIK: Could you bring it to  
10 the Bench so we could see the question. I forgot to  
11 bring mine up.

12 MS. SPILLER: This is a series of  
13 questions, and this is Mr. Darr's setup for the  
14 questions over the objection that I had asserted.

15 EXAMINER PIRIK: I'll allow the question.

16 MS. SPILLER: Thank you, your Honor.

17 A. Are you talking about the defense article  
18 in the ICPA?

19 Q. No, Mr. Wathen, just a reference that had  
20 been made during your exchange with Mr. Darr about  
21 options in respect of an OVEC entitlement in this  
22 case as well as appearing in other cases in Ohio.

23 A. The fact that OVEC is appearing in the FE  
24 case and the AEP case?

25 Q. Sir, let me just try it another way. He

1 referenced corporate separation cases in Ohio. Do  
2 you recall that?

3 A. That's correct.

4 Q. Are you familiar with the AEP Ohio  
5 corporate separation case?

6 A. I am somewhat familiar with it.

7 Q. And, sir, have you reviewed the  
8 application in that case?

9 A. I have. It's been a while, but I have.

10 MS. SPILLER: Your Honor, may we have  
11 marked for purposes of identification Duke Energy  
12 Ohio Exhibit 7, please, which is the Ohio Power  
13 Company application for approval for full corporate  
14 separation under Docket No. 12-1126.

15 EXAMINER PIRIK: The document is so  
16 marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MS. SPILLER: May I approach, your Honor?

19 EXAMINER PIRIK: Yes.

20 MS. SPILLER: Thank you.

21 Q. Mr. Wathen, do you have in front of you  
22 what has been marked as Duke Energy Exhibit 7?

23 A. I do.

24 Q. And what is that document, please?

25 A. It's the application of Ohio Power

1 Company for approval of full legal corporate  
2 separation and amendment to its corporate separation  
3 plan filed in case 12-1126.

4 Q. And when was that filed, please?

5 A. The date stamp on it is March 30, 2012.

6 Q. And within the application, does Ohio  
7 Power Company set forth the scope of its proposed  
8 transfer?

9 A. I haven't reread it completely, but that  
10 would be what's included, yes.

11 Q. Okay. And what did AEP Ohio request  
12 Commission approval of to transfer within this  
13 application docketed in Case 12-1126?

14 A. Well, it included requests to transfer  
15 its directly-owned assets, and explicitly it asked to  
16 transfer its entitlements to OVEC, and I believe  
17 Lawrenceberg as well.

18 Q. And did the Ohio Commission approve AEP  
19 Ohio's proposal to transfer both generating assets  
20 and contractual entitlements?

21 A. I don't have the order in front of me,  
22 but I believe they did.

23 Q. To your knowledge, sir, did AEP Ohio  
24 later seek Commission approval to amend the scope of  
25 the Commission's prior authorization?

1           A.    It did.

2           Q.    And why was that, if you know?

3           A.    My understanding is that they attempted  
4 to transfer their OVEC entitlement to an affiliate.  
5 They needed unanimous consent to do that and didn't  
6 get it, so they were left with OVEC.

7           Q.    Does AEP Ohio recover any costs  
8 associated with its OVEC interests through retail  
9 rates?

10          A.    OVEC is included in the capacity charge  
11 for customers that switch the deferral, and they are  
12 also including it in their SCR calculation, and  
13 there's even an allegation that they are double  
14 charging that rate, but they are collecting it.

15          Q.    What about Dayton Power and Light, do  
16 they collect any costs for OVEC through their retail  
17 rates?

18          A.    I believe they include it in their  
19 version of the FAC.

20          Q.    Has Duke Energy Ohio's contractual  
21 entitlement in OVEC ever been included in its cost  
22 base rates?

23          A.    It has never been included in retail cost  
24 base rates.

25          Q.    Have the two generating assets owned by

1 OVEC ever been used and useful in serving Duke Energy  
2 Ohio's retail customers?

3 A. Not since its inception.

4 MS. BOJKO: Excuse me, your Honor. May I  
5 hear that question reread and the answer, please?

6 (Record read.)

7 Q. Mr. Wathen, do you recall questions from  
8 Mr. Darr concerning Duke Energy Ohio's electric  
9 transition plan case that was filed in approximately  
10 1999?

11 A. I do.

12 Q. And, in fact, do you recall Mr. Darr  
13 asking you questions about that case in a capacity  
14 case hearing last year?

15 A. Less memory about that, but I wouldn't be  
16 surprised if he did.

17 Q. And was one of the issues in the  
18 company's electric transition plan related to  
19 transition revenues?

20 MR. DARR: Objection, your Honor.  
21 Mr. Wathen very specifically --

22 EXAMINER PIRIK: Can you turn your  
23 microphone on? I'm sorry.

24 MR. DARR: Sure. Mr. Wathen indicated he  
25 didn't have any participation in that case, and I

1 terminated my questioning on that basis and asked for  
2 administrative notice at that point. This line of  
3 questions appears to be beyond the scope of the  
4 cross-examination as a result.

5 EXAMINER PIRIK: Ms. Spiller?

6 MS. SPILLER: Well, your Honor, Mr. Darr  
7 is raising and wants to take administrative notice of  
8 the ETP filing. That docket has now been  
9 administratively noticed, and I believe that I'm  
10 entitled on redirect examination to ask Mr. Wathen  
11 what the case concerned.

12 MR. DARR: Your Honor, that does not  
13 address the objection. The objection is that  
14 Mr. Wathen doesn't have any knowledge of that matter,  
15 direct or maybe indirect. He indicated to us that he  
16 had no direct knowledge; and, therefore, the  
17 objection should be sustained.

18 MR. OLIKER: Your Honor, if I could add,  
19 there's no foundation for the question.

20 MS. SPILLER: Well, your Honor, I think  
21 it very relevant because Mr. Darr in identifying the  
22 case to begin with suggested that it was relevant  
23 because he believes the company is claiming through  
24 rider PSR an additional transition rider. So he's  
25 going to argue that this is a transition cost, and



1 now he wants me to be precluded from questioning  
2 Mr. Wathen concerning transition costs.

3 MR. DARR: That still does not address,  
4 your Honor, the point of my objection, which is  
5 Mr. Wathen indicated no direct knowledge.

6 MS. SPILLER: And I'm happy to refer to  
7 other cases, but Mr. Darr is the one who injected  
8 transition revenues in the proceeding.

9 EXAMINER PIRIK: Objection sustained.

10 Q. (By Ms. Spiller) Mr. Wathen, are you  
11 familiar with AEP Ohio's capacity case?

12 A. I am.

13 Q. And the Commission's decision in that  
14 case?

15 A. I am.

16 Q. Are you familiar with AEP Ohio's ESP II  
17 proceeding?

18 A. I am.

19 Q. And are you familiar with the  
20 Commission's decision in that case?

21 A. I am.

22 Q. And the AEP capacity case decision was  
23 rendered in July of -- or when was the AEP capacity  
24 case decision rendered?

25 A. I believe it was July 2, 2012.

1           Q.    And how about the decision in the AEP ESP  
2    II proceeding, when was that rendered?

3           A.    August 8, 2012.

4           Q.    And to your recollection, did the  
5    Commission address transition revenues in those  
6    cases?

7           A.    I believe that a number of parties  
8    brought it up as an issue, and the Commission  
9    rejected those arguments.

10          Q.    Do you recall anything about the  
11   Commission's decision in respect of transition  
12   revenues and how they are defined?

13               MR. DARR:  Objection, your Honor.

14               EXAMINER PIRIK:  Mr. Darr?

15               MR. DARR:  There's no connection to the  
16   cross-examination whatsoever at this point with  
17   regard to Ms. Spiller's questions.

18               MS. SPILLER:  Mr. Darr, you brought up  
19   transition revenues.  I'm allowed to ask the witness  
20   about a question that you injected into the case.

21               EXAMINER PIRIK:  Let me see the  
22   transcript again.

23               MS. SPILLER:  This is Mr. Darr's  
24   explanation as to why the transition cost issue is  
25   relevant to this case.

1 EXAMINER PIRIK: Objection sustained.

2 MS. SPILLER: Your Honor, so that I  
3 understand, are transition revenues and costs at  
4 issue in this case? I'm just trying to understand.

5 EXAMINER PIRIK: Ms. Spiller, I am not  
6 setting the scope of this case. That is something  
7 that's set by the application itself and the  
8 information that's brought in by the parties.

9 In that particular situation, questioning  
10 did not continue on the transition issue even though  
11 we took administrative notice of the document. So  
12 the objection is sustained as to redirect on this  
13 witness with regard to that issue.

14 MS. SPILLER: And, your Honor, I would  
15 ask that administrative notice be taken of the  
16 dockets in Cases 11-346 and 10-2929, please.

17 MR. DARR: No objection, your Honor.

18 EXAMINER PIRIK: Now, let me clarify.  
19 You're saying the dockets. I would prefer to do  
20 specific documents since I know those are huge cases.

21 MS. SPILLER: Yes, they are quite  
22 voluminous, your Honor. There is actually the  
23 Commission's decision that was rendered on July 2,  
24 2012, in Case 10-2929. There is also the  
25 Commission's decision August 8, 2012, in Case 11-346.

1 MR. DARR: And I have no objection as to  
2 either of those decisions, your Honor.

3 MR. BERGER: Your Honor, we would  
4 certainly object to the docket being entered in terms  
5 of the opinion and order.

6 EXAMINER PIRIK: Yes, Mr. Berger, I think  
7 we just clarified the documents that Ms. Spiller just  
8 mentioned are the ones that we'll be taking  
9 administrative notice of.

10 MR. BERGER: Okay. That's fine.

11 EXAMINER PIRIK: But thank you for that  
12 clarification.

13 MR. BERGER: Thank you.

14 Q. (By Ms. Spiller) Mr. Wathen, would the  
15 energy and capacity related to the company's  
16 entitlement in the OVEC-owned generating assets be  
17 used to provide retail generation service to  
18 customers?

19 A. No.

20 MR. DARR: Objection, your Honor. Asked  
21 and answered.

22 EXAMINER PIRIK: Overruled.

23 Q. Do you --

24 A. No.

25 Q. I'm sorry, sir.

1 A. No.

2 Q. Do you recall a question from Mr. Berger  
3 concerning rate DSR?

4 A. Rider DSR?

5 Q. No. He referenced rate DSR.

6 A. Maybe. I don't remember the details.

7 Q. Is there currently such a rate for the  
8 proposed rider DSR?

9 A. There is no rate.

10 Q. You were asked questions about corporate  
11 separation and specifically Ohio Revised Code Section  
12 4928.17 by both Mr. Berger and Mr. Olikar.

13 Mr. Wathen, does Ohio law require an  
14 electric distribution utility to transfer contractual  
15 entitlements?

16 MS. BOJKO: Objection, your Honor. First  
17 of all, this is extremely leading. Secondly, it was  
18 asked and answered, and I'm not sure where counsel is  
19 going with this, but to reiterate questions that she  
20 chooses is not appropriate redirect.

21 EXAMINER PIRIK: I'll overrule the  
22 objection.

23 A. It's my understanding that the statute  
24 doesn't require transfer of entitlements or assets  
25 necessarily.

1           Q.    And Mr. Berger shared with you the  
2 provisions of 4928.17. Do you still have that copy  
3 in front of you, sir?

4           A.    He gave it to me in a book, and I gave  
5 him the book back.

6           Q.    Okay.

7           MR. BERGER: Do you need it back?

8           Q.    Do you recall whether under that  
9 provision, sir, an electric distribution utility is  
10 required to provide competitive retail electric  
11 service through a particular affiliate?

12          A.    I don't recall that.

13          Q.    Can the Ohio Commission force Duke Energy  
14 Indiana to assume Duke Energy Ohio's contractual  
15 entitlement in OVEC?

16          A.    I can't imagine how.

17          Q.    Can the Ohio Commission force Duke Energy  
18 Kentucky to assume Duke Energy Ohio's contractual  
19 entitlement in OVEC?

20          A.    I can't imagine how.

21          Q.    Can the Ohio Commission force Duke Energy  
22 Corporation, the parent, to assume Duke Energy Ohio's  
23 contractual entitlement in OVEC?

24          A.    Again, I don't understand how they would  
25 be able to do that.

1 Q. Is Duke Energy Indiana in PJM?

2 A. Duke Energy Indiana is in MISO.

3 Q. Do you believe, Mr. Wathen, that the Ohio  
4 Commission can order transfer of a FERC-approved  
5 contract?

6 A. I do not believe so.

7 Q. There was a question from Mr. Berger  
8 regarding the proposed changes to rider RC. To your  
9 knowledge, Mr. Wathen, does PJM bill load-serving  
10 entities -- strike that.

11 How does PJM bill load-serving entities?

12 A. PJM uses the 5 CP, which is essentially  
13 the demand for each LSC at the time of the highest  
14 peak demand.

15 Q. And, sir, do you still have before you  
16 Sierra Club Exhibits 2 and 3?

17 A. I have this one.

18 Q. No. 2, sir, is the statement of Michael  
19 Kormos.

20 A. Okay. I've got them.

21 Q. Okay. Thank you. And there was some  
22 conversation this morning with counsel for Sierra  
23 Club regarding dates, and I thought you mentioned  
24 that some of the dates were not the polar vortex  
25 date. What is your understanding, sir, of when the

1 polar vortex occurred?

2 A. Well, I think there were two events in  
3 January. One was the polar vortex which I think they  
4 essentially describe as around January 7.

5 Q. Okay. And, sir, with respect to Sierra  
6 Club No. 3, was Clifty Creek Unit 1 operating on  
7 January 7?

8 A. It was operating at all hours on  
9 January 7.

10 Q. How about Clifty Creek Unit 2, was that  
11 operating on January 7?

12 A. It was operating all hours of January 7.

13 Q. Clifty Creek Unit 4, was that operating  
14 on January 7?

15 A. All hours.

16 Q. Clifty Creek Unit 5, was that operating  
17 on January 7, sir?

18 A. All hours.

19 Q. Clifty Creek Unit 6, was that operating  
20 on January 7?

21 A. All hours.

22 Q. Kyger Creek Unit 1, was that operating on  
23 January 7?

24 A. It was all hours.

25 Q. Kyger Creek Unit 2, was that operating on



1 January 7?

2 A. It was for all hours.

3 Q. Kyger Creek Unit 4, was that operating on  
4 January 7?

5 A. It was for all hours.

6 Q. And I'm sorry, sir. I think I skipped  
7 over Kyger Creek Unit 3. Was that operating on  
8 January 7?

9 A. It was for all hours.

10 Q. Kyger Creek Unit 5, was that operating on  
11 January 7?

12 A. It was for all hours.

13 Q. Sir, your were asked questions yesterday  
14 concerning Sierra Club No. 2 and the pie chart or  
15 circle graph that appears on page 4. Do you recall  
16 being referred to that chart?

17 A. I do.

18 Q. And how many of the outages were related  
19 to gas plants or natural gas interruption?

20 A. According to the chart, at least 19,000  
21 is identified as gas, and I don't know how much is in  
22 the other group, but more than half of the outages  
23 were gas related.

24 Q. There was a question from Mr. Olier this  
25 morning about competitive disadvantage and whether a

1 CRES provider may pay something that an auction  
2 participant does not pay. Mr. Wathen, is the SSO  
3 supply a different product than a retail offer?

4 A. It shouldn't be. The essence is both are  
5 delivering capacity and energy.

6 Q. To your knowledge, are wholesale  
7 suppliers paying something different than CRES  
8 providers?

9 A. For that resource?

10 Q. Yes, sir.

11 A. No.

12 Q. You were asked questions yesterday by  
13 Mr. Darr, and you were given a series of exhibits,  
14 IEU Exhibits 8 through 12?

15 A. Yes.

16 Q. And those were FERC documents for OVEC  
17 for the period ending calendar year 2013, correct?

18 A. There was one -- yeah, one document per  
19 year from IEU 8 through IEU 12 starting in '09 and  
20 ending in '13.

21 Q. To your knowledge, does OVEC file  
22 quarterly -- make quarterly filings with the FERC?

23 A. All utilities that file FERC Form 1s file  
24 a quarterly Q3 with FERC.

25 Q. And to your knowledge, has FERC filed

1       such a form for the quarter ending June 30, 2014?

2             A.     They have.

3             MS. SPILLER: Your Honor, I would ask  
4       that administrative notice be taken of the FERC  
5       financial report, FERC Form 1, for OVEC for the  
6       quarter -- the end of second quarter, 2014. We are  
7       happy to PDF copies of this to the parties consistent  
8       with what has been discussed earlier today, and we do  
9       have copies for the Bench, the reporters, and the  
10      witness.

11            EXAMINER PIRIK: Are they similar to the  
12      documents IEU 8 through 12?

13            MS. SPILLER: It's a longer document.

14            EXAMINER PIRIK: Okay.

15            MS. SPILLER: So they are -- because they  
16      are quarterly, they are not identical to the annual  
17      reports, but they are somewhat similar.

18            EXAMINER PIRIK: Okay. I would say to be  
19      consistent, since we marked the IEU exhibits, and  
20      this is a similar exhibit, I think we should mark it  
21      as an exhibit fore citing purposes.

22            MS. SPILLER: Thank you, your Honor,  
23      certainly. We would ask then that this be marked as  
24      Duke Energy Ohio Exhibit 8, please.

25            EXAMINER PIRIK: Although I am -- I'm

1     okay with providing the copies and then PDFing them  
2     to the other parties in the event they want to use  
3     them. Somehow I don't think -- unless somebody wants  
4     a full copy.

5             MS. BOJKO: Which dates were these  
6     pertaining to again?

7             EXAMINER PIRIK: I believe it was June,  
8     2014.

9             MS. SPILLER: It's the second quarter --  
10    it's the end of the report for second quarter, '14.

11            MS. BOJKO: Thank you.

12            MS. SPILLER: May I approach, your Honor?

13            EXAMINER PIRIK: Yes.

14            MS. SPILLER: Thank you.

15            (EXHIBIT MARKED FOR IDENTIFICATION.)

16            A. Just one clarification. This is called  
17    the form 3Q. It's not the form -- it's a subset of  
18    the Form 1.

19            EXAMINER PIRIK: Okay. Just to be clear,  
20    it has been marked as Duke Exhibit 8.

21            Q. Mr. Wathen, do you have before you what  
22    has been marked as Duke Energy Ohio Exhibit 8?

23            A. I do.

24            Q. And so that we have a clear  
25    identification, could you describe what this is,

1 please?

2 A. This is the quarterly form Q3 -- I'm  
3 sorry, 3Q filing that OVEC made on the FERC.gov  
4 website.

5 Q. And with the information that OVEC  
6 reports to the FERC in this document, are you able to  
7 identify the average price per megawatt-hour for the  
8 OVEC generation through June of 2014?

9 A. It is possible, yes.

10 Q. And how would you do that, sir?

11 A. The date is not exactly inasmuch detail  
12 as you see in an annual report which shows individual  
13 lines, but on page 300 and 301 of the form 3Q, you  
14 can see the total dollar sales for resale and -- I'm  
15 sorry -- total revenues, and you see the total net  
16 hours of sales and you can calculate.

17 Q. And have you done that calculation, sir?

18 A. I did, but I'm going to have to do it  
19 again.

20 Q. Okay.

21 A. I remember it's roughly \$56 a  
22 megawatt-hour.

23 Q. Thank you. You had conversations with  
24 Mr. Hart this morning concerning rider PSI. Can you  
25 explain what a hedge is?

1           A.     In the context we're discussing it  
2     here -- and, again, I use the term countercyclicality  
3     when customers' rates -- when market is very low,  
4     customer rates will be low. When the market is very  
5     high, customer rates will be very high. And at those  
6     very times when the PSR is going to be just the  
7     opposite, low market price, the PSR will be charged;  
8     high market price, PSR will be a credit.

9           So the idea is to shave the peak price  
10    and fill the valley on price. So the idea is to kind  
11    of narrow the range of volatility. It's not a  
12    perfect hedge. It can't lock in prices, but it can  
13    mitigate the volatility.

14          Q.     And under the MRO versus ESP comparison,  
15    are both qualitative and quantitative benefits  
16    considered?

17          A.     I think the Commission has made it very  
18    clear, the Court has, that qualitative and  
19    quantitative benefits are considered.

20          Q.     And if rider PSR is -- strike that.

21                 If customers were to be provided a credit  
22    on rider PSR, who would receive that credit?

23          A.     All customers.

24                 MS. SPILLER: No further questions.

25                 Thank you, your Honor.

1 EXAMINER PIRIK: Thank you. Mr. Darr?

2 MR. DARR: Your Honor, may I have a copy  
3 of Duke Exhibit No. 8, please?

4 EXAMINER PIRIK: Do you want to use my  
5 copy?

6 MR. DARR: Either way.

7 MS. SPILLER: I can give him mine. I'm  
8 fine.

9 EXAMINER PIRIK: Do you have another  
10 copy?

11 MR. DARR: May I just have a moment, your  
12 Honor?

13 EXAMINER PIRIK: Yes.

14 - - -

15 RECROSS-EXAMINATION

16 By Mr. Darr:

17 Q. Mr. Wathen, I would like to direct your  
18 attention again back to Duke Exhibit 8, please.

19 A. Okay.

20 Q. And the calculation that you provided  
21 Ms. Spiller a moment ago is on an average OVEC basis,  
22 correct?

23 A. That's correct. That's the best detail I  
24 have.

25 Q. The information contained in Duke Exhibit

1 No. 8 does not contain any Duke specific information  
2 as is contained in IEU Exhibits 8 through 12; is that  
3 correct?

4 A. That's correct. There's no detail.

5 MR. DARR: Thank you. Nothing further.

6 MS. HUSSEY: Nothing from the Kroger  
7 Company, your Honor.

8 EXAMINER PIRIK: Ms. Bojko?

9 MS. BOJKO: Yes, your Honor. Thank you.

10 - - -

11 CROSS-EXAMINATION

12 By Ms. Bojko:

13 Q. Mr. Wathen, you referred to AEP's full  
14 legal corporate separation document today, did you  
15 not?

16 A. I was handed the application in that  
17 case.

18 Q. And in the application in that case, the  
19 application is stated that it's being filed pursuant  
20 to 4928.17(A) and Administrative Code Rules  
21 4901:1-37-06 and 37-09 to seek all necessary  
22 authorizations and approvals for full legal  
23 separation such that the transmission and  
24 distribution assets of Ohio Power will continue to be  
25 held by the distribution utility, and Ohio Power



1 Company's generation assets will be transferred to an  
2 affiliate; is that correct?

3 A. I didn't read the document you just read,  
4 but I believe that's what Ohio Power applied for.

5 Q. Okay. And this morning you referenced  
6 and relied on other utility filings and Commission's  
7 decisions in other utility cases; is that right?

8 A. In what respect?

9 Q. Your counsel cited many other utility --  
10 other Ohio utility cases this morning; did she not?

11 A. In what respect? We talked about a lot  
12 of cases, but do you have a particular issue in mind?

13 Q. Well, I guess the question is you  
14 testified this morning that you believe that Duke  
15 Ohio should be compared to and considered next to  
16 opinions cited and stated in other utility  
17 proceedings; is that correct?

18 MS. SPILLER: Objection. That misstates  
19 his testimony.

20 EXAMINER PIRIK: Objection overruled.

21 A. I never said that we should have to file  
22 something that AEP filed. It was their prerogative  
23 and their choice to file it in this manner. There is  
24 no requirement to do what they offered to do.

25 Q. Right. But your counsel cited to

1 different cases with regard to FirstEnergy and Duke  
2 with regard to transferring assets; is that correct?

3 A. I don't remember her talking about  
4 FirstEnergy, but we talked about AEP.

5 Q. And you also talked about Dayton Power  
6 and Light?

7 A. We may have.

8 Q. And as you sit here today, it's your  
9 contention that the PJM indicated that the polar  
10 vortex was merely one event on one day in January; is  
11 that true?

12 A. I think that's described in the testimony  
13 of Kormos that was provided to me in the Sierra  
14 exhibit. That was their definition of polar vortex.

15 Q. Actually, do you know that the document  
16 you just referenced cites to several other days of  
17 cold events and different things that happened during  
18 other days of January?

19 A. I do, but they weren't called a polar  
20 vortex. They were winter events or something like  
21 that.

22 Q. And are you familiar that there are  
23 several other PJM documents and analysis that have  
24 been conducted that look at the month of January and  
25 not one particular day with regard to the context of

1 the cold weather and the polar vortex?

2 A. Of course.

3 Q. And you made a pretty general statement a  
4 minute ago in response to Ms. Spiller. You said that  
5 when market prices are high, customer rates are high.  
6 Do you recall that?

7 A. On average over a period of time, when  
8 market prices are high, customer rates will be high.

9 Q. And that's not true for every customer,  
10 particularly those that have fixed price contracts;  
11 isn't that right?

12 A. For as long as they have their fixed  
13 price contracts, that's true, but at some point in  
14 time, those fixed -- they all have a sunset, so they  
15 will ultimately be back to being exposed to the  
16 market.

17 Q. And you're not implying that if they have  
18 a three-year contract, that they are somehow then  
19 going to be exposed to the market that happened three  
20 years prior to the end of that contract, are you?

21 A. It depends on when they signed that  
22 contract.

23 Q. Right. If a polar vortex, as you would  
24 like to state, happened in January, 2014, and a  
25 customer's contract runs through December, 31, 2018,

1 you're not somehow suggesting that they are directly  
2 tied to the rates that occurred on January 7 of 2014,  
3 are you?

4 A. I'm not suggesting there is an immediate  
5 impact, but it does shift the market, so they will  
6 see it at some point in time.

7 Q. And within the three-year period of time,  
8 the market could conversely shift downward; isn't  
9 that true?

10 A. It could. It could shift significantly  
11 upward, too.

12 Q. And also you just responded or  
13 Ms. Spiller stated that if the PCR resulted in a  
14 credit, it would be credited to all customers? Do  
15 you recall that statement or question?

16 A. The PSR or the PCR?

17 Q. Oh, I'm sorry. The PSR.

18 A. If there's a credit or a charge, it  
19 applies to all customers. We've established that  
20 throughout the last two days.

21 MS. BOJKO: No further questions, your  
22 Honor. Thank you.

23 EXAMINER PIRIK: Mr. Berger.

24 MR. BERGMANN: Thank you, your Honor.

25 - - -



1           A.    Well, as market price is relative to the  
2   cost of production, that will usually mean that the  
3   company would be interested in taking more  
4   entitlement. So there would be more generation  
5   output from OVEC that goes into the market.

6           Q.    Right, and that's a good clarification  
7   because you said relative to the cost of production.  
8   So that's going to depend a lot on the cost of coal,  
9   isn't it?

10          A.    It does, but the coal is a relatively  
11   hedged and essentially a fixed price. OVEC declares  
12   in their annual reports that they hedged their coal  
13   all the way to 2017, so there shouldn't be much  
14   volatility in coal prices.

15          Q.    If coal prices do go up, for example,  
16   because of the carbon rules that are being considered  
17   by the EPA, that could significantly affect these  
18   prices, maybe not during the term of the ESP but  
19   thereafter; is that correct?

20          A.    The most likely impact of the carbon  
21   legislation on coal would be to suppress price  
22   because there would be a lot less demand for coal.

23               MR. BERGER: Thank you. That's all I  
24   have.

25               EXAMINER PIRIK: Mr. Mendoza?

1 MR. MENDOZA: Just a few questions.

2 - - -

3 RECROSS-EXAMINATION

4 By Mr. Mendoza:

5 Q. Mr. Wathen, did I just hear you say a few  
6 minutes ago the polar vortex was limited to  
7 January 7, 2014?

8 A. I believe that's what the Kormos document  
9 refers to as the polar vortex event.

10 Q. Would you show me in Sierra Club Exhibit  
11 2 where the words "polar vortex" appear?

12 A. Where the words "polar vortex" appear?

13 Q. Yes.

14 A. Do you want me to sit here and read it  
15 until I'm done or not?

16 Q. What if I suggested to you that the words  
17 "polar vortex" do not appear anywhere in the  
18 document? Would that change your opinion about  
19 citing the document for the definition of the date of  
20 the polar vortex?

21 A. It may change my opinion about citing  
22 this document, but there's a lot of other documents  
23 referring to polar vortex.

24 Q. Okay. Would you turn to page 2 of the  
25 document.

1           A.     Okay.

2           Q.     In the first full paragraph, do you see  
3     the third sentence there that says eight of the ten  
4     highest winter demands for electricity in the PJM  
5     region occurred in January 2014? And they are  
6     referring to the history of the PJM region.

7           A.     This is the third full paragraph?

8           Q.     Oh, I gave you the wrong page again, I'm  
9     sorry. Page 2.

10          A.     I'm on 2. The first full paragraph is  
11     the information -- I'm sorry. PJM's experiences  
12     rather.

13          Q.     Okay. So the paragraph that starts, "As  
14     you are aware."

15          A.     Okay. It says, "Eight of the ten highest  
16     demands were in January, 2014," that's correct.

17          Q.     Okay. And then would you turn to the  
18     conclusions of the document. I think it's on -- I  
19     will get the page number right this time, page 12?  
20     And you see it says among the challenges for PJM and  
21     its members in maintaining grid reliability during  
22     the month of January were various things? Would you  
23     agree with me that the problems faced by PJM and  
24     utilities and everyone in the electricity sector  
25     extended beyond one day in January to include the



1 entire month?

2 A. I would, but I think the questions  
3 earlier were the polar vortex.

4 MR. MENDOZA: I've got nothing more.

5 MS. KYLER COHN: Nothing.

6 EXAMINER PIRIK: Mr. Oliker?

7 MR. OLIKER: Just a few questions, your  
8 Honor. Thank you.

9 Before we proceed with that, I would like  
10 to take administrative notice of another document,  
11 please, your Honor. Specifically the March 19, 2014,  
12 entry on rehearing in the Dayton Power and Light  
13 security plan, which is Case No. 12-426.

14 EXAMINER PIRIK: We will take  
15 administrative notice of that.

16 MR. OLIKER: Okay.

17 - - -

18 RECROSS-EXAMINATION

19 By Mr. Oliker:

20 Q. You mentioned in your redirect some  
21 questions that I asked you about the competitive  
22 landscape in your service territory. You said the  
23 SSO product is no different than the CRES product.  
24 Would you agree that CRES providers have to pay for  
25 billing systems?

1           A.     For what?

2           Q.     Billing systems.

3           A.     The product that they are delivering is  
4     capacity and energy. How they deliver it I have no  
5     idea. I assume they have their own back-office  
6     issues.

7           Q.     Would you agree that Duke Energy Ohio's  
8     cost of billing systems is not included in the SSO  
9     product?

10           MS. SPILLER: Objection. Beyond the  
11     scope of cross. The product at issue is energy and  
12     capacity.

13           EXAMINER PIRIK: Overruled.

14           A.     Ours isn't, but the SSO auction winners  
15     is.

16           Q.     Are you saying that the SSO auction  
17     winners are paying Duke Energy Ohio for its billing  
18     systems?

19           EXAMINER PIRIK: I think all the mics  
20     went off. You will have to push the button again.

21           A.     No. What I'm saying is it's no different  
22     than the CRES providers. The SSO auction winners  
23     have back-office cost, that they would have to  
24     incorporate into their bid.

25           Q.     That's not my question, Mr. Wathen. My

1 question is, are bidders in the Duke Energy Ohio SSO  
2 auction paying Duke Energy Ohio for its billing  
3 systems?

4 A. They are not paying us, but they have to  
5 provide their own obviously, their own back office.

6 Q. Are they paying Duke Energy Ohio for its  
7 billing systems for the SSO product?

8 A. I'm not aware of any direct charge to the  
9 SSO providers.

10 Q. Okay. Do CRES providers have call  
11 centers?

12 A. I have no idea. I haven't been to a CRES  
13 provider.

14 Q. You don't know. Thank you.

15 You responded to Mr. Berger that you  
16 believe that the carbon emission rules will have a  
17 suppressive price on coal prices; is that correct?

18 A. That's correct.

19 Q. Is that because the EPA's proposed rules  
20 are intended to limit output from coal-fired power  
21 plants in part?

22 A. It's just a fundamental economic issue.  
23 We have a demand for coal that is engendered by the  
24 existence of coal plants. If we are going to retire  
25 20,000 megawatts of coal and not replace it, then

1       there is going to be less demand for coal. Basic  
2       economics is less demand, the price goes down.

3               Q.     I'm not sure that addresses my question.  
4       Would you agree that the EPA's proposed rules are  
5       likely to decrease output from coal-fired power  
6       plants?

7               A.     That's exactly right, and that's why  
8       there would be less demand for coal.

9               Q.     Okay. And regarding your -- you believe  
10      that there is a cyclical or countercyclical effect  
11      with PSR, correct?

12              A.     That's correct.

13              Q.     So when the market prices go up, the PSR  
14      allegedly becomes more profitable because the cost of  
15      production is less than the market price, correct?

16              A.     I see that my lessons are being well  
17      understood.

18              MR. OLIKER: Your Honor, I would like to  
19      go on the confidential record if I have a chance.

20              EXAMINER PIRIK: Let's go off the record  
21      for a minute.

22                      (Discussion off the record.)

23              EXAMINER PIRIK: So we'll go back on the  
24      record and finish recross before we do the  
25      confidential question.

1 MR. OLIKER: Okay. That's all I have on  
2 the public record. Thank you, your Honor.

3 EXAMINER PIRIK: Ms. Petrucci?

4 MS. PETRUCCI: I have no questions.

5 EXAMINER PIRIK: Mr. Hart?

6 MR. HART: Yes, your Honor.

7 - - -

8 RECROSS-EXAMINATION

9 By Mr. Hart:

10 Q. Mr. Wathen, let's revisit this hedge  
11 issue just a little bit. You said that the purposes  
12 of a hedge is to shave off the highs and low, so  
13 there is less volatility?

14 A. The purpose of the hedge we're proposing  
15 that's the intention.

16 Q. Now, from a customer standpoint, they  
17 don't particularly want to cut off the lows, do they?

18 A. Well, the value that they get from the  
19 cutting off the high is going to be paid for by  
20 paying for lows. The idea is when the customer rates  
21 are low, they can afford it more, and incorporate  
22 this, and at times of low prices, they get the  
23 benefit of shaving it when it's high.

24 Q. Now, in response to Ms. Spiller's  
25 question, you said that the Commission could consider

1 both qualitative and quantitative factors in doing  
2 the balancing test, correct?

3 A. I think the Commission does consider  
4 both.

5 Q. And, in fact, it has to consider both,  
6 doesn't it?

7 A. That's my understanding.

8 Q. Okay. So when you posit having a hedge  
9 as being a qualitative advantage, doesn't the degree  
10 to which that's an advantage depend on quantitative  
11 factors?

12 A. The qualitative benefit is that it shaves  
13 both the peak and the valley. So in my mind, that  
14 doesn't necessary depend on a quantitative analysis.  
15 It is intuitive that it will reduce all utilities.

16 Q. Well, its qualitative value depends on it  
17 actually having a shaving affect, doesn't it?

18 A. Fundamentally it has to work that way.

19 Q. And the value that it has depends on how  
20 effective it is as a hedge?

21 A. It's possible that the output from OVEC  
22 gives it a zero margin and it has no hedging value  
23 whatsoever.

24 Q. Okay. Now, let's talk about an analogy.  
25 You've equated a hedge to an insurance policy,

1 correct?

2 A. That's one way to put it, yeah.

3 Q. So you pay a premium, and in exchange for  
4 that premium, you are protected against certain  
5 risks?

6 A. That's the idea with insurance, yeah.

7 Q. And to know whether an insurance policy  
8 is a good buy or not, you have to know what the  
9 premium costs and you have to know what risks you are  
10 being protected against, don't you?

11 A. I have health insurance that's protecting  
12 me against my health costs.

13 Q. Okay. There's a good example. Let's say  
14 the premium for your health insurance was a million  
15 dollars and it afforded you a million dollars' worth  
16 of coverage. Is that a policy you would want to buy?

17 A. It depends.

18 Q. You would buy a million-dollar policy to  
19 cover a million dollars' worth of risk?

20 A. I said it depends. If I would buy a  
21 million dollars -- I wouldn't pay a million dollars  
22 for a million-dollar policy.

23 Q. Okay.

24 A. That's not a good analogy.

25 Q. Or how about you pay a reasonable premium

1 but your policy has a million-dollar deductible? Is  
2 that something you would be interested in?

3 A. No. I think a better analogy would be a  
4 currency derivative or an interest rate derivative  
5 where you can essentially lock in the variability on  
6 a variable rate, which is what we're doing here.

7 Q. And even in that situation, you need to  
8 know what the interest rates were and what the  
9 spreads were that you are risking against, correct?

10 A. I do. But, again, if the value of that  
11 policy without knowing anything about the dollars is  
12 that it will definitely mitigate the volatility.

13 Q. Well, you don't definitely know that, do  
14 you?

15 A. I don't know how much I am going to get  
16 volatility, but I do know that it will mitigate  
17 volatility.

18 Q. For the Commission to evaluate the  
19 qualitative benefit of having a hedge, it needs to  
20 know what the quantitative advantage of that hedge is  
21 first, doesn't it?

22 A. No.

23 MR. HART: It doesn't. Okay. Thank you.

24 EXAMINER PIRIK: Mr. Vickers?

25 - - -





1 OVEC plant, OVEC unit?

2 A. OVEC is not in the queue to retire. The  
3 engineering study suggests that OVEC will be  
4 available till 2020, so it's not in that queue.

5 Q. And they don't have to be in that queue,  
6 right? They don't have to do that within X number of  
7 years? It's matter of months, not years; isn't that  
8 right?

9 A. If that State of the Market Report had a  
10 list of retirements through 2050, for example, OVEC  
11 might be in there.

12 Q. Okay.

13 A. But it's not scheduled to retire until  
14 2019, which is the limit on the State of the Market  
15 Report.

16 MR. VICKERS: Thanks.

17 EXAMINER PIRIK: Staff?

18 MR. BEELER: No, thank you.

19 EXAMINER PIRIK: At this time, we are  
20 going to go into a confidential portion of the  
21 record. It's up to Duke to basically look at those  
22 individuals in the room and see whether or not  
23 everyone is allowed to stay. I mean, most of the  
24 individuals here are staff.

25 MS. SPILLER: Just a moment, please, your

1 Honor.

2 (Discussion off the record.)

3 EXAMINER PIRIK: Let's go back on the  
4 record.

5 Mr. Oliker, would you please state the  
6 portion of the protective agreement that you marked  
7 out with regard to the Duke Energy agreement that  
8 you're trying to negotiate with Duke?

9 MR. OLIKER: Yes. I have struck a  
10 portion of I believe the last sentence of the  
11 protective agreement which provided that IGS would be  
12 retroactively bound to any potential orders from  
13 either the Commission or the Supreme Court of Ohio  
14 which may reverse prior orders in this proceeding.

15 EXAMINER PIRIK: Ms. Spiller, could you  
16 please explain Duke's objection to that language  
17 being struck?

18 MS. SPILLER: Yes, your Honor, briefly.  
19 Duke Energy Ohio in this proceeding has made certain  
20 filings in respect of the confidentiality agreement.  
21 Those filings were prompted initially at the behest  
22 of a motion for protective order that the company  
23 filed.

24 The Bench had instructed the company to  
25 insert particular provisions within the agreement

1 concerning the future use of confidential  
2 information, the party's ability to retain  
3 confidential information, provisions with which the  
4 company has taken exception, provisions for which the  
5 company has filed an application for rehearing.

6 There was commentary in a decision  
7 suggesting that Duke Energy Ohio adopt or use a  
8 confidentiality agreement that had been entered into  
9 by an intervenor in connection with the ESP II  
10 proceeding.

11 A conflict arose in Duke Energy Ohio's  
12 mind in that regard because the confidentiality  
13 agreement used in the ESP II proceeding requires  
14 recipients of confidential information to destroy it  
15 or return it upon the conclusion of the case, and to  
16 use it only for purposes of the case for which the  
17 information was provided.

18 As a result of that conflict, the company  
19 has undertaken efforts to negotiate satisfactory  
20 confidentiality agreements with intervenors. We have  
21 in the interim provided confidential information to  
22 all parties who have requested it.

23 The concern with the language from IGS is  
24 at the heart of the company's issue in respect of the  
25 use of confidential information. The information is

1 being provided specifically for one case. IGS  
2 presumably wants the right to potentially use  
3 information provided within the context of this one  
4 proceeding in any other proceedings in which Duke  
5 Energy Ohio may be a party. We believe that that  
6 undermines the confidential protection statutorily  
7 afforded to confidential trade secret information  
8 under the laws.

9 We've approached this from what really is  
10 a balancing, if you will, of the company's right to  
11 have its confidential information protected, not  
12 misused, not injected into the public record, and the  
13 parties' right in this case to discovery that is  
14 relevant to these proceedings.

15 And so our objection is one that exposes  
16 the company to risk in that Mr. Olikier has suggested  
17 right now that he does not want to wait until a final  
18 decision in this case to potentially use the  
19 company's confidential information in other cases  
20 where it's not even the applicant. And so there is  
21 concern from the company in protecting its  
22 confidential business interests.

23 MR. OLIER: Your Honor, may I respond  
24 briefly?

25 EXAMINER PIRIK: Briefly.

1           MR. OLIKER: Just for the record, IGS  
2 would never use confidential information in the  
3 public record and agrees to be fully bound to protect  
4 any information provided by Duke. But we believe the  
5 Commission has spoken on whether or not IGS or other  
6 parties can use confidential information in separate  
7 proceedings subject to normal evidentiary objections  
8 and notice to the company, and we are not disputing  
9 that.

10           And I think this issue has been fully  
11 decided, and the provision that was struck from the  
12 agreement was not contemplated in any of the prior  
13 protective agreements. It is new language that Duke  
14 has added to try to contractually bind my company  
15 pending any appeal and to a time when the  
16 confidential information would have no use.

17           Thank you, your Honor.

18           EXAMINER PIRIK: Thank you.

19           The Bench recognizes and appreciates that  
20 the parties have been trying to work together. We  
21 also appreciate the fact that Duke has provided the  
22 information to the parties at the direction of the  
23 Commission. The Commission has made its ruling.  
24 There are rights out there that parties can further  
25 litigate the issues in other forums.

1           Today what we're talking about is  
2       specific language that Mr. Olikier had marked out of  
3       the agreement. Upon consideration of that language,  
4       it seems that it is an appropriate markout. So the  
5       Bench at this point will rule that the protective  
6       agreement should move forward with that language  
7       marked out.

8           Obviously it's a Bench ruling, and the  
9       parties have a right to take whatever type of  
10      interlocutory appeal or further action that they  
11      wish. However, at this point, in order to move  
12      forward with this case in this proceeding today, the  
13      Bench finds that the protective agreement and that  
14      language being marked out is appropriate.

15           So we will move forward into the  
16      confidential portion of the record. Are there any  
17      other individuals in the room that we should ask to  
18      leave?

19           MS. SPILLER: I believe the parties who  
20      are here have confidentiality agreements. I cannot  
21      speak, your Honor, as to whether all of the  
22      representatives of those parties have signed the  
23      nondisclosure agreements. I don't have that detail  
24      readily available. I just have the parties.

25           EXAMINER PIRIK: I think all we have

1 other than staff, we have Sierra Club, and it sounds  
2 like everybody signed one. So if you're comfortable  
3 with that, we'll move forward.

4 MS. SPILLER: That's fine, your Honor.

5 Did you want me to shut the doors?

6 EXAMINER PIRIK: Yeah. I think there's  
7 another door over there that's open, too.

8 Just to be clear on the record exactly  
9 what our process will be, similar to previous cases,  
10 what we will do is we will have a closed record right  
11 now to ask the specific questions. Then I would ask  
12 the court reporter to provide copies of only that  
13 portion of the transcript that's confidential to  
14 Duke, at which time Duke will provide proposed  
15 redactions to that transcript to the Bench.

16 I would ask that those proposed  
17 redactions be given to us by -- I would like to say  
18 8 o'clock on Monday because I think next week starts  
19 a round of perhaps questioning maybe on some of this  
20 information that we can resolve first thing on Monday  
21 morning.

22 And then the Bench will look at that and  
23 obviously provide, you know, our feedback to the  
24 company, and obviously all the other parties will  
25 know exactly what our proposal is as far as redaction



1 of alleged confidential information because we want  
2 as much on the record in the transcripts as possible.  
3 So that's where we're going. We've done this process  
4 before.

5 Does anyone have a question as to how we  
6 are going to handle the transcript? I have a feeling  
7 we will be more comfortable with it as this  
8 proceeding goes on.

9 But right now, Mr. Olikier.

10 MR. OLICKER: I'll talk loudly.

11 EXAMINER PIRIK: It's not working?

12 MR. OLICKER: No.

13 - - -

14  
15 CONTINUED RECROSS-EXAMINATION

16 By Mr. Olikier:

17 Q. Mr. Wathen, Duke Energy Ohio has --

18 EXAMINER PIRIK: I don't know that people  
19 in the back are going to be able to hear you unless  
20 you have a microphone.

21 MR. HART: Here, Joe. Try this one.  
22 I'll give you three microphones.

23 MR. OLICKER: There we go.

24 Q. Mr. Wathen, Duke Energy Ohio has  
25 performed projections of the impact of the EPA's

1 proposed carbon rules on market prices, correct?

2 MS. SPILLER: Objection. Outside the  
3 scope of redirect.

4 EXAMINER PIRIK: Overruled.

5 A. I'm not aware of any.

6 Q. Were you present for the deposition of  
7 Mr. Dougherty?

8 A. Dougherty?

9 Q. Dougherty.

10 A. I don't believe I was.

11 Q. So regarding your countercyclical theory,  
12 you don't know that Duke Energy Ohio has projected  
13 that there will be a (Confidential) impact of market  
14 prices in 2020 for carbon legislation?

15 MS. SPILLER: Objection. The witness --

16 MR. OLIKER: If he doesn't know, he can  
17 answer it that way.

18 EXAMINER PIRIK: Overruled.

19 A. I'm aware that we had some analysis. I  
20 think there was some parsing out of the data that we  
21 provided in OEG DR-1-1 and his question about what  
22 carbon was in there, but that's the limit of my  
23 knowledge on it.

24 Q. So would you agree that Duke has  
25 projected that as the market price for energy rises,

1 the cost of production of OVEC will (Confidential) in  
2 an (Confidential) basis?

3 MS. SPILLER: Objection. Again, beyond  
4 the scope of redirect examination. This witness has  
5 indicated that he's not familiar with specifics.

6 MR. OLIKER: If he doesn't know, he can  
7 say that. What he is saying is PSR is a hedge, and  
8 my question is intended to identify if as market  
9 prices rise, so will OVEC's costs, which would mean  
10 it's not a hedge.

11 EXAMINER PIRIK: Overruled.

12 A. I think in that scenario it means  
13 reliance on gas becomes even more prevalent and it  
14 increases volatility. So even in that scenario, I  
15 think the hedging value is still there.

16 Q. Just to be clear, Mr. Wathen, isn't it  
17 true that Duke Energy Ohio has forecasted that there  
18 will be (Confidential) market price (Confidential) in  
19 2020 but OVEC will have an ( Confidential ) of  
20 its costs of production?

21 A. As I indicated earlier, I'm aware of the  
22 forecast. I don't know what the term "(Confidential)"  
23 means. There is a -- I know there was something  
24 about parsing out the underlying costs for the  
25 carbon, but I don't remember the numbers.

1 Q. If I showed them to you, would that help?

2 A. You can show them to me, but I can tell  
3 you what they say on the paper, but I'm not sure -- I  
4 don't have any firsthand knowledge of how those  
5 numbers are derived.

6 MR. OLIKER: Your Honor, I would like to  
7 mark an exhibit, please, and approach the witness.

8 EXAMINER PIRIK: Yes.

9 MR. OLIKER: I would like to mark as IGS  
10 Exhibit 4 Duke's response to IGS-INT-01-011.

11 EXAMINER PIRIK: The document is so  
12 marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 Q. Mr. Wathen, a moment ago you said that  
15 Duke had prepared what you called a parsed-out  
16 projection of costs from an OEG discovery response,  
17 correct?

18 A. I did.

19 Q. And is the document I placed in front of  
20 you that document?

21 A. I believe that's what I was alluding to.

22 Q. And this is a discovery response provided  
23 by Duke Energy Ohio to IGS?

24 A. It was provided by Bryan Dougherty who  
25 you subpoenaed. So you could talk to him about it.

1           Q.    But you've seen this document before,  
2   Mr. Wathen.

3           A.    I have not seen this exact document  
4   before.

5           Q.    But you've seen this projection.

6           A.    I have not seen the numbers on there. Do  
7   you have any reason to believe this document is not  
8   accurate?

9           MS. SPILLER:  Objection, your Honor.  The  
10   witness hasn't seen the numbers.  He's not even the  
11   person responsible for this discovery request.

12           MR. OLIKER:  He knows of its existence,  
13   your Honor, and clearly talked about it with his  
14   counsel and Mr. Dougherty.

15           MS. SPILLER:  I am going to object to the  
16   inferences there.

17           EXAMINER PIRIK:  Let's just say -- you  
18   know, I think you can ask him if he knows about the  
19   numbers, but if he's not familiar with these numbers,  
20   I don't know that he's the right witness to ask this  
21   question.

22           MR. OLIKER:  Okay.  That's fair.  Fair  
23   enough, your Honor.

24           Q.    Mr. Wathen, are you aware that Duke  
25   Energy Ohio projects that OVEC's cost of production

1 will be at (Confidential) as a result of just related  
2 to (Confidential) in 2020?

3 A. Only by looking at this document.

4 Q. So you don't know that outside of this  
5 document?

6 A. I can repeat it again. I have not had  
7 any input into the document.

8 Q. Mr. Wathen, before drafting your  
9 testimony, did you ask anybody in your forecasting  
10 department if there was a chance that OVEC may not  
11 become profitable as market prices rise?

12 MS. SPILLER: Objection. This is, one,  
13 not confidential information, and I think it's beyond  
14 the scope of redirect.

15 MR. OLIKER: It's related to this  
16 document and this line of questioning, your Honor.

17 MS. SPILLER: And this is not the proper  
18 witness for this document.

19 EXAMINER PIRIK: I'll allow the question.  
20 But, again, if he really doesn't know the information  
21 in this document, then we'll have to go to another  
22 witness, I think.

23 MR. OLIKER: Okay.

24 A. I had enough knowledge of OVEC that I  
25 didn't need to ask anybody about the fact that OVEC

1       may or may not be profitable.

2               Q.     In your preparing to testify today, did  
3       you do any research of the exact impact of carbon  
4       emissions on the cost of production of OVEC?

5               A.     I have not.

6               MR. OLIKER:  No more questions, your  
7       Honor.

8               Thank you, Mr. Wathen.

9               EXAMINER PIRIK:  Thank you.

10              Thank you, Mr. Wathen.  We will go back  
11      to exhibits.

12                               - - -

13              EXAMINER PIRIK:  Ms. Spiller, with regard  
14      to the Duke exhibits -- we are back on the public  
15      records.

16              Thank you, Karen.

17              MS. SPILLER:  Duke Energy Ohio would move  
18      for the admission of Duke Energy Ohio Exhibits 6, 7,  
19      and 8.

20              EXAMINER PIRIK:  Are there any  
21      objections?

22              Hearing none, they will be admitted.

23              (EXHIBITS ADMITTED INTO EVIDENCE.)

24              MS. BOJKO:  I'm sorry, your Honor.  I  
25      thought 8 was the administrative notice, not

1 admission.

2 MS. SPILLER: We marked it.

3 EXAMINER PIRIK: We marked it.

4 MS. BOJKO: Well, we marked it, but it's  
5 going to be admitted?

6 EXAMINER PIRIK: Yeah.

7 MS. BOJKO: Not administrative notice  
8 anymore?

9 EXAMINER PIRIK: Not administrative  
10 notice. We are going to be consistent with what we  
11 did with the other ones. This is just a bigger  
12 document.

13 MS. BOJKO: Thank you.

14 EXAMINER PIRIK: Okay. So no objections,  
15 they will be admitted.

16 MS. SPILLER: Thank you, your Honor.

17 EXAMINER PIRIK: OMA. Never mind.  
18 You're fine.

19 IEU, I believe.

20 MR. DARR: Yes, move for the admission of  
21 Exhibits 5 through 13, your Honor.

22 EXAMINER PIRIK: Are there any  
23 objections?

24 MS. SPILLER: Your Honor, Duke Energy  
25 Ohio does have an objection to IEU Exhibit No. 13, in



1 that it's cumulative. The information is reflected  
2 in the proceeding Exhibits 8 through 12. It was also  
3 testified to by Mr. Wathen. And so to add this  
4 additional information is just unnecessarily  
5 cumulative.

6 EXAMINER PIRIK: Any other objections?

7 I think it was a very helpful exhibit to  
8 just kind of sum up what the questions were. So we  
9 will admit all of those documents into the record.

10 (EXHIBITS ADMITTED INTO EVIDENCE.)

11 EXAMINER PIRIK: And I believe Sierra.

12 MR. MENDOZA: Sierra Club moves to admit  
13 Sierra Exhibit 3.

14 EXAMINER PIRIK: Are there any  
15 objections?

16 Hearing none, it will be admitted into  
17 the record.

18 (EXHIBIT ADMITTED INTO EVIDENCE.)

19 EXAMINER PIRIK: I know there was  
20 reference to Baron's testimony, but we will do that  
21 at the time that he actually takes the stand.

22 MR. BERGER: Your Honor, we also moved  
23 the OCC Exhibit 2, the stipulation and recommendation  
24 in the previous ESP case.

25 EXAMINER PIRIK: Okay. Are there any

1 objections?

2 MS. SPILLER: No. I think our only  
3 comment yesterday, your Honor, to the document was  
4 that it was not a complete copy of the stipulation.  
5 It was the written portion up through the signatures.  
6 It did not include the attachment.

7 EXAMINER PIRIK: Yes, a good  
8 clarification.

9 MS. BOJKO: I'm sorry, your Honor. So  
10 are the attachments not deemed part of the exhibit?

11 EXAMINER PIRIK: In any event, they are  
12 not considered part of this exhibit because they  
13 weren't referred to, but they are part of the  
14 Commission docket. We oftentimes mark things as  
15 exhibits for easy reference by parties in briefing  
16 and in the order, however, you know, in this  
17 situation, obviously it's in the Commission docket.  
18 So the rest of it we will take administrative notice  
19 of those attachments.

20 MS. BOJKO: Okay. I'm only asking  
21 because the next witness I am going to reference at  
22 least one attachment to that document. So I was  
23 trying to be consistent with the marking and the  
24 referencing.

25 EXAMINER PIRIK: That is a good question.

1 I think what we probably should do then is have the  
2 entire document, including the attachments, as that  
3 exhibit for easy reference.

4 Thank you for letting us know that.

5 MS. BOJKO: Sure. Thank you. And I do  
6 have a complete hard copy with me. I only brought  
7 one, if that is necessary, for the court reporters,  
8 or you or -- I did bring copies of the attachment  
9 that I will be referencing.

10 EXAMINER PIRIK: Okay. Yeah, we will  
11 need copies of that. We don't have that up here, so  
12 that would be appreciated.

13 I think at this time, we can take a break  
14 for lunch until -- why don't we do -- I just want to  
15 do a poll because I think some people have told us  
16 longer timeframes for cross-examination than have  
17 happened. So I kind of want to get an idea of cross  
18 for Ms. Laub.

19 MR. DARR: No cross, your Honor.

20 EXAMINER PIRIK: Staff?

21 MR. BEELER: Probably not any.

22 MS. HUSSEY: 15 to 20.

23 MS. BOJKO: I would say about the same,  
24 20 minutes.

25 EXAMINER PIRIK: Okay. OCC?

1 MR. SERIO: Half hour, 40 minutes.

2 EXAMINER PIRIK: Okay.

3 MR. MENDOZA: None.

4 MS. KYLER COHN: None.

5 MR. OLIKER: None.

6 MS. PETRUCCI: Same here.

7 MR. HART: I have one question somebody  
8 else might ask.

9 EXAMINER PIRIK: Okay. So we have an  
10 hour it sounds like.

11 MS. SPILLER: Hour, hour and a half  
12 still.

13 EXAMINER PIRIK: Okay. Let's go until a  
14 quarter until 2:00. We will go to 1:45, and then  
15 we'll end for the day after that.

16 (Thereupon at 12:34 p.m., a lunch recess  
17 was taken.)

18 - - -

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1 Friday Afternoon Session,  
2 October 24, 2014.

3 - - -

4 EXAMINER PIRIK: We'll go back on the  
5 record.

6 Ms. Spiller.

7 MS. SPILLER: Thank you, your Honor.  
8 Actually Ms. Watts will have the next witness,  
9 please.

10 EXAMINER PIRIK: Ms. Watts.

11 MS. WATTS: Thank you. Before we begin,  
12 I have a corrected attachment to Ms. Laub's  
13 testimony. How would you like us to mark that?

14 EXAMINER PIRIK: Let's see.

15 MS. WATTS: Her testimony would be Duke  
16 Energy Ohio Exhibit 9.

17 EXAMINER PIRIK: Why don't we just mark  
18 that as 10 we are since going to do confidentials as  
19 8. I don't want to be confused.

20 MS. WATTS: All right. With that, your  
21 Honor, could we mark Ms. Laub's testimony as Duke  
22 Energy Ohio Exhibit 9, and we will be also using a  
23 corrected attachment to her testimony. We'd ask this  
24 that be marked as Duke Energy Ohio Exhibit 10.

25 EXAMINER PIRIK: The documents will be so

1 marked.

2 (EXHIBITS MARKED FOR IDENTIFICATION.)

3 MS. WATTS: May I approach?

4 EXAMINER PIRIK: Yes.

5 (Witness sworn.)

6 EXAMINER PIRIK: Thank you. You may be  
7 seated.

8 - - -

9 PEGGY A. LAUB

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

12 DIRECT EXAMINATION

13 BY MS. WATTS:

14 Q. Would you state your name, please, and  
15 your employment.

16 A. Peggy Laub. I'm employed by Duke Energy  
17 Business Services.

18 Q. And in what capacity, please?

19 A. I'm director of rates and regulatory  
20 planning.

21 Q. Ms. Laub, do you have before you what's  
22 been marked as Duke Energy Ohio Exhibit 9?

23 A. I do.

24 Q. And do you also have before you what's  
25 been marked as Duke Energy Ohio Exhibit 10?

1           A.    I do.

2           Q.    And could you describe what Duke Energy  
3 Ohio Exhibit 9 is, please.

4           A.    It is my direct testimony in this case.

5           Q.    And if I were to ask you the questions  
6 contained in that testimony, would your answers be  
7 the same?

8           A.    Yes, but I have one correction.

9           Q.    Okay.  Would you like to tell us what  
10 that correction is.

11          A.    Yes.  On the top of page 4, the  
12 "10.70 percent" should be changed to "10.68."  And  
13 then Attachment PAL-1, if you look at page 2 of the  
14 attachment, the rate in that attachment was changed  
15 from "10.7" to "10.68 percent."  So, therefore, it  
16 changed the summary page on page 1.

17          Q.    And is that change what's reflected in  
18 Duke Energy Ohio Exhibit 10?

19          A.    That's correct.

20          Q.    And so with that correction, do you have  
21 any additional changes?

22          A.    I do not.

23          Q.    Again, if I were to ask you the  
24 information contained therein with those corrections,  
25 would your answers be the same?

1           A.     Yes.

2           MS. WATTS:   Thank you.

3           Ms. Laub is available for  
4 cross-examination.

5           EXAMINER PIRIK:   Yes, Mr. Pritchard.

6           MR. PRITCHARD:   No cross, your Honor.

7           EXAMINER PIRIK:   Thank you.

8           Ms. Hussey.

9                               - - -

10                           CROSS-EXAMINATION

11       By Ms. Hussey:

12           Q.     Good afternoon, Ms. Laub.

13           A.     Good afternoon.

14           Q.     Could you please turn to page 2 of your  
15 testimony.

16           A.     I have it.

17           Q.     Okay.   There you describe rider DCI is  
18 intending to recover, among other things, a return on  
19 incremental capital investments for  
20 distribution-related reliability investment that's  
21 not otherwise recovered through base rates or other  
22 riders; is that accurate?

23           A.     That's accurate.

24           Q.     On page 3 at line 5, you describe how  
25 rider DCI will be calculated; is that correct?



1           A.     That's correct.

2           Q.     Okay.  Is it accurate to say that as  
3     proposed, the incremental revenue requirement will be  
4     determined by calculating the revenue requirement  
5     associated with projected rate base at the end of the  
6     next quarter and netting the revenue requirement for  
7     the rate base that's already recovered in base rates?

8           A.     I'm sorry.  I couldn't hear the second  
9     part of the question.  If you could break it up  
10    into --

11          Q.     Okay.  Sure.  And I'm kind of going from  
12    your -- I am trying to summarize your testimony.

13          A.     Okay.

14          Q.     But would it be accurate to say that as  
15    proposed, the incremental revenue requirement will be  
16    determined by calculating the revenue requirement  
17    associated with the projected rate base at the end of  
18    the upcoming quarter?

19          A.     That's correct.

20          Q.     And then netting the revenue requirement  
21    for the rate base that's already recovered in base  
22    rates?

23          A.     And subtracting that out, yes.

24          Q.     Okay.  Great.

25                 And just throughout the course of my

1 cross-examination, I am going to make a number of  
2 references to Attachment PAL-1, and by that I mean  
3 the corrected attachment that's been marked as Duke  
4 Energy Ohio Exhibit 10.

5 A. Okay.

6 Q. Now, you provided an example of the  
7 calculation of rider DCI on Attachment PAL-1 to your  
8 testimony; is that correct?

9 A. Yes.

10 Q. Okay. And how often will the company be  
11 performing the calculation that appears on PAL-1?

12 A. We are proposing to do that quarterly.

13 Q. And there are several columns in PAL-1.  
14 I would like to walk through them with you, if that  
15 would be okay.

16 A. Okay.

17 Q. Columns A and B represent the base  
18 revenue allocation in dollars and percentages from  
19 the prior distribution rate case, immediately prior  
20 distribution rate case; is that correct?

21 A. That's correct.

22 Q. Okay. And that was Case No. 12-1682?

23 A. Yes.

24 Q. Okay. And then column C and D also  
25 reflect amounts determined in the previous base case?

1 A. Column C --

2 Q. And D.

3 A. Yes.

4 Q. Okay. So for the proposed ESP period,  
5 would the amounts in columns A through D change in  
6 any way?

7 A. No.

8 Q. Okay. And let's talk about the billing  
9 determinants in column F. In PAL-1 they are marked  
10 as "12ME 12/31/13;" is that correct?

11 A. That's correct.

12 Q. And could you explain what that means?

13 A. 12 months ended December 31, 2013.

14 Q. Okay. Thank you. And will those billing  
15 determinants change over the proposed ESP term?

16 A. Yes.

17 Q. Okay. And how often? How so?

18 A. Quarterly.

19 Q. Okay. You indicate that incremental  
20 revenue requirement in column I will be based on the  
21 same allocation that's used in Schedule E of Case No.  
22 12-1682; is that correct?

23 A. That's correct.

24 Q. Okay. And so the allocations associated  
25 with rider DCI should be the same percentages as

1 those indicated in column B of PAL-1?

2 A. Yes.

3 Q. Okay. And, to your knowledge, are the  
4 allocation percentages from rider DCI that are  
5 reflected in PAL-1 for rate classes DS and DP the  
6 same as the allocations of base revenue for those  
7 classes in 12-1682?

8 A. Yes, I believe so, and on the schedule E4  
9 of that case.

10 Q. Okay. And subject to check, would you  
11 accept that rate that DP is allocated 6.1 percent of  
12 base distribution revenues in 12-1682; but that under  
13 the example in PAL-1, they would be allocated at a  
14 different percentage of the incremental rider DCI  
15 costs?

16 A. I'm not a rate design expert, but I would  
17 agree to that, subject to check.

18 Q. Okay. And forgive me. Previously under  
19 previous PAL-1, it was to the degree of 11.3 percent,  
20 I believe.

21 A. Yeah.

22 Q. Is that what your understanding would be?

23 A. I don't see that number on the schedule,  
24 but I would agree with your number, subject to check.

25 Q. Okay. And forgive me. I don't

1 necessarily have updated. But would you, likewise,  
2 accept that rate class DS was allocated 29.4 percent  
3 of base revenues in Case No. 12-1682, but is  
4 allocated in a different percentage for rider DCI  
5 costs in PAL-1?

6 A. I believe it's the same percentage.

7 Q. Okay. And under the previous PAL-1, it  
8 appeared to have been 22.8 percent as compared with  
9 29.4 percent? Does this make sense?

10 A. Yeah. Is it on -- are you reading it  
11 from the original PAL-1 that percentage, or are you  
12 calculating?

13 Q. This would have been the percentage from  
14 the original PAL-1. The difference I am seeing is a  
15 penny in the updated chart, but I am just running  
16 this past you.

17 A. I'm sorry. So what column are you in?

18 Q. Sure. So previously the percentage was  
19 under line 3B, and that was the 29.4 percent.

20 A. Correct.

21 Q. And then the calculation -- from my  
22 understanding, the difference comes to 22.8 percent  
23 that's actually going to be allocated under rider  
24 DCI?

25 A. Yeah. I don't see 22.8 percent. Is that

1 a calculation?

2 Q. Right.

3 A. Subject to check, I'll agree with that.

4 Q. Okay. So then the allocations of  
5 incremental revenue required under rider DCI are not  
6 actually allocated on the same exact basis as what  
7 was utilized in 12-1682 then; is that correct?

8 A. I believe they are. Again, I'm not a  
9 rate design expert, so I got these billing  
10 determinants from Jim Ziolkowski, and I would think  
11 that the math would result in approximately the same  
12 increase.

13 Q. Okay. And to the extent that it does  
14 not, would that be due to billing determinants or  
15 some other category within this document?

16 A. It could be a change due to the change in  
17 the billing determinants since the base case.

18 Q. Okay. Would you characterize the manner  
19 in which rider DCI is proposed to be calculated under  
20 PAL-1 as transparent?

21 A. Could you define "transparent"?

22 Q. Easy to understand.

23 A. Yes, I believe the calculation is easy to  
24 understand for anyone that's familiar with the  
25 typical revenue requirement.

1           Q.    Could you please turn to page 5, lines 5  
2 through 7 of your testimony. There you indicate the  
3 company has modeled rider DCI to be similar to AEP  
4 rider DIR and FirstEnergy rider DCR; is that correct?

5           A.    That's correct.

6           Q.    Okay. And are you aware that AEP rider  
7 DIR is designed as an equal percentage rider  
8 applicable to base distribution rates?

9           A.    I am.

10           MS. HUSSEY: Okay. Thank you. I don't  
11 have anything further.

12           EXAMINER PIRIK: Ms. Bojko?

13           MS. BOJKO: Yes, your Honor. Thank you.

14                                 - - -

15                                 CROSS-EXAMINATION

16           By Ms. Bojko:

17           Q.    Good afternoon, Ms. Laub.

18           A.    Good afternoon.

19           Q.    In your duties as director, is your work  
20 solely for Duke Energy Ohio and Duke Energy Kentucky?

21           A.    Yes.

22           Q.    So you do not do any work currently for  
23 the affiliates?

24           A.    Other than Duke Energy Kentucky, no, I do  
25 not.

1 Q. Any other affiliates --

2 A. Yes.

3 Q. -- than those two.

4 A. Just those two companies.

5 Q. Okay. So even though you are employed by  
6 Duke Energy Business Services, your work is limited  
7 to Duke Energy Ohio and Duke Energy Kentucky?

8 A. That's correct.

9 Q. Could you turn to page 3 of your  
10 testimony, please. On line 3, you use the term "for  
11 all distribution upgrades." Do you see that?

12 A. I do.

13 Q. So your reference to "all distribution  
14 upgrades" includes capital investment and general and  
15 common plant; is that correct?

16 A. That's correct. Well, I'll say the  
17 allocated -- the portion of the general and common  
18 plant that's allocated to our distribution business.

19 Q. And when you say distribution business,  
20 that could include all types of facilities in Duke's  
21 distribution system, including transmission and  
22 distribution facilities as long as it's classified as  
23 distribution?

24 A. It's the distribution -- there is a --  
25 I'm not clear on the question because to me



1 distribution and transmission are totally separate.

2 So there's no overlap between what's considered  
3 distribution and what's considered transmission.

4 Q. Okay. It's not your understanding that  
5 there are some transmission facilities that are  
6 actually classified as distribution service  
7 facilities? That's how I took your line 16 when you  
8 said "allocated to distribution," because sometimes  
9 there's some transmission-type facilities that are  
10 allocated to the distribution system.

11 A. No. It's just the portion of the general  
12 equipment that would be used for the distribution.  
13 When I referenced distribution, my definition is when  
14 you look at the uniform statistics -- the uniform  
15 accounts proposed by FERC, it's the FERC  
16 classification that's in distribution.

17 Q. Okay. So all facilities that are  
18 allocated to the distribution system is what you're  
19 talking about would be included in DCI?

20 A. Correct.

21 Q. And at the bottom of page 3, you talk  
22 about the rate of return that's applicable. Do you  
23 see that?

24 A. I do.

25 Q. And you use the rate of return that was

1 approved in the last recent -- or the most recent  
2 electric distribution rate case; is that correct?

3 A. That's correct.

4 Q. And that's the 10.68 that you modified  
5 today?

6 A. Yes.

7 Q. And isn't it true that you didn't make  
8 any kind of adjustment to that rate of return or  
9 return on equity to account for regulatory lag, the  
10 elimination of regulatory lag allowed by this single  
11 issue ratemaking proceeding?

12 A. That's correct. I mean, I am not a rate  
13 of return calculator. But, yes, we used the one most  
14 recent rate case.

15 Q. And turning you to page 5, you just  
16 explained to Ms. Hussey that you are modeling your  
17 DCI -- this is the first time the company has  
18 requested a DCI; is that true?

19 A. I'm not sure. We might have proposed one  
20 in an earlier case. I'm thinking we did, but I'm not  
21 sure.

22 Q. Do you have one currently in place at  
23 the --

24 A. Do we have one currently in place? No.  
25 I thought your question was had we proposed one

1 before. I'm sorry.

2 Q. Good distinction. Thank you for the  
3 clarification.

4 So you've modeled the one proposed in  
5 this proceeding, though, after the AEP and  
6 FirstEnergy distribution utility riders that they  
7 have; is that correct?

8 A. In general we did, yes. Not exactly.

9 Q. Okay. So not exactly. You understand  
10 that there are differences between your methodology  
11 and that of AEP's and FirstEnergy's?

12 A. Yes.

13 Q. And you just agreed with Ms. Hussey that  
14 AEP's rider is an equal percentage rider equal to the  
15 base rates; is that correct?

16 A. That's right.

17 Q. And the incremental costs are allocated  
18 in proportion to each customer's base rates, and that  
19 reflects the same spread of base distribution  
20 revenues as in the last rate case; is that your  
21 understanding?

22 A. I know that the AEP is a 5 percentage. I  
23 am not actually sure of their calculation of that  
24 percentage.

25 Q. Okay. And what I believe you said to

1 Ms. Hussey is that you believe that the percentages  
2 listed in columns B on your chart would be  
3 representative -- or it would be the intent of the  
4 company to have them equal the same percentages after  
5 your incremental revenue is allocated; is that  
6 correct?

7 A. Yeah. I think the question is would  
8 these columns ever change in our future quarterly  
9 filings, and those columns would not have changed.  
10 They would always be what they were as approved in  
11 the last case.

12 Q. Okay. I'm referring to the question and  
13 answer regarding the percentages listed in B. I  
14 think I heard you say that you would be surprised if  
15 the revenue that was ultimately allocated to the  
16 different classes did not equal the same percentages  
17 listed in column B. Is that not accurate?

18 A. Yes.

19 Q. You would be surprised. It was the  
20 company's intent --

21 A. Well, I did say that. But in listening  
22 to her subsequent questions, I think I probably  
23 missed the fact that we are changing the billing  
24 determinants each quarter to be the most recent. So  
25 that could have an impact on the allocation.

1           Q.    So you were not surprised that maybe the  
2 allocation percentages do not compare to Schedule E  
3 as indicated in your testimony?

4           A.    Yes.  And, again, I will just point out  
5 that I am not a rate design witness, and I typically  
6 don't look at different customer classes when I'm  
7 calculating revenue requirement.

8           Q.    Okay.  Can we turn to the Duke Exhibit  
9 10, which is the corrected PAL-1?

10          A.    Yes.

11          Q.    My copy has blue -- some numbers  
12 highlighted in blue.  Is that color coded for a  
13 reason, or is that just for ease of viewing?

14          A.    There's no significance to that color  
15 coding.

16          Q.    Okay.  Thank you.

17                If you look at the last column, the  
18 allocation appears to be an energy charge for some  
19 customers, a demand charge for some classes, and a  
20 per bill charge for others; is that accurate?

21          A.    That's correct.

22          Q.    And through the calculations, you're  
23 assigning a particular class with a share of the DCI  
24 costs; is that accurate?

25          A.    Correct.

1           Q.    And the result is that if the size of the  
2    class -- so you have a share allocated to a  
3    particular class. And if that class load changes in  
4    some fashion, for instance, if it decreases, then the  
5    share of that class is DCI cost would have to be  
6    picked up by other customers in that class; is that  
7    correct?

8           A.    I believe that is true, but we might want  
9    to double-check that with Mr. Ziolkowski.

10          Q.    And you stated that you're proposing a  
11    quarterly adjustment mechanism, and it's your  
12    understanding that that would be approved  
13    automatically; is that correct?

14          A.    Yes.

15          Q.    Are you proposing recovery based on  
16    projected investments or actual investments?

17          A.    It would be a combination. It would be  
18    actual as of the previous quarter, and then we would  
19    project the quarter.

20          Q.    So are the revenues that you're basing  
21    the actual rider calculation, that would be based on  
22    projected costs until the true-up; is that correct?

23          A.    Yeah, for a portion that will be  
24    projected, that's correct.

25          Q.    And isn't it your understanding -- or

1       isn't it true that AEP's methodology is done on  
2       actual investments only?

3             A.     I know that one of the companies does it  
4       on projected and one of them does it on actual. I'm  
5       not sure which one does it which way.

6             Q.     Could you turn to page 7 of your  
7       testimony, please. On line 13 you say that "Any  
8       capital costs will be addressed in Rider DCI or in a  
9       subsequent distribution rate case." How will you  
10      determine which mechanism you will see recovery  
11      through?

12            A.     Now, we're talking about the storm costs  
13      just to be clear, the storm rider? Because that  
14      section is under storm rider.

15            Q.     I apologize. I switched gears on you and  
16      didn't tell you.

17            A.     So up until the time we have a base rate  
18      case, any capital costs that we incur will be  
19      included in the rider DCI related to storms.

20            MS. BOJKO: I'm sorry. Could I have that  
21      answer reread for me?

22                    (Record read.)

23            Q.     So your point here was just that when you  
24      have a base rate case, then you would move the  
25      accounts, so to speak, to a distribution rate case?

1           A.    Yes.  At the time of our next base rate  
2   case, we would what I would term "a roll in" the DCI  
3   into the base rates.

4           Q.    Okay.  So it's your understanding that  
5   under this ESP, that all the capital investments from  
6   storm would go into rider DCI?

7           A.    The capital, yes.

8           Q.    And there's no cap on how much that could  
9   include or how much is actually put in the DCI in any  
10  given year; is that correct?

11          A.    That's correct.

12          Q.    Let's turn to page 8 of your testimony.  
13  And I'm going to switch to the SEET test.  Do you  
14  understand what I mean by the SEET, the Significantly  
15  Excessive Earnings Test?

16          A.    I do.

17          Q.    Would the revenues associated with the  
18  DCI be included in the company's SEET calculation?

19          A.    Yes.

20          Q.    And on line 8 you say -- which is similar  
21  to a Commission -- you're talking about the  
22  calculation detailed in Attachment PAL-2, and you say  
23  it is similar to the Commission-approved manner in  
24  the SEET case; is that correct?

25          A.    That's correct.



1           Q.    And you're referring -- the calculation  
2           that you're referencing is the SEET calculation which  
3           was agreed to in a stipulation; is that correct?

4           A.    Yes, in our last ESP case.

5           MS. BOJKO: Your Honor, may I approach,  
6           please?

7           EXAMINER PIRIK: Yes.

8           MS. BOJKO: At this time, I would like to  
9           have marked as OMA Exhibit 2 Attachment H. And now  
10          per my promise at the beginning -- or before lunch,  
11          this is Attachment 8 to the Stipulation and  
12          Recommendation filed in Case No. 11-3549-EL-SSO which  
13          has already been identified as OCC Exhibit 2. I  
14          guess I should ask, do you want me to mark -- I'm  
15          sorry. I think we decided not to mark Attachment H  
16          as a separate --

17          EXAMINER PIRIK: I thought we decided  
18          that we were going to have the OCC exhibit in whole.  
19          We were going to make it the whole exhibit with the  
20          attachments.

21          MS. BOJKO: Okay. My apologies. I would  
22          no longer request that Attachment H be marked as  
23          Exhibit 2.

24          EXAMINER PIRIK: We are just going to  
25          need to get the whole document to the court reporter.

1 MS. BOJKO: May I approach, your Honor?

2 EXAMINER PIRIK: Yes.

3 We'll go off the record for a minute.

4 (Discussion off the record.)

5 EXAMINER PIRIK: We'll go back on the  
6 record.

7 Q. (By Ms. Bojko) Ms. Laub, you've been  
8 handed what's entitled Attachment H, which is an  
9 attachment to the stipulation in Case 11-3549. Do  
10 you recognize this document as being such?

11 A. I do.

12 EXAMINER PIRIK: I think we need to say  
13 on the record, because I think we were off the record  
14 when we agreed do this, that that has been marked as  
15 OCC Exhibit 2.

16 MS. BOJKO: Correct. It's Attachment H  
17 to OCC Exhibit 2.

18 Q. Ms. Laub, is this the attachment that you  
19 are referencing in footnote 3 at your testimony that  
20 was part of a stipulated case?

21 A. Yes.

22 Q. And just so we're clear, if we turn to  
23 PAL-2, which is attached to your testimony, this is  
24 not a replicate of Attachment H of OCC Exhibit 2; is  
25 that correct?

1           A.    It's pretty much a replicate. The only  
2    thing that was eliminated was I believe the reference  
3    to rider ESSC, which will no longer be applicable in  
4    this new ESP. And there was some language, I  
5    believe, around the generation assets that are going  
6    to be transferred to an affiliate by the end of this  
7    year. So other than that, I believe it's word for  
8    word.

9           Q.    And there's some formatting distinctions.  
10   I don't want -- I want the record to be clear that  
11   what you've attached to your testimony is not  
12   Attachment H that was attached to the stipulation in  
13   Case 11-3549.

14          A.    That's correct.

15          Q.    Okay. And the reason rider ESSC -- the  
16   provision is removed regarding that is because that  
17   rider terminates at the end of May -- or at May 31,  
18   2015; is that correct?

19          A.    I believe that one actually expires at  
20   the end of this year.

21          Q.    Oh, December 31, 2014.

22                Okay. So as I understand your proposal  
23   in this ESP case, you're proposing to continue the  
24   15 percent threshold that was negotiated in the  
25   stipulated case; is that accurate?

1           A.    That's correct.

2           Q.    And, Ms. Laub, is it your understanding  
3   that the threshold of at least two other utilities is  
4   lower than the 15 percent; is that true?

5           A.    I believe that's true for FirstEnergy and  
6   AEP, yes.

7           Q.    And DP&L?

8           A.    I don't know DP&L's.

9           Q.    And the threshold of two of those  
10   companies at least is 12 percent; is that correct?

11          A.    That's subject to check. I was thinking  
12   it was 14, but subject to check, I'll agree with  
13   that.

14          Q.    And the 12 percent that I just  
15   referenced, those were in two recent cases filed by  
16   the utility companies; is that correct?

17          A.    I would agree with that, subject to  
18   check. I'm not sure.

19                MS. BOJKO: I have no further questions.  
20   Thank you. Thank you.

21                EXAMINER PIRIK: OCC, cross?

22                MR. SERIO: Thank you, your Honor.

23                               - - -

24

25

## CROSS-EXAMINATION

By Mr. Serio:

Q. Good afternoon.

A. Good afternoon.

Q. You've indicated that rider DCI was modeled after the riders that the other electric utilities in Ohio have, correct?

A. Yes.

Q. And did you propose any type of service reliability improvement quantification as part of rider DCI?

A. I don't believe we did, no.

Q. And you've indicated that rider DCI is to be on projected data and that there's no reconciliation adjustment proposed by the company, correct?

A. The company did not -- I believe in our application, we didn't show a reconciliation mechanism, but certainly we would expect to reconcile any projected data that we would have in the filings.

Q. Without a reconciliation adjustment, though, if the company projected more than they actually spent, the customers would be charged for spending that never actually occurred, correct?

A. That is true, but I think we would

1 definitely reconcile the data.

2 Q. And you've indicated that the common  
3 general plant is going to be included in rider DCI,  
4 correct?

5 A. The portion that's allocated in the  
6 distribution business, yes.

7 Q. Now, on page 3 of your testimony, on  
8 lines 13 to 17, you talk about the different FERC  
9 plant accounts that would be included in rider DCI?

10 A. Yes.

11 Q. Do you see that? How does the company  
12 plan to differentiate the investments in general  
13 plant from infrastructure modernization investments?

14 A. The plant that's in the SmartGRID --

15 Q. Yes.

16 A. -- program, if you look at the exhibit,  
17 the PAL-1, you can tie the numbers -- the adjustment  
18 directly to our filing in that case.

19 Q. Okay. You're referring to PAL-1, page 3,  
20 4, 5, and 6, correct?

21 A. That's correct.

22 Q. And you're saying that based on that, you  
23 can differentiate which ones are going to be  
24 SmartGRID and which ones would go in rider DCI?

25 A. That's correct, those adjustment columns

1       come directly from our SmartGRID filing.

2               Q.     And that would be the column that says  
3       "adjustments" and has the small letter A next to it  
4       after "per books"?

5               A.     Yes.

6               Q.     And those negative values in parens are  
7       the amounts that are being subtracted as a result of  
8       the SmartGRID.

9               A.     That's correct.

10              Q.     Can you tell me which of the accounts  
11       between 360 and 374 are used for tracking investment  
12       costs related to distribution infrastructure  
13       modernization?

14              A.     Yes.   So it would be -- I don't have a  
15       ruler with me, but any of the ones that have a number  
16       in -- a dollar amount in the adjustment column.  So  
17       it's -- would you like me to read them off to you?

18              Q.     No.  You're just saying -- for example,  
19       let's take the first one.  That would be line number  
20       4, FERC 362, company 3620 station equipment.  That  
21       would be the first one that would be tracked back,  
22       correct?

23              A.     That's correct.

24              Q.     Now, how does the company differentiate  
25       between what is common plant and what is

1 infrastructure modernization equipment?

2 A. To me, those are two different terms.

3 Q. Okay.

4 A. So you're saying the difference -- and  
5 I'll use the term "SmartGRID." You can have common  
6 equipment that is related to the SmartGRID program,  
7 and you can have common equipment that it's not. For  
8 example, the biggest example I can think of, we have  
9 communication nodes that are recovered under the grid  
10 modernization program, and those communication nodes  
11 are considered common because they benefit both the  
12 gas and electric customer.

13 Q. As part of the DCI, there is going to be  
14 general plant also, correct?

15 A. Yes, that's correct.

16 Q. How does the general plant allocated in  
17 the DCI track back to improving Duke's  
18 infrastructure?

19 A. So that probably -- you're asking about  
20 the operational, how does -- that's probably a  
21 question better for Mr. Arnold.

22 Q. Would general radio equipment be one of  
23 the items that would fall under general plant in the  
24 DCI?

25 A. Yes.



1           Q.    And do you know how the radio function  
2           serves to improve Duke's reliability as part of  
3           infrastructure modernization?

4           A.    I would say I'm not an expert on that,  
5           no.  I'm an accountant.

6           Q.    Has the company proposed any type of  
7           prudence review for the investment that they are  
8           going to make in rider DCI?

9           A.    Not to my knowledge.

10          Q.    Now, the company for the storm rider is  
11          going to have deferrals that are made at the end of  
12          each calendar year, correct?

13          A.    That's correct.

14          Q.    And the deferrals then would be collected  
15          in the next base rate proceeding, correct?

16          A.    Unless that deferral reaches a balance of  
17          5 million -- either a \$5 million credit or a \$5  
18          million charge, but yes.

19          Q.    Now, if the balance is included for  
20          recovery in the next rate proceeding, let's say it's  
21          over \$5 million, would Duke propose to amortize the  
22          balance, or would Duke try to collect that in one  
23          fell swoop?

24          A.    I think we would try to collect it over a  
25          certain amortization period, which is typically three

1 to five years depending on when we anticipate our  
2 next rate case to be.

3 Q. Did the company propose an amortization  
4 period?

5 A. No. I don't believe we did.

6 Q. And do you know when the company's most  
7 recent electric rate case was?

8 A. Yes. It was filed in 2012.

9 Q. And prior to that, do you know when the  
10 previous electric distribution case was?

11 A. I believe it was in 2008.

12 Q. So it was approximately five years  
13 between the cases?

14 A. Four years, yes.

15 Q. So would you agree then based on the  
16 company's recent history of filing rate cases that  
17 the amortization period tracking the years between  
18 those two cases would be a reasonable amortization  
19 period?

20 A. Yes, I would think that would be one way.

21 Q. Now, if the DSR is used and it's invoked  
22 once the calculations are made at the end of a  
23 calendar year, let's use an example of \$3.5 million  
24 balance. With the deferrals, what would the amount  
25 be at the end of the 12-month period? How would I

1 calculate the costs of the deferral in that?

2 A. So are you saying the storm costs during  
3 that year would be \$3.5 million?

4 Q. Yes.

5 A. So if the storm costs were \$3.5 million,  
6 the amount in base rate is 4.4 million. So that  
7 \$900,000 delta would be set up as a regulatory  
8 liability because it would be an amount owed to  
9 customers.

10 Q. Now, would that be an automatic  
11 correction then, or would something have to be done  
12 to get that credit in place for customers under that  
13 scenario?

14 A. Under that scenario, I think under our  
15 proposal, we're saying until that balance reaches \$5  
16 million, it would continue to accumulate in that reg  
17 asset or reg liability account. Once it reached \$5  
18 million threshold, then we would start passing it  
19 back to customers.

20 Q. Now, when Duke starts passing money back,  
21 would there be any type of audit to ensure that the  
22 correct amount of money was passed back to customers?

23 A. Yes, absolutely.

24 Q. And what did Duke propose for that audit  
25 or has Duke proposed?

1           A.    I believe we had a data request on that.  
2    I can't be sure, but I think what we would propose is  
3    that we would make an annual filing and that the  
4    staff could audit those dollars on an annual basis or  
5    any other interested parties.

6           Q.    Now, is Duke proposing to accrue carrying  
7    costs on the monthly balance in the deferred account?

8           A.    Yes.

9           Q.    So there would be carrying costs if the  
10   amounts are above the threshold.  Would there be  
11   interest back to customers if the amounts are below  
12   the threshold?

13          A.    Yes, both ways.

14          Q.    That would be the same amount on the  
15   deferral and on the interest?

16          A.    That's correct.

17          Q.    Now, is Duke proposing to start  
18   collecting or accrue carrying costs at the end of a  
19   calendar year when the amount of the deferral is  
20   determined?

21          A.    Yes.  I think what we said is it would  
22   start at the end of the year unless we had a major  
23   storm during the year and we had exceeded that  
24   balance during the year, if we exceed the 4.4, the  
25   carrying costs would start from that point in time.

1           Q.    Now, would Duke continue to collect  
2           carrying costs once rider DSR is invoked to start  
3           collecting the deferrals?

4           A.    Yes.  Until the balance was zero,  
5           carrying costs would continue to accrue both ways,  
6           credit or a charge, on the balance, on the  
7           outstanding balance, remaining balance.

8           Q.    And flip side would be true, that if  
9           there was a credit back to customers, customers would  
10          continue to get the interest until the entire amount  
11          was passed back to customers?

12          A.    That's correct.

13          Q.    Now, you indicated -- I guess the  
14          application says that Duke would perform the SEET  
15          analysis consistent with the PUCO's parameters,  
16          correct?

17          A.    Correct.

18          Q.    And those are the parameters that you  
19          referred to in footnote 2, I think, correct?

20          A.    I believe it's on Attachment --

21          Q.    Or footnote 21 in the application?

22          A.    I don't have the application.  I know  
23          it's on Attachment PAL-2.

24          Q.    Okay.  And that's the document that you  
25          had the corrected rate return on, correct, the 10.68

1       instead of 10.7?

2               A.     That's Attachment PAL-1.

3               Q.     That's 1.

4               A.     So PAL-2 is more verbiage. It doesn't  
5       have any numbers on it.

6               Q.     Okay. That's the document you were  
7       discussing with counsel for OMA, correct?

8               A.     That's correct.

9               Q.     Do you have a copy of Duke's application  
10      with you?

11              A.     I do not.

12              Q.     If you could look at footnote 21 on page  
13      16.

14              A.     I have it.

15              Q.     And that's the two parameters that you're  
16      talking about, correct?

17              A.     Yes.

18              Q.     In both of those SEET proceedings, the  
19      parameters were stipulated by the parties, correct?

20              A.     In the '11 case I know it was. I wasn't  
21      part of the '09 case, but --

22                    MS. WATTS: Your Honor, I would like to  
23      object because I think Mr. Serio asked if both of the  
24      SEET proceedings, and I think the cases that were  
25      referred to were not SEET proceedings.

1 Q. In both of those proceedings.

2 MS. WATTS: Okay. Thank you.

3 A. In the '11 case I know that was a  
4 stipulation, and I'm not sure about the '09 case.

5 Q. Do you know if the stipulation in both of  
6 those proceedings indicated that the stipulated 15  
7 percent return on equity would not be used as  
8 precedent for other proceedings?

9 A. I don't know that.

10 MR. SERIO: Your Honor, could we get  
11 administrative notice of the stipulations in both of  
12 those cases, in the 08-920, the December 17 order,  
13 and the November 2, both of those stipulations and  
14 the orders? I have copies if you want me to  
15 actually --

16 MS. WATTS: Mr. Serio, the second one is  
17 already an exhibit.

18 EXAMINER PIRIK: Yeah, the second one has  
19 already been marked as Exhibit 2.

20 MR. SERIO: I think this would be OCC  
21 Exhibit 3, your Honor.

22 EXAMINER PIRIK: The document will be so  
23 marked.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 EXAMINER PIRIK: Again, it looks like you

1 have partial copies.

2 MR. SERIO: I have the cover page, page  
3 21 of the order, and pages 35 and 36 from the  
4 stipulation itself. Those are the pertinent pages.

5 EXAMINER PIRIK: As long as you give the  
6 court reporter a full copy next week, I think that  
7 will be fine.

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

9 MS. PETRUCCI: Can I understand what has  
10 actually been marked, which document?

11 EXAMINER PIRIK: This is the stipulation  
12 in 08-920-EL-SSO.

13 MS. WATTS: We're proposing to mark  
14 ultimately the whole document; is that what I  
15 understand?

16 EXAMINER PIRIK: I think. Based upon the  
17 request of Duke, I think it makes sense to make sure  
18 it's a completed document as opposed to partial  
19 pages.

20 MR. SERIO: For the time being, this will  
21 be OCC Exhibit 3 until we get the complete document.

22 EXAMINER PIRIK: That's fine.

23 Q. And the document I just handed you that's  
24 been marked as OCC Exhibit 3, that has the cover page  
25 listed, that's the opinion and order in Case No.



1 08-920-EL-SSO, correct?

2 A. That's correct.

3 Q. And if you look at the second page of the  
4 document, page 21 of the order, it indicates  
5 excessive earnings there under paragraph C, correct?

6 A. Yes.

7 Q. And then if you look at the last two  
8 pages of this document, pages 35 and 36 of the  
9 stipulation, that addresses the Significant Excessive  
10 Earnings Test, correct?

11 A. That's correct.

12 Q. And then if you look at actually page 36  
13 of the stipulation, the first full paragraph on the  
14 page, it begins, "This paragraph does not create a  
15 precedent." Do you see that?

16 A. I do see that.

17 MR. SERIO: Your Honor, just to close the  
18 loop, we have the stipulation from the 11-3549 marked  
19 as OCC Exhibit No. 2. Can we get administrative  
20 recognition of the actual order itself?

21 MS. WATTS: Your Honor, may I be heard on  
22 that?

23 EXAMINER PIRIK: Yes.

24 MS. WATTS: I appreciate Mr. Serio  
25 attempting to read this document into the record, but

1 the witness has testified that she's not familiar  
2 with this document and wasn't involved in it. So  
3 this seems to be sort of a backwards way of getting  
4 evidence in. OCC will be presenting witnesses later  
5 in the case and will have ample opportunity to bring  
6 in evidence like this when it's their turn to do so.

7 MR. SERIO: Your Honor, if I could ask a  
8 couple of other questions, maybe that will clear it  
9 up a little better.

10 EXAMINER PIRIK: I mean, in light of the  
11 fact we're doing the stipulations and the  
12 stipulations, I don't have a problem taking  
13 administrative notice of the opinion and order. If  
14 this witness wasn't involved in it and wasn't  
15 familiar with it, then I don't think, you know, we  
16 can necessarily expect her to answer questions with  
17 regard to those cases.

18 We'll also go back -- and I want to be  
19 sure we're consistent as to how we are citing  
20 different things, and we'll go back and be sure.  
21 There's a number of things we're taking  
22 administrative notice of, and we'll organize those  
23 over the weekend and be sure that come Monday we have  
24 a more consistent way of actually marking things.  
25 Because I think we have to decide if we are going to

1 do exhibits or if we are going to do administrative  
2 notice because we are kind of intermingling the  
3 terminology here.

4 For these two, to be consistent, we're  
5 going to keep them as exhibits. We're not going to  
6 change that, and then we'll make a list of what we've  
7 taken administrative notice of so far so that we're  
8 not crossing this bridge.

9 So I'll take administrative notice of the  
10 opinion and order, but yet you need to be sure that,  
11 you know, if she doesn't know the answers to the  
12 questions, then you'll have to move on.

13 Q. (By Mr. Serio) Ms. Laub, is it your  
14 testimony that the company is using the 15 percent  
15 return on equity as part of the SEET calculation  
16 based on the 15 percent return on equity from the  
17 08-920-EL-SSO proceeding?

18 A. Yes. In my testimony on page 8, we're  
19 proposing the calculation that is similar to the  
20 Commission approved in the 11-3549 case.

21 Q. And you knew that that 15 percent came  
22 from a stipulation, correct?

23 A. I knew that it came from that case, yes.

24 Q. And did you know that the stipulation in  
25 that case contained this language about not creating

1 precedent?

2 A. I don't believe I ever read that language  
3 in that case, no. I wasn't part of that case.

4 Q. Had you been aware of the language that  
5 says that that paragraph does not create precedent,  
6 would you still have recommended using the 15 percent  
7 in this proceeding?

8 A. Yes.

9 Q. Even though the previous stipulation  
10 specifically would have said you can't use it?

11 A. Yes. It's my understanding -- I'm not a  
12 lawyer. But when I think of the term "precedent," I  
13 think of something that's been predetermined. I  
14 don't think it prohibits us from recommending that in  
15 this case.

16 Q. Other than relying on these previous  
17 cases, is there any other independent evidence  
18 supporting the 15 percent being used as part of the  
19 SEET test in your application?

20 A. No, other -- I will point out the fact  
21 that our SEET test is based on our total electric  
22 revenues as reported in FERC Form 1, which includes  
23 our transmission revenues which has an ROE approved  
24 by FERC at 12.38 percent.

25 Q. Now, rider DCI would enable Duke to

1 collect the costs of its capital investments on a  
2 faster basis than if the company had to rely on  
3 distribution-based rate cases to recover those costs,  
4 correct?

5 A. That's correct.

6 Q. And the same would be true for rider DSR,  
7 correct?

8 A. It would not be correct for DSR because  
9 DSR is O&M costs. So the O&M costs you just get on a  
10 year-by-year basis. Does that make sense?

11 Q. Okay. Now, the faster cost recovery,  
12 would you agree with me that that is a benefit for  
13 Duke?

14 A. Is the cost recovery a benefit to Duke?

15 Q. Yes.

16 A. Yes.

17 Q. The more accelerated cost recovery?

18 A. Yes.

19 Q. In fact, you could quantify the impact of  
20 that accelerated cost recovery, correct?

21 A. Yes. We could quantify the amount of  
22 rider DCI.

23 Q. Now, if you get to recover your costs on  
24 a more accelerated basis, would you agree with me  
25 that that would reduce the business risk that Duke

1 would otherwise face, all other things being equal?

2 A. I would think so. I'm not a rate of  
3 return expert, but I would think so. But to what  
4 degree, I would not know.

5 Q. Do you know if Duke, in fact, proposed  
6 reducing its rate of return in this case to offset  
7 the benefit of any accelerated cost recovery of its  
8 investment because of rider DCI?

9 A. The company is proposing to use the rate  
10 of return approved in our last rate case.

11 Q. So the company did not propose any  
12 reduction to offset the additional benefit of getting  
13 the cost recovery on a faster basis, correct?

14 A. No. I believe the company believes that  
15 the 9.8.4 percent is already low, considering that in  
16 our base rate case, our ROE witness had a midpoint  
17 range of, I believe, 10.5, 10.6 percent.

18 Q. I understand you believe it was low, but  
19 whatever it was, by reducing the risk because you've  
20 accelerated cost recovery, if the Commission approves  
21 rider DCI the day after its approval, the company  
22 will benefit from that more accelerated cost  
23 recovery, correct?

24 A. The company will benefit, but I could not  
25 quantify what impact it would have on the rate of

1 return.

2 Q. Okay. Now, you're familiar with the  
3 concept of O&M cost savings, correct?

4 A. I am.

5 Q. In fact, you're familiar with the Duke  
6 Energy natural gas accelerated mains replacement  
7 program, correct?

8 A. Yes.

9 Q. And one of the concepts in that is that  
10 O&M cost savings are credited back to customers on an  
11 annual basis as a partial offset to the accelerated  
12 cost recovery, correct?

13 A. Yes. In that case, there were reductions  
14 in leaks, I believe.

15 Q. Did Duke propose any O&M cost savings  
16 credits that would be done on an annual basis to  
17 customers as a result of rider DCI investments in  
18 this case?

19 A. No. We are not proposing to either  
20 include O&M increases or savings. It's my  
21 understanding that the programs in Mr. Arnold's  
22 testimony are not expected to result in any immediate  
23 O&M savings.

24 Q. Now, there's been a number of proceedings  
25 on the natural gas side that you've been involved

1 with with AMRP cases where O&M cost savings were  
2 recorded and credited back to customers; is that  
3 correct?

4 A. That's correct.

5 Q. And maybe we could do this quick. Would  
6 you agree with me that over the eight cases from  
7 01-1228-GA-AIR through 13-2231-GA-RDR, the company  
8 has reported approximately \$10.5 million in total O&M  
9 cost savings to customers?

10 A. I have not been involved with the cases  
11 since the inception.

12 Q. You have been involved with the cases  
13 since the last four cases, correct?

14 A. That's correct.

15 Q. So if I went back to the 01-1228-GA-AIR  
16 document, and I looked at the schedules the company  
17 files on an annual basis and I specifically looked at  
18 Schedule 15, which is titled "Gas Maintenance  
19 Accounts Savings Calculation," I could look and see  
20 how much in each year the company reported in cost  
21 savings, correct?

22 A. Yes. Assuming you look at the one that  
23 was eventually approved in the case, yes.

24 Q. And if the filing was made at the end of  
25 the case and it was titled "Actual 12-Month Update



1 Filing," then that would indicate that was the actual  
2 cost savings that were flowed to customers, correct?

3 A. Yes, if that was, again, the version that  
4 was ultimately approved for recovery.

5 Q. Now, as part of rider DCI, the company is  
6 also including that tax recovery would be included,  
7 correct?

8 A. Yes. The property taxes, yes.

9 Q. Now, if a plant was placed in service in  
10 calendar year 2015 and was assessed taxes, the  
11 assessment would occur in 2016, correct?

12 A. Did you say the plant --

13 Q. If a plant went in -- if you put plant in  
14 the ground in 2015, then the assessment would occur  
15 in 2016, correct, a year later?

16 A. Yes, that's when it was expensed on our  
17 books, yes.

18 Q. And then you would actually pay the tax  
19 the following year, correct?

20 A. Yes. In Ohio, yes.

21 Q. So you put the plant in the ground.  
22 There's a one-year lag to get the assessment and a  
23 two-year lag to actually make the payment, correct?

24 A. Yeah, a year, a little over a year  
25 depending on the timing you move the assets.

1           Q.    Now, to the extent Duke is proposing to  
2           include the cost of the tax in DCI, is the tax going  
3           to be based on when you pay the tax or when the tax  
4           is assessed to Duke?

5           A.    I believe it is when the tax is assessed  
6           because we file the accrual method of accounting. So  
7           in your example we would -- and I forget. I believe  
8           you said year-end 2015 was the assessment date.

9           Q.    If you install in '15, assessed in '16.

10          A.    Okay. In that example under the accrual  
11          method, the expense would be on the books in the year  
12          2016.

13          Q.    So you would actually be charging  
14          customers under the DCI rider in 2016 for an expense  
15          that Duke didn't pay until 2017?

16          A.    Well, it's -- we are not on a cash basis.  
17          We're on an accrual basis. So we would have -- it  
18          would be a valid expense on our books in 2016.

19          Q.    I understand, but you're actually  
20          collecting it from customers before you pay it?

21          A.    Yes.

22          Q.    Do customers get interest on the extra  
23          money that you've collected before you pay it under  
24          your proposal?

25          A.    No, but that would be the same with other

1 reliability. It works both ways.

2 Q. You indicated that any questions that  
3 I've got about O&M costs and savings I should direct  
4 to Mr. Arnold, correct?

5 A. If you wanted specific details on the  
6 programs and if they will result in savings, yes.

7 Q. If I had questions about the amount of  
8 O&M costs that are spent in the various programs, he  
9 would be the correct witness to ask about that?

10 A. Yes.

11 Q. On PAL-1, page 2 of 12, I believe you  
12 made a correction on the rate of return.

13 A. That's correct.

14 Q. You changed it to 10.68?

15 A. Yes.

16 Q. The line that says, "Rate base for  
17 rider," the 1,066,989,635, that's the number that you  
18 multiply the rate of return by to get the return on  
19 rate base, correct?

20 A. That's correct.

21 Q. Is the 114,167,891 the correct number?

22 A. I think the 114 is probably the amount on  
23 the original attachment.

24 Q. So all of that number should be changed?

25 A. Yes. So if you look at Duke Energy

1 Exhibit 10 --

2 Q. Is it just those two lines then on that  
3 exhibit that are changed?

4 A. It is. We changed the 10.7 to 10.68. So  
5 then the return on rate base is simply a matter of  
6 taking the rate base times the rate, so those numbers  
7 change. The depreciation expense, property tax  
8 expense did not change.

9 Q. Okay. And then the total revenue  
10 requirement, does that stay the same, or does that  
11 change?

12 A. That changes.

13 Q. Okay. So there's three numbers on that  
14 page that change then, correct? The rest are the  
15 same?

16 A. Yes, and the CAT tax changed slightly.

17 Q. Okay.

18 MR. SERIO: If I could have just a  
19 minute, your Honor, I think I'm done.

20 Q. Okay. So you've indicated that you've  
21 been associated with the AMRP filings since '08, '09,  
22 2010, 2011, correct?

23 A. I believe it was 2010. That's when I  
24 started in the rate department.

25 Q. Are you familiar with who Robert Parsons

1 is?

2 A. I am. He was my predecessor.

3 Q. And do you know if he submitted testimony  
4 in the 09-1849 case, GA-AIR, that spelled out how  
5 cost savings for O&M would be handled going forward?

6 A. I don't know if he would have been the  
7 witness, no, I do not know.

8 MR. SERIO: Your Honor, I think the  
9 easiest way to do this is to ask for administrative  
10 notice of a number of dockets. 01-1228-GA-AIR  
11 docket, the company made filings on February 17, '04,  
12 February 23, '05; February 21, '06; February 27, '07;  
13 that were considered final schedules for each of  
14 those AMRP proceedings. Schedule 15 in each of those  
15 lists the O&M cost savings.

16 MS. WATTS: And, your Honor, I would  
17 enter an objection to that, again, for the same  
18 reason as before, that Ms. Laub has indicated she was  
19 responsible in four of those cases. I'm not sure I  
20 captured all of them that Joe just read off, but the  
21 other ones she's not familiar with.

22 Q. Ms. Laub, was there any difference in how  
23 the cost savings were handled in the cases that  
24 you've been involved with?

25 A. For the four years that I did, there was

1 no difference.

2 Q. So do you know if --

3 EXAMINER PIRIK: Mr. Serio, I didn't  
4 catch everything that you just said, all of the  
5 requests that you had for administrative notice. As  
6 I said, we are going to try to organize it over the  
7 weekend to be sure we're not missing anything and  
8 duplicating, and our screen went off, so I have no  
9 idea --

10 MR. SERIO: Sure. I will go through  
11 those again. In the 01-1228-GA-AIR case, that was a  
12 proceeding where the company first did the AMRP, and  
13 the Commission kept that docket open for a number of  
14 years.

15 On February 17, '04; February 23, '05;  
16 February 21, '06; February 27, '07, the company filed  
17 Ohio AMRP calculation and rider filings, 12-month  
18 actual update. And in each of those, Schedule 15  
19 lists the O&M cost savings for each of the  
20 proceedings.

21 The fifth item in that docket,  
22 01-1228-GA-AIR, would be the February 28, '03,  
23 testimony of Witness Howell. His supplemental  
24 testimony at page 5, again, shows the O&M cost  
25 savings. And then in the 09-1849-GA-RDR proceeding,

1 the April 16, 2010, supplemental direct testimony of  
2 Robert Parsons.

3 EXAMINER PIRIK: Now, you are going fast  
4 again.

5 MR. SERIO: I'm sorry. I will slow down.  
6 08-1849-GA-RDR, the supplemental direct testimony of  
7 Robert Parsons filed on April 16, 2010. That  
8 explains how the parties agreed to handle O&M cost  
9 savings on a going-forward basis.

10 EXAMINER PIRIK: I think we have all the  
11 dates down.

12 Did you hear all the dates? Go ahead.

13 Hopefully I don't have to repeat them  
14 back.

15 MS. WATTS: Thank you for getting the  
16 details, your Honor.

17 Again, Ms. Laub was not in her present  
18 role or involved with any of those previous cases.  
19 While I appreciate Mr. Serio wants to gratuitously  
20 make those cases part of the record, this witness has  
21 no experience with them other than the four that she  
22 testified about, and so I would object to having them  
23 be part of her cross-examination.

24 MR. SERIO: Your Honor, she's familiar  
25 with the way that the savings are calculated.

1       There's no difference --

2               MS. WATTS: Mr. Serio, she did not  
3       testify that she was familiar. She said she didn't  
4       know anything about those previous cases.

5               EXAMINER PIRIK: Okay. Go ahead,  
6       Mr. Serio.

7               Q.     (By Mr. Serio) Ms. Laub --

8               EXAMINER PIRIK: No, I didn't mean go  
9       ahead. You were making an argument. I am trying to  
10      clarify.

11              MR. SERIO: The calculations were the  
12      same every year. It's the company's final filing.  
13      They make an original filing, and then they make a  
14      final filing with all actual data. What I am asking  
15      for is administrative notice in the Commission docket  
16      of the actual filing that shows the actual O&M cost  
17      savings that the company credited to customers as a  
18      result of the program that the Commission authorized  
19      in the 01-1228 proceeding.

20              I think it's a Commission order. The  
21      tariffs and the schedules were filed as a result of  
22      the Commission order. It's actual numbers. It seems  
23      to me that's exactly what administrative notice is  
24      supposed to be for.

25              MS. WATTS: And, Mr. Serio, we appreciate



1       that you have many years of experience with Duke  
2       Energy Ohio's AMRP dockets, but Ms. Laub does not.  
3       So if you would like to have a witness to establish  
4       all of the points you just made on the record, that  
5       would just be great, but this isn't the witness to do  
6       it with.

7                   EXAMINER PIRIK: I think I'll allow you  
8       to try to make some foundation with this witness.  
9       But, you know, if she does not have experience with  
10      all these other dockets and if there is not some  
11      tie-in with her responsibilities, then she -- if it's  
12      within her knowledge, then I'll consider it. But if  
13      not, I don't see how we can go down that road.

14           Q.     (By Mr. Serio) Ms. Laub, how were the O&M  
15      cost savings calculated since you have been involved  
16      in the natural gas AMRP program?

17           A.     You know, I don't have those in front of  
18      me, and it's been a couple of months since we did  
19      them, but I believe what we do is take certain FERC  
20      accounts and compare the actual expenses to what the  
21      amounts are in base rates. So any reduction in those  
22      accounts gets passed through as savings.

23           Q.     Essentially you started with a baseline  
24      O&M amount, correct?

25           A.     Yes, subject to my memory being correct.

1 But, yes, the amount that's included currently in  
2 base rates.

3 Q. And in the current proceedings, then you  
4 compare the actual cost savings compared to the  
5 stipulated minimum cost savings from Mr. Parson's  
6 testimony, correct?

7 A. We do compare it to a stipulated savings.

8 Q. And you pass back the greater of the  
9 actual or the stipulated amounts, correct?

10 A. That's correct.

11 Q. That's what's been done since you've  
12 taken over?

13 A. Yes.

14 Q. When you took over and there were  
15 discussions about how to handle O&M cost savings, did  
16 you review how cost savings were handled in the  
17 previous cases to determine how Duke handled that  
18 issue?

19 A. I did not. I believe Mr. Parsons just  
20 showed me how it was calculated that year.

21 Q. So he showed you how it was calculated in  
22 the previous years under the 01-1228 dockets,  
23 correct?

24 MS. WATTS: Objection. That was not the  
25 witness's testimony.

1 EXAMINER PIRIK: She can clarify.

2 A. He showed me how to calculate it for the  
3 current filing that we were working on together.

4 Q. Do you know if the way he showed you was  
5 consistent with how the company did it previously?  
6 Did he indicate whether it was or not?

7 A. I don't recall. It's been a while, but  
8 I'm thinking it was consistent with the prior year.  
9 I couldn't say going all the way back to 2001.

10 Q. Can you go back to 2007? What's the  
11 earliest year that you knew how the thing was  
12 calculated?

13 A. I think I said I believe the 2010 filing  
14 was first one I worked on.

15 Q. And Mr. Parsons explained to you in 2010  
16 that the calculation was done the way it had been  
17 done previously?

18 MS. WATTS: Objection. That wasn't the  
19 witness's testimony.

20 EXAMINER PIRIK: I'll let her answer.

21 A. I believe he showed me based on the prior  
22 year filing, so maybe 2009 filing. Prior to that  
23 time, I don't have any idea how the savings were  
24 calculated.

25 Q. Is Mr. Parsons still employed by Duke?

1           A.    He is not.  He's retired.

2           Q.    Is there anyone else in your department  
3   that is employed now that was employed prior to your  
4   taking over the AMRP proceeding?

5           A.    Bob Parsons was the one responsible for  
6   that so not in my department that I can think of.

7           Q.    Do you know if Mr. Wathen submitted  
8   testimony in those previous proceedings?

9           A.    I do not know.

10          Q.    Do you know how much the company has  
11   reported in O&M cost savings since you've taken over  
12   doing those calculations?

13          A.    I do not know without those filings in  
14   front of me.

15          Q.    Would you accept, subject to check, that  
16   in 2011, it was \$475,152?

17          A.    Subject to check, yes.

18          Q.    Now, if you didn't have the AMRP program  
19   on the gas side and the company wouldn't have been  
20   able to retain that \$475,000 instead of passing it  
21   through to customers because there wouldn't have been  
22   any reflection of that until the next rate case,  
23   correct?

24          A.    Can you repeat that question?

25          Q.    Sure.  If we're in the gas AMRP program

1 and there's no O&M cost savings credited to  
2 customers, then the company would get to retain any  
3 of those O&M cost savings until the next rate case  
4 and then you reset O&M costs, correct?

5 A. In the case of the AMRP, yes, that's  
6 correct, but we also would not have been able to get  
7 all the capital recovery either if we did not have  
8 that rider.

9 Q. I understand but --

10 A. But, yes.

11 Q. In the rider DCI, you've proposed  
12 accelerating all the costs collection, but there's no  
13 acceleration of any O&M cost savings back to  
14 customers, correct?

15 MS. WATTS: Objection. Misstates what  
16 the proposal is, Mr. Serio.

17 EXAMINER PIRIK: I'll allow her to  
18 answer.

19 A. I think there's a difference in the two  
20 filings, in that I think in the AMRP program, it was  
21 acknowledged that there would be savings from the  
22 reduction in leaks. I believe, as I stated earlier,  
23 that with the programs that Mr. Arnold is proposing,  
24 I don't think the company expects to see any  
25 immediate O&M savings.

1           Q.    So even though you're going to put I  
2    think it's \$140 million over the course of three  
3    years into infrastructure, you don't anticipate that  
4    there's going to be any O&M cost savings as a result  
5    of all that additional spending?

6           A.    I believe that question is better asked  
7    of Mr. Arnold.

8           Q.    Whether you anticipate O&M cost savings  
9    or not, if there's actual O&M cost savings achieved,  
10   the company will get to retain those until the next  
11   rate case because there is no credit in this  
12   proceeding, correct?

13          A.    If there is O&M saving, we will get to  
14   keep them. But if there's incremental O&M, we will  
15   have to eat those costs, so it works both ways.

16          Q.    Until you file a rate case?

17          A.    Correct.

18          Q.    But there's no way for customers to get  
19   that O&M cost savings comparable to a rate case, is  
20   there?

21          A.    Right, and there's no way for us to pass  
22   on increased O&M costs during the interval years  
23   either.

24          Q.    And that's built into the rate of return  
25   calculation, correct?

1           A.    I don't know that.

2           Q.    Do you understand what rate of return is  
3           for?

4           A.    I do.  It's a return on capital, yes.

5           Q.    And it's supposed to reflect the  
6           company's business risk, correct?

7           A.    Yes.

8           Q.    And regulatory lag is one of the business  
9           risks built into the rate of return, correct?

10          A.    I would assume so.

11               MR. SERIO:  Thank you, Ms. Laub.

12               That's all I have, your Honor.

13               EXAMINER PIRIK:  Thank you.

14               Mr. Mendoza?

15               MR. MENDOZA:  No questions.

16               EXAMINER PIRIK:  Ms. Petrucci?

17               MS. PETRUCCI:  No questions.

18               EXAMINER PIRIK:  Mr. Hart.

19               MR. HART:  Just a few, yes.

20               MS. SPILLER:  You said one before lunch.

21               EXAMINER PIRIK:  Oh, I'm sorry.  Before  
22           you begin, I didn't definitively say at this point in  
23           time we are not taking administrative notice of the  
24           documents that you mentioned previously.

25               MR. SERIO:  Your Honor, I would get

1 administrative notice of the entries and opinion and  
2 orders from the Commission in that docket, correct?  
3 The Commission orders and entries are appropriate for  
4 administrative notice?

5 EXAMINER PIRIK: I mean, at this point in  
6 time, Mr. Serio, I don't think this is the  
7 appropriate witness. She was not aware of any of  
8 those items. I mean, obviously what's in the  
9 Commission docket is in the Commission docket, but  
10 your attempts to cross her on those items when she  
11 couldn't really mention them --

12 MR. SERIO: Well, she did admit that  
13 she's been involved in the proceedings since 2010,  
14 and she was familiar with those.

15 EXAMINER PIRIK: And I was getting ready  
16 to say the documents that you mentioned began in  
17 2001, and I believe there was a 2000 -- well, it was  
18 the 2001 document. There were documents filed in  
19 that docket between 2003 and 2007. We will not be  
20 taking administrative notice of those documents.

21 Now, to clarify, I guess we could ask the  
22 witness if her experience covers the time period of  
23 April 16, 2010. I don't know when you began your  
24 job, but you said 2010 was the year. That's the only  
25 one that had a possibility, but then you never went



1 into that document. So I don't know how we can go  
2 down that road.

3 MR. SERIO: I included the 09-1849-GA-RDR  
4 proceeding the supplemental testimony of Mr. Parsons  
5 that was filed on April 16, 2010.

6 EXAMINER PIRIK: That's what I just said.  
7 That's what I just said.

8 MR. SERIO: That one --

9 EXAMINER PIRIK: The April 16, 2010  
10 document.

11 MR. SERIO: All right. Thank you, your  
12 Honor.

13 EXAMINER PIRIK: Does that make sense?

14 MR. SERIO: Yes. I wasn't clear that's  
15 what you meant by April 16, 2010.

16 EXAMINER PIRIK: Thank you for clarifying  
17 then.

18 So my question to the witness is was that  
19 a document that you were actually involved in?

20 THE WITNESS: No. If my memory is right,  
21 I think I started around April or May of 2010. So I  
22 was not part of that case.

23 EXAMINER PIRIK: So this is not the  
24 appropriate witness for that. So we will not be  
25 taking administrative notice of any of those

1 documents.

2 MR. SERIO: But, your Honor, she  
3 indicated that the calculation done since then is the  
4 same as the calculation set out in Mr. Parsons'  
5 testimony.

6 EXAMINER PIRIK: She did say - okay. You  
7 need to be very clear in your cross-examination of  
8 the witnesses specifically what you're talking about  
9 with exhibits and with administrative notice. So  
10 your question was did he use the previous  
11 calculation, and you never defined what that previous  
12 calculation came out of.

13 Are you telling me now that that previous  
14 calculation came out of his supplemental testimony in  
15 Case No. 09-1849-GA-RDR that was filed on April 16,  
16 2010?

17 MR. SERIO: Your Honor, it's my  
18 understanding that the testimony on April 16 set  
19 forth the stipulated calculation that the parties  
20 agreed to, and that the cost savings for 2010 and '11  
21 were calculated based on the greater of the actual --  
22 or the minimum O&M cost savings set forth in that  
23 testimony.

24 EXAMINER PIRIK: Okay. I will allow you  
25 a brief period right now to clarify that with the

1 opinions because you need to make the connection  
2 between that document and the witness, and you did  
3 ask the question whether she had used the previous  
4 calculation, and she did say that she believed that  
5 that was what was used. But on the record, when you  
6 look at the record, there's no connection between  
7 that and this document.

8 MR. SERIO: Okay.

9 EXAMINER PIRIK: So go ahead.

10 Q. (By Mr. Serio) In the 2011 AMRP  
11 proceeding, I think you agreed, subject to check,  
12 that there was \$475,152 that were flowed back to  
13 customers, correct?

14 A. Correct.

15 Q. And in determining that amount and doing  
16 the calculation, did you look at the greater of the  
17 actual cost or the guaranteed minimum O&M cost  
18 savings?

19 A. Yes.

20 Q. And the guaranteed minimum cost savings,  
21 to your knowledge, that was set forth in Mr. Parsons'  
22 testimony, correct?

23 A. I think I said that the -- he showed me  
24 the calculation based on the 2009 filing. I'm not  
25 aware of which case the agreed-upon savings was in.

1           Q.    And the 2009 filing that you're talking  
2           about is the 09-1849-GA-RDR proceeding?

3           A.    I don't know -- I'm not familiar with the  
4           case numbers.  When he was training me, I am sure he  
5           had the Excel file is what I am talking about that  
6           was used probably.

7           Q.    So when you've done the calculation since  
8           then, all you do is look at the Excel sheet?  You  
9           don't look at where the underlying basis for the  
10          Excel sheet came from?

11          A.    No.  When I'm doing the calculations for  
12          the filings, I'm responsible for -- I look at those  
13          account balances, and then I compare them to the  
14          minimum savings that was guaranteed.

15          Q.    And do you know where that minimum  
16          savings came from, the number itself?

17          A.    I believe I have a -- I don't know which  
18          case, no.

19          Q.    And that's information that Mr. Parsons  
20          gave you?

21          A.    Yes.

22                EXAMINER PIRIK:  Just to wrap this up, so  
23          what you're saying is the calculation that you did  
24          for 2010 was -- you're believing that was a product  
25          of what was calculated 2009, and assuming that this

1 09-1849 is the case where that calculation was done,  
2 that is where the calculation would have come from?

3 THE WITNESS: Yes. Using that  
4 methodology, yes, that's correct.

5 EXAMINER PIRIK: Assuming that?

6 THE WITNESS: Yes.

7 EXAMINER PIRIK: But you don't know for  
8 certain if that's the case; but if that is the case,  
9 then that would have been where that calculation came  
10 from?

11 THE WITNESS: Correct.

12 EXAMINER PIRIK: Okay. We'll take  
13 administrative notice of the April 16, 2010, document  
14 in Case No. 09-1849-GA-RDR, but the remainder of the  
15 documents from the 2001 case cannot be taken  
16 administrative notice of at this time.

17 MR. SERIO: Thank you, your Honor.

18 EXAMINER PIRIK: I believe we're with  
19 Mr. Hart.

20 MR. HART: Thank you, your Honor.

21 I have one question, but it has many  
22 parts to it.

23 MS. WATTS: That's what they all say,  
24 Doug.

25 - - -

## CROSS-EXAMINATION

By Mr. Hart:

Q. I just want to clarify some things on the Ohio Exhibit 10, which is your revised summary sheet. Do you have that there?

A. I do.

Q. Okay. As I understand it, column C with the theoretical revenue is based on the base rates; is that right?

A. Yes. Columns A, B, and C are from what's in the base rates, correct.

Q. But C is what was allocated --

A. Right.

Q. -- of the revenue requirement? And then if we look at column G, I guess it is, that's the actual results of your year 2013?

A. That column G is -- that's the current revenue in base rates.

Q. Okay. The bottom line is that the current revenue of base rates has covered the revenue requirements, at least it did in 2013?

A. Yes.

Q. Okay. And then column H, as I understand it, you applied the same percentage allocations to your calculated new revenue requirement as are shown

1 in column B?

2 A. Yes. So column H, the \$260 million, if  
3 you look on page 2, that's the calculation for new  
4 revenue.

5 Q. The 260 came from page 2, but the  
6 subcomponents are the product of that number times  
7 the percentages in column B, right?

8 A. Yes.

9 Q. And then column I is the difference  
10 between G and H?

11 A. Yes.

12 Q. Now, another way to do this would have  
13 been to take the 18 million at the bottom of column I  
14 and multiply that times the percentages of column B,  
15 correct?

16 A. Yes.

17 Q. You wouldn't need a column H.

18 A. Yes.

19 Q. You would take the different -- okay.  
20 And then when you return to the actual rider amounts,  
21 that's based on column I using current billing  
22 determinants, correct?

23 A. Yes, using in this example the billing  
24 determinants as of December 31, '13.

25 Q. Those have all changed from what they

1 were back in 2012 when the allocations were  
2 established?

3 A. Correct.

4 Q. All right. You said you are going to  
5 update this quarterly, correct?

6 A. That's our proposal, yes.

7 Q. What I want to understand is for billing  
8 determinants and current revenue amounts, what period  
9 of time would you include in those columns F and G  
10 if you don't do it at a year-end point?

11 A. I would say it would be the most recent  
12 quarter end.

13 Q. Just one quarter?

14 A. Actual date.

15 Q. Just one quarter or four rolling  
16 quarters?

17 A. I don't think we have thought about that,  
18 to be honest with you.

19 Q. That could change how it's calculated,  
20 couldn't it?

21 A. Yes.

22 MR. HART: That's all I have. Thank you.

23 EXAMINER PIRIK: Thank you.

24 Ms. Petrucci, you were in the room, but  
25 I'm thinking --



1 MS. PETRUCCI: I don't have any  
2 questions.

3 EXAMINER PIRIK: Okay.

4 MS. PETRUCCI: Thank you.

5 EXAMINER PIRIK: Staff.

6 MR. BEELER: No questions, your Honor.

7 EXAMINER PIRIK: Redirect?

8 MS. WATTS: Your Honor, can we take a  
9 break?

10 EXAMINER PIRIK: Is five minutes good?

11 MS. WATTS: That's fine.

12 EXAMINER PIRIK: Five minutes.

13 (Recess taken.)

14 EXAMINER PIRIK: We'll go back on the  
15 record.

16 MS. WATTS: Thank you, your Honor.

17 - - -

18 REDIRECT EXAMINATION

19 By Ms. Watts:

20 Q. Ms. Laub, do you recall some questions  
21 from Mr. Serio with respect to rider DCI where he  
22 asked you about reducing lag as a result of potential  
23 approval of that rider?

24 A. Yes.

25 Q. And did Mr. Serio further talk with you

1 about how that lag reduced business risk?

2 A. Yes.

3 Q. Does Duke Energy Ohio have other business  
4 risk?

5 A. Yes, they do.

6 Q. Could you enumerate just some of those,  
7 please.

8 A. A couple I can think of is the economic  
9 downturn, we have a reduction in the number of our  
10 customers or on our demand due to -- we have labor  
11 increases due to cost of living, other O&M increases.

12 Q. And is there regulatory risk present?

13 A. Yes.

14 Q. Are there environmental risks?

15 A. I don't think so. In the electric  
16 distribution business?

17 Q. Yes.

18 A. I don't believe so.

19 Q. Okay. And do you recall also a question  
20 from Mr. Serio about the -- he was posing sort of a  
21 hypothetical where he said if you have capital  
22 investment installed in the year 2015 and you expense  
23 it in 2016 and charge it to customers but you  
24 actually only pay in 2017, do you recall that  
25 hypothetical?

1           A.    I do.

2           Q.    And you explained, if I recall correctly,  
3   that that was done by accrual accounting; isn't that  
4   correct?

5           A.    That's correct.

6           Q.    And I believe you said something about  
7   accrual accounting working both ways.  Could you  
8   elaborate on that?

9           A.    Yes.  So in the example of property tax,  
10   that's where we have a liability.  And we don't have  
11   to pay it as Mr. Serio indicated, you know, until the  
12   year after we expense it.  We have other items that  
13   we prepay.

14          Q.    And so that's what you meant by it works  
15   both ways?

16          A.    Correct.

17          Q.    Thank you.  And there was some testimony  
18   with respect to FirstEnergy's rider similar to the  
19   proposed rider DCI and AEP's similar riders.  Do you  
20   recall that?

21          A.    I do.

22          Q.    And do you know what the ROEs are that  
23   are applied in those riders?

24          A.    I believe one of them is 10-2 and one of  
25   them is 10-5.

1           Q.    Thank you.  And do you recall answering  
2           some questions of Ms. Bojko with respect to rider  
3           ESSC?

4           A.    I do.

5           Q.    And you testified it ends this year; is  
6           that correct?

7           A.    That's correct.

8           Q.    Would you expect that there would be a  
9           true-up subsequent to the ending of that rider?

10          A.    Yes, there could be a true-up at the end  
11          of it.

12                MS. WATTS:  Just one moment, your Honor.

13          Q.    Ms. Laub, with respect to the riders that  
14          FirstEnergy and AEP have that are similar to Duke  
15          Energy Ohio's proposed rider DCI, do you know whether  
16          those respective companies flow through O&M costs in  
17          those riders?

18          A.    No, they do not.

19                MS. WATTS:  Your Honor, I would like the  
20          Bench to take administrative notice of two cases.  
21          They are specifically referenced in Mr. Wathen's  
22          testimony so that -- I mean, that's where I find the  
23          reference, but they are Case Nos. 10-388-EL-SSO and  
24          12-1230-EL-SSO, and each of those cases is where the  
25          FirstEnergy rider that's similar to Duke Energy Ohio

1 was approved and then continued.

2 MS. BOJKO: Your Honor, I guess I'm not  
3 sure that the foundation has been laid for that.  
4 They're cited in Mr. Wathen's testimony. And when I  
5 asked questions about specific utility cases, she  
6 wasn't sure which it applied to and which it didn't  
7 apply to. So I don't think the foundation has been  
8 laid that she has personal knowledge of those two  
9 cases.

10 MR. SERIO: I would join in that, your  
11 Honor. That seems exactly why I couldn't get my  
12 cases in, and now counsel for Duke has admitted that  
13 the references are in Mr. Wathen's testimony, not  
14 even in Ms. Laub's testimony.

15 EXAMINER PIRIK: Ms. Watts, I'll allow  
16 you to see if there is any foundation for these  
17 documents.

18 MS. WATTS: Thank you, your Honor.

19 Q. (By Ms. Watts) Ms. Laub, you testified  
20 that you were generally familiar with the ROEs that  
21 are applied to the riders for FirstEnergy; is that  
22 correct?

23 A. That's correct.

24 Q. And AEP?

25 A. Yes.

1           Q.    Were you generally aware that those ROEs  
2           came out of cases that were concluded before the  
3           Commission?

4           A.    Yes.

5           Q.    And did you review those opinions and  
6           orders when they came out?

7           A.    A portion of them.

8           Q.    Did you --

9                   EXAMINER PIRIK:  I couldn't hear what the  
10          answer was.

11                  THE WITNESS:  Just the portion related to  
12          the distribution riders.

13          Q.    So you understand that that's where that  
14          dollar value comes up?

15          A.    Yes.

16                  MS. WATTS:  Thank you.  That would be our  
17          basis for a request for administrative notice, your  
18          Honor.

19                  EXAMINER PIRIK:  Okay.

20                  MS. BOJKO:  Your Honor, I specifically  
21          had a whole line of cross-examination questions about  
22          AEP and FirstEnergy, and she couldn't answer them,  
23          and now all of a sudden she knows a particular part  
24          in the stipulation -- or in the orders.

25                  EXAMINER PIRIK:  Fortunately we'll have

1 recross, so you'll have an opportunity to go down  
2 that line of questioning. We'll take administrative  
3 notice.

4 MS. WATTS: Thank you, your Honor. I  
5 have nothing further.

6 EXAMINER PIRIK: Mr. Pritchard?

7 MR. PRITCHARD: Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Pritchard:

11 Q. When you reviewed the opinion and order  
12 in those two FirstEnergy cases, were you aware  
13 whether or not those cases were settled cases or  
14 whether they were contested cases?

15 A. I don't recall for sure, but I believe  
16 they were stipulations.

17 Q. Would you have reviewed the stipulation  
18 in those cases?

19 A. No, just -- I'll take that back. If it  
20 was related to the distribution filings and there  
21 were examples in there of their filings, I would  
22 have.

23 Q. Would you have reviewed the stipulations  
24 to see if there were provisions in them preventing  
25 them as being used as precedents in future cases?

1           A.    I would have not reviewed those sections.

2           MR. PRITCHARD:  No further questions.

3           EXAMINER PIRIK:  Thank you.

4           Ms. Hussey?

5                               - - -

6                               RE CROSS-EXAMINATION

7   BY MS. HUSSEY:

8           Q.    Just one question, Ms. Laub.  Could you  
9   tell me, does the recovery of investments in the  
10   distribution system before they occur have anything  
11   to do with the amount of time it takes for the  
12   Commission to render a decision?

13          A.    Can you repeat that question?

14          Q.    Sure.  Does the recovery of investment in  
15   the distribution system before they occur have  
16   anything to do with the amount of time it takes for  
17   the Commission to render a decision?

18          A.    I'm not sure I can comment on how much  
19   time it takes the Commission to render a decision.

20          Q.    I just wonder if the two are mutually  
21   exclusive or if they are two completely different  
22   items in your estimation.

23          A.    I guess I'm not really understanding the  
24   question.

25          Q.    Okay.  I'm asking if the amount of time



1     it takes for the Commission to render a decision,  
2     whether it's a long time, short period of time,  
3     whether the decision for recovery of investments in  
4     the distribution system before those investments are  
5     actually made, whether the two actually have anything  
6     to do with one another.

7             A.     I'll try to answer them. I'm still a  
8     little confused on the question. In particular, with  
9     rider DCI, I think what we're proposing is we are  
10    going to use projected expenditures through the end  
11    of the quarter, which by the time the rates are  
12    affected, that money will have been spent.

13            Q.     Okay.

14            A.     Does that answer --

15            MS. HUSSEY: Thank you. I appreciate it.

16            EXAMINER PIRIK: Before we go to  
17    Ms. Bojko, I want to be certain the two documents you  
18    asked for administrative notice of were the opinion  
19    and orders in those two dockets?

20            MS. WATTS: That's correct, your Honor.

21            EXAMINER PIRIK: Okay.

22            Ms. Bojko?

23            MS. BOJKO: Thank you, your Honor.

24                    - - -



1 understand where you got the true-up mechanism at or  
2 the ability to do an annual true-up after the  
3 December 31, 2014 date.

4 A. I believe it is in the stipulation, but I  
5 don't know for sure.

6 Q. Okay. In response to your counsel's  
7 questions, you talked about FirstEnergy and AEP; is  
8 that correct?

9 A. That's correct.

10 Q. -- and their last -- were your  
11 comments -- I wasn't clear on the question and answer  
12 whether your comments about reading a portion of the  
13 opinion and orders in those two cases referenced the  
14 portion with regard to the rate of return or the  
15 portion regarded to the DCI?

16 A. It was a portion of the DCI, and I  
17 reviewed the DCI schedules which has the rate of  
18 return on them.

19 Q. Okay. So now you're saying that you  
20 reviewed the orders for the fact of the rate of  
21 return, as well as the DCI?

22 A. I think what I'm saying is I did not read  
23 language around the specific rate of returns, but I  
24 reviewed the schedules that had the rate of return on  
25 them.

1           Q.    Okay.  And did you also review those  
2 orders to ascertain the SEET threshold percentage of  
3 those two cases?

4           A.    I did not.

5           Q.    And did you review the Dayton proceedings  
6 as well?

7           A.    I did not review the Dayton proceeding at  
8 all.

9           Q.    And as I also understand your response to  
10 the Attorney Examiner, you reviewed the opinion and  
11 orders, but you did not review the stipulations?  And  
12 I think IEU counsel as well.

13          A.    In the AEP and FirstEnergy cases?

14          Q.    Yes.

15          A.    To be honest, I can't recall if it was a  
16 stipulation and/or order, but I looked at the  
17 sections related to the distribution trackers.

18          Q.    Okay.  I'm sorry.  You looked at the  
19 sections related to the distribution trackers of the  
20 opinion and order or of the stipulation?

21          A.    I'm saying I'm not sure if it was both  
22 the order or the stipulation.

23          Q.    And just so we are clear, in your  
24 testimony on page 8, you reference a stipulation, a  
25 Duke stipulation, and then you also refer to similar

1 Commission-approved programs, meaning AEP and  
2 FirstEnergy; is that correct?

3 A. I'm sorry. Where on page 8 are you?

4 Q. Excuse me. Strike that. I'm sorry.

5 It's on page 5. You're saying the DCI is  
6 modeled after AEP Ohio and FirstEnergy, and you  
7 referenced those in your testimony on page 5; is that  
8 correct?

9 A. That's correct.

10 Q. Nowhere in your testimony do you  
11 reference AEP-Ohio's or FirstEnergy's return on  
12 either rate of return or return on equity; is that  
13 correct?

14 A. That's correct.

15 Q. Okay. And Duke is not proposing a rate  
16 of return or return on equity based upon other  
17 utility filings. Duke has requested, as I read your  
18 testimony on the bottom of page 3, to be similar to  
19 what you got approved in your last stipulated rate  
20 case; is that correct?

21 A. That is correct. Duke is asking for the  
22 rate of return approved in our last rate case.

23 MS. BOJKO: Your Honor, based on the  
24 testimony I heard, there is no connection to the two  
25 opinion and orders. She doesn't know whether it was

1 the opinion and orders, or she doesn't know whether  
2 it was the stipulation.

3 Part of the cross-examination had to do  
4 with the rate of return, which isn't even in her  
5 testimony, and she didn't read the portions of  
6 whatever she read with regard to that. It was in an  
7 Excel spreadsheet somewhere. So I don't believe that  
8 the foundation has been laid to provide  
9 administrative notice of those two documents.

10 EXAMINER PIRIK: Ms. Watts?

11 MS. WATTS: Your Honor, the issue of rate  
12 of return was brought on cross, so I think it's fair  
13 game to respond in that way. Ms. Laub has testified  
14 she read parts of both the stipulation and the  
15 opinion and order. She doesn't recall which parts of  
16 either of those two documents, but she did refer to  
17 both of them, and all that we ask is that they be  
18 taken administrative notice of, and it seems to me  
19 that that's adequate foundation for that purpose.

20 EXAMINER PIRIK: Just to clarify, you had  
21 asked for administrative notice of the opinion and  
22 orders but not the stipulation?

23 MS. WATTS: Correct.

24 MS. BOJKO: But, your Honor, I heard her  
25 say "or." She didn't recall. I didn't hear her use

1 the word "and." She didn't say she read portions of  
2 the opinion and orders and the stipulations. She  
3 said "or." She didn't remember.

4 EXAMINER PIRIK: I don't have a problem  
5 taking administrative notice, but we can't take it of  
6 just of the opinion and order, not the stipulation,  
7 because it isn't clear exactly what she had looked  
8 at. It's evident she looked at something, but it's  
9 not clear what she looked at. So we'll take  
10 administrative notice of the stipulations in those  
11 cases also.

12 MS. WATTS: Thank you, your Honor.

13 EXAMINER PIRIK: Ms. Bojko, do you have  
14 other --

15 MS. BOJKO: No, no, I don't.

16 EXAMINER PIRIK: OCC?

17 MR. SERIO: Thank you, your Honor.

18 - - -

19 RECROSS-EXAMINATION

20 BY MR. SERIO:

21 Q. Ms. Laub, you indicated in response to  
22 counsel that there was additional business risk that  
23 Duke has undergone, and you mentioned economic  
24 downturn. Do you recall that?

25 A. I believe she asked what other risks that

1 we could be facing or --

2 Q. Right, and I didn't -- economic downturn  
3 was one of them, correct?

4 A. Yes.

5 Q. Do you remember what the other ones were?

6 A. I believe it was like cost of living  
7 increases and other O&M increases.

8 Q. Okay. Let's take those one at a time.  
9 The economic downturn, do you know when that  
10 occurred?

11 A. I don't believe I was referring to it in  
12 the past. I was saying that is a possible risk that  
13 we could be -- that we could have. I believe that  
14 was the question.

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

16 A. Yes. I'm sorry.

17 Q. Do you know when the Commission issued  
18 its order in Duke's last electric rate case?

19 A. Yes.

20 Q. That was April -- or May 1, 2013,  
21 correct?

22 A. Correct.

23 Q. Has there been any economic downturn that  
24 you know of since that order was issued setting the  
25 rate of return?



1           A.    Again, I believe the question was what  
2 possible risks being could we face, not which ones  
3 have we faced during the current year.

4           Q.    And all those risks were built into the  
5 rate of return that the Commission approved in its  
6 opinion and order, correct?

7           A.    I'm not a rate of return expert.  So I  
8 can't tell you for sure which risks were built into  
9 that or not.

10          Q.    Well, if they were built into it, then  
11 they would be considered; and if they weren't built  
12 into it, then they are not appropriate, correct?

13               MS. WATTS:  Objection as to form.

14               EXAMINER PIRIK:  Objection overruled.

15          Q.    You've indicated economic downturn was a  
16 factor.  Do you know for a fact that economic  
17 downturn or economic concern was built into the rate  
18 of return calculation?

19          A.    I do not.

20          Q.    So if it wasn't built in, then that's not  
21 a business risk?

22          A.    Boy, I disagree.  I think the economic  
23 downturn would always be a business risk.

24          Q.    Well, if it's a business risk, then  
25 should it be part of the rate of return?

1           A.    I am not a rate of return expert.

2           Q.    You indicated cost of living could be one  
3 of them. Could cost of living go down? Does it  
4 always go up?

5           A.    I believe it can be both ways.

6           Q.    And you indicated other O&M cost  
7 increases. The company has various O&M costs that go  
8 up and various O&M costs that go down throughout the  
9 year, correct?

10          A.    That's correct.

11          Q.    And in a rate case, you get to look at  
12 the totality of all the costs and all the revenues to  
13 determine what the company's needs are, correct?

14          A.    Correct.

15          Q.    And when you file a rider proceeding, you  
16 don't look at totality. You are only looking at that  
17 one specific item, correct?

18          A.    Correct.

19          Q.    And in this case, the DCI would always be  
20 an increase, correct?

21          A.    Yes.

22          Q.    So the company could have \$100 million in  
23 O&M cost reductions in other areas, but if they spend  
24 money on the DCI, customers would be charged more for  
25 the DCI and would not get any consideration for all

1 the O&M costs that were reduced, correct?

2 A. Yes, and the customers would also not be  
3 charged any increased O&M costs that we had during  
4 those years.

5 Q. But the company always has the  
6 opportunity to file a rate case if the O&M costs  
7 increase enough to justify filing a rate case,  
8 correct?

9 A. Correct.

10 Q. And if they don't file a rate case, then  
11 that means they either are experiencing enough  
12 offsets in other areas or that they are not  
13 experiencing a revenue loss, correct?

14 A. I would disagree. I think there's many  
15 factors that go into determining if we have a rate  
16 case or not.

17 Q. But if the company needs to increase  
18 revenues, the company has the rate case option,  
19 correct?

20 A. We have that option, yes.

21 Q. And you agree that the business risk that  
22 the company faces is reduced if the company gets to  
23 collect the costs of capital investments through the  
24 DCI, correct?

25 A. It helps to mitigate that risk, yes.

1 MR. SERIO: That's all I have. Thank  
2 you, your Honor.

3 EXAMINER PIRIK: Thank you.

4 Ms. Petrucci?

5 MS. PETRUCCI: No questions.

6 EXAMINER PIRIK: Mr. Hart?

7 MR. HART: We have no questions.

8 EXAMINER PIRIK: Thank you very much.

9 We can go off the record for a minute.

10 (Discussion off the record.)

11 EXAMINER PIRIK: We will go back on the  
12 record.

13 MS. WATTS: Your Honor, we move into  
14 evidence Duke Energy Ohio Exhibits 9 and 10, please.

15 EXAMINER PIRIK: Are this any objections?

16 Hearing none, they will be admitted into  
17 the record.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 MS. WATTS: Thank you.

20 EXAMINER PIRIK: We are going to recess  
21 for the day and reconvene at 9 a.m. on Monday  
22 morning. Have a good weekend.

23 (Thereupon at 4:09 p.m., the hearing was  
24 adjourned.)

25 - - -

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, October 24,  
2014, and carefully compared with my original  
stenographic notes.

---

Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-5948)

- - -

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