

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 9:00 a.m. on Monday,
November 3, 2014.

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VOLUME IX

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Monday Morning Session,

November 3, 2014.

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EXAMINER PIRIK: Okay. We will go back
on the record.

Mr. Olikar.

MR. OLICKER: Your Honor, thank you. I
would like to make a brief clarification regarding
IGS Exhibit 7a. There has also been a document
marked IGS 7 which is a redacted version of Exhibit
7a and that has been submitted to the court reporter.

EXAMINER PIRIK: Thank you.

MR. OLICKER: Thank you, your Honor.

EXAMINER PIRIK: I would just ask the
parties when we do mark confidential exhibits, you
state for the record you're marking both a 7 -- for
example, a 7 and a 7a because with confidential
exhibits we will have an open version and a closed
version, so we need to be sure that we all state that
for the record so the court reporters have that in
their transcripts.

Okay. I believe Mr. Arnold. Mr. Arnold,
you were given an oath on Friday and you are still
under oath and we'll continue with your testimony.
Thank you very much for your patience.

1 THE WITNESS: Okay. Thank you, your
2 Honor.

3 EXAMINER PIRIK: I believe we are with
4 Mr. Serio.

5 MR. SERIO: Thank you, your Honor. Can I
6 approach?

7 EXAMINER PIRIK: Yes.

8 - - -

9 MARC W. ARNOLD

10 being previously duly sworn, as prescribed by law,
11 was examined and further testified as follows:

12 CROSS-EXAMINATION (Continued)

13 By Mr. Serio:

14 Q. Mr. Arnold, I am going to hand you two
15 documents.

16 MR. SERIO: I would like to mark for
17 purposes of identification OCC 36 and OCC 37.

18 EXAMINER PIRIK: The documents are so
19 marked.

20 (EXHIBITS MARKED FOR IDENTIFICATION.)

21 MR. SERIO: Just so we can get these for
22 everyone, OCC 36 would be INT-04-085, and OCC Exhibit
23 37 will be INT-04-088.

24 Q. Do you have both of those, Mr. Arnold?

25 A. Yes, I do.

1 Q. And take a moment to look at them. Let
2 me know when you're ready.

3 A. Okay. I read them both.

4 Q. Okay. You would agree with me that both
5 OCC Exhibits 36 and 37 are responses that Duke
6 provided to OCC in this proceeding, correct?

7 A. That is correct.

8 Q. And you were indicated as the respondent
9 on both exhibits?

10 A. For 37, I'm the one who is primarily
11 responsible. On 36, it was myself and Ms. Laub, yes.

12 Q. And you are familiar with both of these
13 documents, correct?

14 A. Yes, I am.

15 Q. Okay. Before we left last week, I asked
16 you a series of questions about the first three of
17 the different programs under the DCI rider, a series
18 of questions about O&M cost savings. In an attempt
19 to try to accelerate the rest of the cross, am I
20 correct that the company has done no analysis of O&M
21 cost savings for any of the 19 programs in the DCI
22 rider?

23 A. From an O&M savings perspective, there's
24 19 programs. There's certain programs that will have
25 savings, but there's also certain programs that will

1 see an O&M spending increase. Any O&M savings that
2 would be seen over this three-year plan would be
3 passed on to customers at the next base rate case.

4 Q. But the company has done no analysis to
5 determine what O&M cost savings for any of the
6 programs would be, correct?

7 A. That is correct.

8 Q. And I think, as you indicated on Friday,
9 any cost savings that customers will get will not
10 happen until there is a rate case, correct?

11 A. That's correct.

12 Q. So until that point in time the company
13 would get to retain any O&M cost savings, correct?

14 A. As well as any increases.

15 Q. And do you have -- are you aware of any
16 company plans to file a base rate proceeding any time
17 during the three-year term of the current ESP
18 proposal?

19 A. To the best of my knowledge, no.

20 MR. SERIO: Your Honor, I would point out
21 one other thing. There's a highlight in the
22 exhibits. It was not there when the company sent it
23 to us. When it copied it picked up on the highlight.
24 That should be given no additional weight of any
25 type. It's just I didn't get to delete color when I

1 copied them, so my fault. I apologize.

2 Q. And I believe you also indicated the
3 company did no analysis for the 19 programs to
4 determine if there would be any service reliability
5 improvements specifically related to any of the
6 programs, correct?

7 A. As far as service reliability,
8 improvements for those customers that are directly
9 affected by those programs, yes. As a part of our
10 reliability standards that are filed with the PUCO,
11 there may or may not be increases.

12 Q. Okay. I think the last thing we
13 discussed was the Underground Cable Injection Program
14 and that's where you inject di-electric gel into the
15 cable. Do you recall that?

16 A. Yes, I do.

17 Q. Okay. The fourth program is the
18 Underground Cable Replacement Program, correct?

19 A. That's correct.

20 Q. And that's where you're basically
21 replacing underground cable, correct?

22 A. That is correct. Those two programs will
23 work simultaneously.

24 Q. And I believe that you indicated that
25 Duke had discovered that the soil conditions in

1 southwest Ohio caused the neutral nonjacketed cable
2 to deteriorate over time?

3 A. That's correct.

4 Q. Do you know when Duke made this discovery
5 about the soil conditions in southwest Ohio?

6 A. As far as an exact date, no. That is
7 actually a study that NEETRAC supported us with.

8 Q. And is that study attached to your
9 testimony or part of the application in this case?

10 A. That is not.

11 Q. And has Duke been replacing underground
12 cable because of deterioration of the cable over time
13 in the past?

14 A. From a reactive perspective, yes.

15 Q. The DTUG-Online DGA, Sump Pump, and Oil
16 Monitoring Program, that involves installation of
17 equipment that can be monitored on a remote basis,
18 correct?

19 A. That is correct.

20 Q. And how has Duke monitored that
21 information in the past?

22 A. In the past it's all been visually.

23 Q. So you send someone out and they actually
24 do readings?

25 A. That is correct.

1 Q. And how often do you do that?

2 A. As far as the exact programs, I do not
3 recall the details, but manholes and vaults have an
4 inspection program.

5 Q. If you know, is it more than once a
6 month?

7 A. Subject to check, it is. The frequency
8 on the manholes, I believe, is once annually. On the
9 vaults, I'm not sure.

10 Q. Now, if the company is able to monitor
11 this information remotely, then it will not require a
12 visual inspection, correct?

13 A. It still will require a visual inspection
14 because there are certain items in the vault. As far
15 as the doors, et cetera, the railings, that still
16 will need to be visually inspected. The purpose of
17 this program is a remote-monitoring piece. These
18 transformers, on average, are about a quarter million
19 dollars apiece. We have this similar equipment
20 inside our substations today. So these network
21 transformers will be remotely monitored for load.
22 The downtown system is very dynamic.

23 Q. Has the company done any cost/benefit
24 analysis to determine the benefit of remote
25 monitoring versus the cost of remote monitoring?

1 A. I'm sorry. Could I ask you to repeat
2 that?

3 Q. Sure. Has the company done any
4 cost/benefit analysis to determine comparing the cost
5 of doing this remote monitoring compared to the
6 benefit of doing this remote monitoring?

7 A. The only cost analysis -- and I can't say
8 there's financial numbers tied to it -- is the cost
9 of the transformers.

10 Q. Now, No. 6 is the Manhole Lid Retrofit
11 Program. And, as I understand it, that's -- you're
12 installing Swiveloc manhole covers?

13 A. That is correct.

14 Q. Could you explain to me what a Swiveloc
15 manhole cover is?

16 A. Sure. Swiveloc is actually the
17 manufacturer's name. What these manhole replacements
18 are, the lids currently today are not locked down or
19 tied down by any means, and as a cable fails it leaks
20 off potential flammable gases. Once those ignite,
21 it -- those lids will actually, they are about
22 240 pounds, they will launch. So this Swiveloc
23 program, not only is it a security mechanism to keep
24 folks out of our manholes, but is a tremendous safety
25 advancement.

1 Q. Have -- has the company been installing
2 these Swiveloc manhole covers in the past?

3 A. We have on a pretty small scale as part
4 of this program. We should be able to wrap up in
5 about three years.

6 Q. And can you tell me how often in the past
7 manhole covers have launched into the air as a result
8 of any buildup of gas?

9 A. I'm aware of one. As far as subject to
10 check, I would have to get you the dates, et cetera,
11 for Cincinnati.

12 Q. Is there anything in your testimony or
13 the application that would give us any -- any idea of
14 how often this has happened in the past?

15 A. To the best of my knowledge, I'm aware of
16 two subject to check, that's probably within the past
17 five to six years. And that's on Cincinnati's
18 system. However, our system is very comparable to
19 other network systems. And this does happen
20 frequently annually on those systems.

21 Q. Okay. And my question was is there
22 anything in your testimony or the application that
23 would detail when, in the past, manhole covers have
24 been launched into the air as a result of an
25 explosion?

1 MS. WATTS: Objection, Mr. Serio. He
2 just provided testimony with respect to how often
3 that happens.

4 EXAMINER PIRIK: Overruled.

5 A. I do not have the specifics in my
6 testimony.

7 Q. Okay. And do you have any idea how often
8 people get into the manhole -- lift the lids and go
9 down into manholes?

10 A. Daily.

11 Q. On an unauthorized basis?

12 A. I'm sorry. I didn't hear "unauthorized."

13 Q. Well, the reason that you're installing
14 the locks is, I think you said, to keep people out,
15 correct?

16 A. The primary -- primary function, again,
17 is safety. The secondary is security.

18 Q. Okay. And as far as security goes, can
19 you tell me how often, in the past, people have, on
20 an unauthorized basis, gone into manholes?

21 A. I don't have that information, no.

22 Q. Now, the seventh program is the
23 Manhole/Vault Capital Rebuild Program and that's
24 essentially rebuilding the manhole vaults, correct?

25 A. That is correct.

1 Q. Now, those are currently Duke facilities,
2 correct?

3 A. That is correct.

4 Q. And is Duke the only utility whose
5 equipment is in those facilities?

6 A. Yes.

7 Q. So there is no other utilities or no
8 other entities that have equipment in those vaults,
9 correct?

10 A. That is correct.

11 Q. And does Duke currently rebuild manhole
12 vaults as necessary?

13 A. Yes, we do.

14 Q. So would I be correct in assuming that
15 any of the current manhole vaults that you have would
16 be considered reliable and safe?

17 A. We have a list of manhole and vaults that
18 are categorized as a priority listing for
19 replacement. If they are an immediate safety hazard,
20 we will do the work reactively either way. The goal
21 of this program is to be proactive.

22 Q. The eighth program is the Network
23 Secondary Main Replacement Program and, as I
24 understand it, you are replacing 600-volt cable with
25 new cable?

1 A. That is correct. That's paper and lead
2 cable. That is a -- all this cable is fully
3 depreciated and been in service for an extensive
4 period of time. How that cable, when it begins to
5 fail, it actually leaks oil out of the paper, and we
6 are reactive today, but we are aware this cable needs
7 to be changed out, so it's proactive replacement that
8 we are requesting.

9 Q. Has the company been proactively
10 replacing that cable in the past?

11 A. Primarily today it's reactive.

12 Q. The ninth program is the Vault Network
13 Protector/Transformer Change Out Program, and can you
14 explain to me exactly what that means?

15 A. Sure. The vault network
16 protector/transformer, this is very similar to other
17 utilities that have downtown network systems. If you
18 think of the protector and the transformer that's one
19 unit. They are two separate capitalized units, but
20 they don't work without the other. Those, as I
21 mentioned in my testimony, and I believe there was
22 actually a data request that we provided the
23 information, so that would be subject to check, this
24 is the one network protector that we actually have in
25 service from the 1920s.

1 Q. And to the extent that they are in
2 service right now, that means that they are still
3 working right now, correct?

4 A. That is correct. One of the pieces that
5 I'll touch on with that is just because it's in
6 service and working, doesn't mean we have a direct
7 replacement for it. So the proactive piece of this
8 is during an outage, trying to change out this
9 equipment is very lengthy, requires lane closures,
10 sidewalk closures, et cetera. So being proactive
11 with this program is imperative.

12 MR. SERIO: Your Honor, I am trying to
13 ask real specific questions and I'm getting answers
14 that go way beyond the specific question I'm asking.
15 We are going to be here a lot longer if the witness
16 is allowed to just ad lib. I mean, I asked a very
17 specific question and then he opines after that and
18 it's not necessary to be part of the answer. If
19 counsel wants to redirect him on any of these,
20 counsel has that opportunity. But I would request
21 that you direct the witness to answer just the
22 question that's put forth.

23 EXAMINER PIRIK: Overruled.

24 Q. Your tenth program is the Redesign of
25 Worst Congested Underground Structure Program,

1 correct?

2 A. That's correct.

3 Q. And that's redesigning and rebuilding
4 what you consider to be congested and overcrowded
5 manholes and vaults, correct?

6 A. That's correct.

7 Q. Does the company currently redesign and
8 rebuild congested and overcrowded manholes and
9 vaults?

10 A. We do. We do one annually.

11 Q. The URD Submersible Transformer Upgrade
12 Program, that is -- that involves removing overhead
13 transformers that were installed in underground
14 vaults and relocating to them to aboveground,
15 correct?

16 A. That is correct. It's overhead
17 transformers that were retrofitted to be underground.

18 Q. And does the company currently retrofit
19 overhead transformers that were installed in
20 underground vaults today?

21 A. Reactively we do one by one.

22 Q. The Distribution Substation Protection
23 Program involves upgrade of security for substations,
24 correct?

25 A. That is correct.

1 Q. Does the company currently maintain
2 secure conditions for its substations?

3 A. The best we can, yes.

4 Q. The Upgrade Live Front Transformers
5 Program, I believe, is the 13th program, and that
6 involves replacement of 40- to 50-year-old equipment,
7 correct?

8 A. That is correct.

9 Q. And the company currently replaces 40- to
10 50-year-old equipment as necessary, correct?

11 A. If they fail, yes.

12 Q. The Upgrade Distribution Transformer
13 Substation Program involves replacing unique and
14 nonstandard substations, correct?

15 A. That is correct.

16 Q. Does the company currently replace unique
17 and non-standard substations?

18 A. Proactively, no. Reactively, yes.

19 Q. Is there any listing in your testimony or
20 the application of how many unique or nonstandard
21 substations the company has?

22 A. We do not have a detailed list. However,
23 they are primarily focused in three of our districts.

24 Q. The PILC Replacement Program, can you
25 tell me what PILC is?

1 A. Very similar that I mentioned previously,
2 it's paper and lead cable.

3 Q. And that's simply replacing the
4 current -- replacing the cable that you have in place
5 right now, correct?

6 A. Correct. And this is the first feed out
7 of the substation, so if we lose this cable we lose
8 thousands of customers.

9 Q. And is the company currently replacing
10 PILC cables as necessary?

11 A. We do. This is a proactive program to
12 get us ahead of it.

13 Q. The Distribution Operations Center and
14 Mobile Logistics Modernization Program, that's to
15 modernize office data equipment and radio systems,
16 correct?

17 A. Among other things, yes.

18 Q. And the company currently replaces office
19 data equipment and radio systems as necessary,
20 correct?

21 A. As they fail. The primary focus of this
22 is ETR for customer response.

23 Q. Just so we have it, what's ETR?

24 A. Estimated time of restoration.

25 Q. Your 17th program is the Ownership of

1 Underground Residential Services Program, and that
2 would involve taking ownership of services right now
3 that are owned by customers, correct?

4 A. That is not correct.

5 Q. As they are replaced -- or, as you have
6 to repair them, correct?

7 A. That's correct. As they are replaced or
8 installed new.

9 Q. And each time one of those is replaced or
10 installed new, that would have the effect of
11 increasing the company's rate base, correct?

12 A. That is correct.

13 Q. And do you know if the company then earns
14 a return on its rate base as part of rate
15 proceedings?

16 A. As far as these being a capital unit,
17 yes, we would in our next base rate case.

18 Q. So by talking ownership of the services
19 program, the company would gradually increase its
20 rate base over time, correct?

21 A. Potentially, yes.

22 Q. The Conversion of Old 4 kV Feeders
23 Program. The old 4 kV feeders are large transmission
24 lines, correct?

25 A. They are actually small distribution.

1 Q. Small distribution.

2 A. In more urban areas.

3 Q. And those are being converted to what?

4 A. They will either be converted to 12 kV
5 circuits or 19.9-34.5 circuits.

6 Q. And they are upgraded currently as the
7 need grows, correct?

8 A. That is correct based on load forecasting
9 and, currently, we have a five-year plan.

10 Q. And then the Recloser Program is an
11 acceleration of a current program the company has in
12 place right now, correct?

13 A. That is correct.

14 Q. Now, if you look at OCC Exhibit 37, I
15 believe on page 2, it provides a list, under
16 paragraph k., of what the company considers to be the
17 new programs, correct, of the 19?

18 A. That is correct.

19 Q. And then paragraph l. on page 3 is the
20 ones that would be considered enhancements to
21 existing programs, correct?

22 A. That is correct. It does look like I
23 left out the Recloser Program in what would be
24 Discovery Response l.

25 Q. Now, to the extent that the company

1 currently does the things that are listed under the
2 new program, you consider it new because the company
3 would be doing more of it instead of what they have
4 been doing in the past, correct?

5 A. I don't believe -- are we talking
6 specifically the Recloser Replacement Program?

7 Q. No. The items that are listed in
8 paragraph k. The company currently does a lot of
9 those today, correct?

10 A. Reactively, yes.

11 MR. SERIO: Can I approach, your Honor?

12 EXAMINER PIRIK: Yes.

13 MR. SERIO: I have two more documents I
14 would like to mark, OCC Exhibits 38 and 39.

15 EXAMINER PIRIK: The documents are so
16 marked.

17 (EXHIBITS MARKED FOR IDENTIFICATION.)

18 MR. SERIO: The response to OCC
19 Interrogatory 11-303 would be Exhibit 38. And then
20 the Response to -- to Staff Data Request 11-002 would
21 be 39. And OCC Exhibit 39 is a confidential
22 document. I made copies available to the company
23 Friday. And the company will let you know what they
24 consider to be confidential on it.

25 EXAMINER PIRIK: Mr. Serio, on page 2 of

1 38 it also says --

2 MR. SERIO: I will get to that, your
3 Honor. I showed the company 38 and they indicated to
4 me, on Friday, even though it says "Confidential" on
5 page 2, which is page 1 of 1, that information is, in
6 fact, not confidential.

7 MS. WATTS: I'm sorry. I wasn't keeping
8 up with all of that, Joe.

9 MR. SERIO: 38 is 11-303, and on page 2
10 of that, which is page 1 of 1 of the attachment, it
11 says "Confidential," but I showed it to the company
12 on Friday and the company indicated that was no
13 longer confidential, correct?

14 MS. WATTS: I agree.

15 MR. SERIO: Okay. And then OCC 39, which
16 is Staff Data Request 002, is confidential, and the
17 company can indicate what they consider to be
18 confidential on it.

19 EXAMINER PIRIK: Ms. Watts.

20 MS. WATTS: Thank you, your Honor. The
21 only part of this chart that we would regard as
22 confidential would be starting with the column that's
23 entitled "Forecast 2014 Capital." And while we are
24 still in 2014, we haven't concluded the year yet,
25 information would still be competitively sensitive.

1 And then all the data to the right of that and down
2 would be confidential, but the column totals could be
3 public. And this information would be confidential
4 for the same reason as MWA-7 attachment to
5 Mr. Arnold's testimony.

6 EXAMINER PIRIK: When you say the "column
7 totals," you mean the totals at the bottom of the
8 chart.

9 MS. WATTS: Correct. Underneath the grid
10 so to speak.

11 EXAMINER PIRIK: So the headers would all
12 be open.

13 MS. WATTS: Yes.

14 EXAMINER PIRIK: So it would be the
15 numbers under the titles Forecast 2014, 2015, 2016,
16 2017, 2018, and then the total 2015 through '18.

17 MS. WATTS: Correct.

18 EXAMINER PIRIK: Just the numbers in
19 those columns.

20 MS. WATTS: Yes.

21 EXAMINER PIRIK: I think that would be
22 consistent with our previous rulings on the
23 attachment to Mr. Arnold's testimony, so confidential
24 treatment will be given to the numbers within the
25 columns, but the headers and the bottom line under

1 the chart totals will be in the open record.

2 MS. WATTS: Do you understand that,
3 Mr. Arnold?

4 THE WITNESS: I do.

5 Q. (By Mr. Serio) Okay. Mr. Arnold, I guess
6 take a second to look at those two. Let me know when
7 you are ready.

8 EXAMINER PIRIK: So just to be clear for
9 the record, we have an Exhibit 39 which is in the
10 open record and a Exhibit 39a which will be the
11 confidential piece of this document.

12 MR. SERIO: Yes, your Honor. My
13 apologies.

14 EXAMINER PIRIK: No, that's fine.

15 MS. BOJKO: I'm sorry. Did you say the
16 total column is public or that's confidential?

17 EXAMINER PIRIK: The line that's under
18 the chart is open.

19 MS. BOJKO: Okay. Thank you.

20 A. I'm sorry.

21 Q. If you look at OCC Exhibit 38 first,
22 let's go to the second page of that which is titled
23 "page 1 of 1 of the attachment." Under the "Program"
24 there, that's the various programs that are included
25 in the company's proposed DCI rider, correct?

1 A. Subject to check, I just would want to
2 count them, but I would agree with that.

3 Q. And then for the grouping there, all of
4 them except one is "Distribution." The "Distribution
5 Operation Center and Mobile Logistics/Modernization"
6 says "General." Does that mean that's general plant
7 versus distribution plant?

8 A. That is correct.

9 Q. And then there's actual 2009 capital
10 numbers there. Is that the actual 2009 capital
11 budget numbers in millions?

12 A. Subject to check, because I was not
13 responsible for providing this, I believe that would
14 be the actual expenditures from 2009, capital
15 expenditures.

16 Q. Now, if we look at the fourth one down,
17 the "Manhole Lid Retro-fit," you indicated in
18 testimony that the company currently replaces those
19 as necessary, yet there's no actual 2009 capital
20 spending there. Does that mean all the spending
21 would have been under O&M?

22 MS. WATTS: Objection, your Honor.
23 Mr. Serio is asking Mr. Arnold about a 2009 budget
24 but his previous question related to currently, so we
25 need to be clear which years we're talking about.

1 MR. SERIO: I'll rephrase, your Honor.

2 Q. The fourth line down, "Manhole Lid
3 Retro-fit," I believe you indicated previously in the
4 past the company has replaced those as necessary,
5 correct?

6 A. That is correct. I can't speak to
7 whether we were doing it in 2009. In addition, the
8 way that this request was structured, those may have
9 rolled up underneath another program.

10 Q. So my question is just because there's no
11 number there, doesn't necessarily mean there was no
12 spending for those programs.

13 A. You would have to check with
14 Ms. Clippinger who supplied the data.

15 Q. You just indicated, though, for that one
16 program that it could have been rolled up in another
17 area, correct?

18 A. I'm not an expert about the FERC
19 grouping. That would be a question for
20 Ms. Clippinger.

21 Q. I understand. I am not asking you that.
22 You indicated that for the manhole lid retrofit it is
23 possible that the spending was under a different
24 program; is that what you said previously?

25 A. Not under a different program, a

1 different FERC accounting.

2 Q. A different FERC accounting. Just
3 because there is no spending under the actual '09,
4 doesn't mean there was no spending for manhole lid
5 retrofit, it just wasn't under that particular FERC
6 account?

7 A. Subject to check, it looks like the
8 Manhole Lid Retrofit Program started in 2012 so
9 that's why there is no spending in 2009.

10 Q. Now, if I look at OCC Exhibit 39, and I'm
11 not going to get into the specific numbers on the
12 confidential portion, so please avoid using those
13 numbers, under the "Program" again, that lists the
14 various programs, some of which -- a majority of
15 which are included in the DCI proposal, correct?

16 A. That is correct.

17 Q. And then the grouping there again lists
18 distribution, general, or electric intangible, or
19 electric general or electric common. Do you see
20 that?

21 A. And we are looking at Exhibit 38 or 39?

22 Q. We are looking at 39, second page, the
23 long page that's marked confidential at the bottom.

24 A. I'm there, sorry. You got ahead of me.

25 Q. The programs listed there include the DCI

1 programs, correct?

2 A. Since I didn't supply this data request,
3 I would say subject to check, I would agree.

4 Q. Okay. And then under "Grouping," again
5 we have different titles. The ones that are
6 distribution are the ones the company considered to
7 be distribution related, correct?

8 A. As far as FERC, yes.

9 Q. And then there is some that indicate
10 "General," those would fall under general accounts,
11 correct?

12 A. General distribution accounts is my
13 knowledge of it.

14 Q. Okay. If it just says "General," but not
15 "General Distribution," then that's just a general
16 account, correct?

17 A. I'm not an accounting expert from a FERC
18 perspective, so.

19 Q. But then I can look at the estimated FERC
20 plant account and I can tie it back that way,
21 correct? The third column?

22 A. Again, I am kind of getting out of my
23 accounting expertise here, so this would probably be
24 a question for probably Ms. Laub would have been best
25 for this.

1 Q. Okay. And then we've got a bunch of
2 different columns there, 2010 through 2018 that just
3 lists the capital spending for those different
4 programs, correct?

5 A. It has expenditures as well as
6 forecasted.

7 Q. And to the best of your knowledge, do you
8 think that those are millions?

9 A. Subject to check, I would agree.

10 Q. Okay. Now, to the extent that on OCC
11 Exhibit 39 the company has provided projections on
12 budget numbers, would you agree with me that those
13 numbers are not unpredictable?

14 A. I would say there would be some
15 predictability in them. However, I would not agree
16 that they could not change due to storms, et cetera.

17 Q. And when it comes to the impact of
18 storms, any numbers can change because nobody knows
19 for sure what's going to happen weather-wise in the
20 future, right?

21 A. That's correct.

22 Q. Would you agree with me to the extent the
23 company can budget those amounts for the different
24 programs that the spending for those programs is
25 within the company's control?

1 A. Again, very similar to the previous
2 response, without forecasting failures, et cetera,
3 these are budgetary numbers that could change due to
4 failures, et cetera. I would not expect them to
5 change significantly though.

6 Q. Now, Mr. Arnold, prior to proposing the
7 DCI rider, did the company submit any kind of study
8 or analysis that would show the need to make the kind
9 of investment that the company is calling for?

10 A. Can I ask you to repeat that?

11 Q. Sure. Prior to proposing the DCI rider,
12 did the company do any kind of analysis or risk model
13 to show the need, documents that would show the need
14 for the programs listed in the DCI rider?

15 A. As far as one document, no. As I
16 mentioned previously, the goal of this is
17 integrity-based replacements. So this is trying to
18 predict a future outage based on a good working
19 knowledge of what our equipment is out in the field
20 today.

21 Q. Are you familiar with Duke Energy
22 Indiana?

23 A. I am.

24 Q. And are you familiar with the replacement
25 program that Duke Energy Indiana is engaged in?

1 MS. WATTS: Your Honor, I am going to
2 object to anything relevant to Duke Energy Indiana.

3 EXAMINER PIRIK: I will see where this
4 goes. Overruled.

5 A. At a very, very high level, yes.

6 Q. And are you familiar with the Black &
7 Veatch report that was done for Duke Energy Indiana
8 that shows the need for the modernization program
9 that Duke Energy Indiana proposed in Indiana?

10 A. I'm aware we used Black & Veatch to
11 create that, but I have not seen it myself. That is
12 a little bit different. That's a T&D rider as well
13 as AMI infrastructure.

14 MR. SERIO: Could I approach, your Honor?

15 EXAMINER PIRIK: You may.

16 MR. SERIO: I think this would be No. 40,
17 and in an attempt to keep the paper more to a
18 minimum, I have a full copy of the Black & Veatch
19 model, and then I just copied the executive summary.
20 I am only going to ask for the executive summary, the
21 entire document is, like, 150 pages, and I didn't
22 have anything with the entire document, but at least
23 showing counsel that this is the executive summary.

24 EXAMINER PIRIK: And you will provide a
25 full copy to the court reporters.

1 MR. SERIO: I can, your Honor.

2 Q. I am handing you the executive summary
3 and the full copy. If you would look at the
4 executive summary that I've marked for identification
5 as 40.

6 EXAMINER PIRIK: Actually, Mr. Serio, you
7 are marking the whole -- you are marking the whole
8 document as the exhibit. It's just --

9 MR. SERIO: I only intended to mark the
10 executive summary. I have the complete to show it is
11 just the executive summary.

12 EXAMINER PIRIK: I understand that. But
13 to be consistent and to be sure that the record
14 reflects the total document, it is important, so
15 that's why court reporters need the total document as
16 well as the witness and the company.

17 MR. SERIO: So would you want that to be
18 40 and then the executive summary 41?

19 EXAMINER PIRIK: No. I want the whole
20 document including the executive summary to be 40.

21 MR. SERIO: I am handing you the entire
22 document and then just the executive summary.

23 EXAMINER PIRIK: I am okay with you not
24 giving everyone full copies of it. I think you can
25 do, as Mr. Olier did, and e-mail everyone the link

1 to the document would be appropriate. Then we will
2 all have it.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 MS. WATTS: And, your Honor, I am sure
5 you understand I have an objection to this document.

6 EXAMINER PIRIK: Yes. I am still waiting
7 for Mr. Serio to review the foundation.

8 MS. WATTS: Thank you.

9 Q. (By Mr. Serio) Now, when you indicated
10 you were at least familiar with the Black & Veatch
11 report --

12 MS. WATTS: Objection.

13 Q. I handed you --

14 MS. WATTS: That's not what the witness
15 testified.

16 A. I was not familiar with the report. As I
17 mentioned, I'm familiar that Black & Veatch was
18 working with our department on that.

19 Q. And is the report that I handed you, OCC
20 Exhibit No. 40, your understanding of what Black &
21 Veatch prepared for Duke Energy Indiana?

22 A. Based on the title, it's the first time
23 I've seen it, yes.

24 Q. If you look at the table of contents --
25 I'm sorry, not table of contents. If you go to page

1 1-1 under the "Executive Summary," that shows "T&D
2 Risk Model Overview," correct?

3 A. That's what I'm reading, yes.

4 Q. And then there's a number of bullet
5 points. One is "Underground cable treatments and
6 replacements." That's similar to the underground
7 cable treatments and replacements program that you've
8 proposed as part of the DCI rider, correct?

9 A. I can't speak to it. I don't know.
10 That's the first time I've seen the report.

11 Q. It lists "General T&D substation and
12 circuit replacements." Do you know if that's similar
13 to the general T&D and overhead circuit replacement
14 program that you've proposed in the DCI rider?

15 A. No. It's different. It says "T&D."

16 Q. To the extent that it's T&D, that means
17 that it's transmission and distribution, correct?

18 A. Correct.

19 Q. So to the extent that we look at just the
20 distribution side, would that be similar to the
21 distribution substation and overhead circuit
22 replacement program that you propose as part of the
23 DCI?

24 A. Without reading the report from beginning
25 to end, I can't speak to it.

1 Q. "Vegetation management and hazard --

2 MS. WATTS: Your Honor, again, I object.

3 It appears that Mr. Serio intends to read from this
4 document into the record for his own purposes. The
5 document is from Indiana. The witness has never seen
6 it. It's completely irrelevant. I object to its use
7 in this hearing.

8 EXAMINER PIRIK: Mr. Serio, unless you
9 can lay some foundation with this witness and this
10 document, I don't know that I can do anything other
11 than sustain the objection. I mean, I will give you,
12 you know, a little bit more time to see whether or
13 not the foundation is there, but so far I haven't
14 seen it.

15 Q. Do you know who Melody Birmingham Byrd
16 is?

17 A. Yes, I do.

18 Q. And do you know who Bryan Davie is?

19 A. I'm not familiar with Bryan Davie.

20 Q. How about Russell Lee Atkins?

21 A. That's my direct supervisor.

22 Q. Your direct supervisor. And do you know
23 if Mr. Adkins provided testimony in the Indiana
24 proceeding in support of the company's replacement
25 program there?

1 A. To the best of my knowledge, I believe he
2 was working on it, but I don't know any details.

3 Q. And to the extent that he's your direct
4 supervisor, did you have any opportunity to discuss
5 with him the Black & Veatch report that the company
6 did -- had commissioned in the Indiana proceeding?

7 A. Again, like I mentioned before, I knew
8 Black & Veatch was involved, but this is the first
9 I've seen a report.

10 Q. Did the company engage Black & Veatch to
11 do a similar type of report prior to proposing the
12 DCI rider in Ohio?

13 A. From a DCI rider perspective, no, because
14 I would have been involved.

15 Q. Do you know if the company engaged anyone
16 other than Black & Veatch to do that type of summary
17 report in Ohio?

18 MS. WATTS: Your Honor, I would move to
19 strike this series of questions because they rely
20 upon the report which should not be present in this
21 hearing. It's totally hearsay in any case. So I
22 object to this line of questions.

23 EXAMINER PIRIK: I'll allow the general
24 questions. Go ahead, Mr. Serio.

25 THE WITNESS: Can I ask you to repeat

1 that? I'm sorry.

2 MR. SERIO: Sure. Could you please
3 reread that question.

4 (Record read.)

5 A. As far as a detailed report similar to
6 what I see here, again, I haven't even opened the
7 first page of the full summary, our reporting is
8 based on historical data that we have for this
9 equipment and, again, these are integrity
10 change-outs. This program is transmission,
11 distribution, and AMI metering in Indiana.

12 Q. So the company didn't do any type of
13 predictive analysis and provide that kind of
14 documentation to the Commission with regard to any of
15 the DCI programs, correct?

16 A. I can't predict a future outage, no.

17 Q. I think you might have answered this
18 question, but let me ask: Do you know why the
19 company chose not to do any kind of risk model
20 analysis for any of the DCI programs in this
21 proceeding?

22 A. From a risk model perspective, if I have
23 a list of equipment that's fully depreciated that I'm
24 having failures with, to me, that's a high enough
25 risk for me.

1 MR. SERIO: If I could have just one
2 minute, your Honor, I think I might be done.

3 EXAMINER PIRIK: Yes.

4 Q. So is it your position that because the
5 equipment is fully depreciated, that's sufficient to
6 no longer warrant the need for any risk modeling?

7 A. And there was a second part to my
8 response is that we're having issues with that
9 equipment. And we don't have a direct replacement,
10 as I state time and time again in my testimony.

11 Q. But you didn't do any kind of
12 cost/benefit analysis for any of those programs then,
13 correct?

14 A. As we talked about a cost/benefit
15 analysis, that would be the next distribution rate
16 case if there is any savings.

17 Q. Okay. There's a difference between O&M
18 cost savings and a cost/benefit analysis. Do you
19 understand the difference?

20 A. I do.

21 Q. And what I'm asking is the company did no
22 cost/benefit analysis to determine whether the
23 proactive approach would save customers money in the
24 long run, correct?

25 A. As far as saving customers money in

1 reliability standards, the customers that will be
2 directly affected by these programs, they will see a
3 reliability increase. Trying to put a cost/benefit
4 analysis for a customer that sustains an outage is
5 very difficult to do. Again, these are
6 integrity-based programs.

7 MR. SERIO: That's all I have, your
8 Honor.

9 Thank you, Mr. Arnold.

10 EXAMINER PIRIK: Ms. Kyle?

11 MS. KYLER COHN: No questions.

12 EXAMINER PIRIK: Mr. Olikier?

13 MR. OLIER: No questions, your Honor.

14 EXAMINER PIRIK: Staff?

15 MR. BEELER: No questions.

16 EXAMINER PIRIK: Ms. Watts?

17 MS. WATTS: May we have just 3 minutes,
18 your Honor?

19 EXAMINER PIRIK: Yes.

20 MS. WATTS: Thank you.

21 (Pause in proceedings.)

22 EXAMINER PIRIK: Ms. Watts.

23 MS. WATTS: Thank you, your Honor.

24 - - -

25

REDIRECT EXAMINATION

By Ms. Watts:

Q. Mr. Arnold, taking you back to Friday, I think it was Friday morning, actually, there was some questions from Mr. Serio related to reliability indices such as SAIDI, SAIFI, and CAIDI, do you recall those questions?

A. I do.

Q. Could you -- it is going to be taxing, you will be taxing my level of understanding, but could you briefly provide an explanation of the calculations of those three indices?

A. I sure will and this is actually on page 7 of my direct testimony. But CAIDI is customer average interruption duration index, SAIDI is system average interruption duration index, and then SAIFI is system average interruption frequency index.

As far as CAIDI, that actually requires a calculation, and CAIDI is SAIFI -- I'm sorry, it is SAIDI divided by SAIFI. So one thing that is kind of attributed to that is if your SAIFI is decreasing, which would be your denominator in this case, your CAIDI will go up.

Q. So Mr. Serio suggested that that was an argument or an opinion of the company but, in fact,

1 it's a mathematical calculation, correct?

2 A. That is correct.

3 Q. And SAIFI, for Duke Energy Ohio, has
4 improved, at least over the last five years, as a
5 result of SmartGRID deployment, correct?

6 A. That is correct.

7 Q. And SmartGRID deployment is, for all
8 intents and purposes, concluded at the end of this
9 year, correct?

10 A. To the best of my knowledge, yes.

11 Q. And to the extent you know, could you
12 discuss what distribution improvements have been made
13 under this SmartGRID program?

14 A. Certainly. Some of the distribution
15 improvements from the SmartGRID program included
16 installing SEL relays in the substation which allow
17 us to pinpoint fault locations better. It includes
18 self-healing teams and, specifically, where there is
19 four feeders that are tied together electronically
20 that is automating several devices, and one
21 significant improvement as part of the SmartGRID
22 deployment in Ohio was our AMI metering
23 infrastructure as well.

24 Q. Thank you.

25 And, so far as you know, the cost for

1 SmartGRID distribution automation deployment are
2 recovered in a separate rider proceeding, correct?

3 A. That is correct.

4 Q. And -- Mr. Serio asked you a series of
5 questions with respect to the programs that you have
6 listed in your Attachment 7 to your testimony.
7 MWA-7, the DCI programs you are proposing.

8 A. Yes.

9 Q. To the extent there are O&M savings,
10 there may also be O&M costs associated with each and
11 every one of those programs, correct?

12 A. That is correct. Some programs we
13 believe we could potentially see some O&M savings.
14 However, we're fully aware of some of the programs
15 including the 4 kV conversions will have a
16 significant O&M spend in order to complete that work.

17 Q. And Mr. Serio asked you questions on
18 Friday with respect to the J.D. Power surveys and the
19 company's survey that it performed relative to
20 customer perceptions. Do you recall those questions?

21 A. I do.

22 Q. And some of the questions related in
23 particular to commercial business customer
24 perceptions. Do you recall that?

25 A. I do.

1 Q. And does Duke Energy Ohio have people who
2 are responsible for working with commercial customers
3 to understand their specific needs and requirements?

4 A. We do. We actually have a large business
5 organization that actually works one-on-one with
6 large customers in Ohio.

7 Q. And do you work with in tandem with that
8 group of people to solve problems with large business
9 customers?

10 A. We do. We work very closely. Our
11 approach to that is they actually own the
12 relationships with the customers, but as far as
13 reliability and continuity of service, that's my
14 responsibility.

15 Q. So as a result of that work, do you gain
16 an understanding of what the customer expectation is
17 in regard to their service?

18 A. We do.

19 Q. And do you also work in the field in
20 places where you interact with residential customers?

21 A. That is correct. I work daily with
22 residential and business customers. Primarily my
23 organization, if there is issues that rise to my
24 level, it requires a pretty immediate response. But
25 as I mentioned, I came into the company, I actually

1 came in as a designer in 2001 and have worked with
2 customers ever since.

3 Q. And Mr. Arnold, I seem to recall that
4 when the company was deploying SmartGRID, you
5 interacted with customers who were unhappy with their
6 SmartGRID meter; is that correct?

7 A. That is correct.

8 Q. And in your duties as the person who
9 interacted with those customers, were you the person
10 that spoke with them and explained the SmartGRID
11 meter to them?

12 A. I was.

13 Q. And so, as a result of all these
14 interactions, do you gain an understanding what
15 customers' expectations are?

16 A. Yes, I do.

17 Q. Could you talk a little bit about the
18 outage follow-up process.

19 A. Sure. So the DOMS, as mentioned in my
20 testimony, is a predictive tool. When a customer
21 calls in an outage today, it goes through our
22 troubled call system, and is dispatched through DOMS
23 which is a predictive tool, so if there's multiple
24 customer outages on a feeder, it would roll-up to the
25 closest device.

1 From an outage follow-up perspective, and
2 they can be initiated one of two ways, the first way
3 is that the customer calls in a complaint about
4 frequent outages. If they call in a complaint about
5 frequent outages, we have a power quality and
6 reliability group that works very closely with mine
7 that determines the outages to prevent possible
8 future outages.

9 The other option is actually if an
10 outage is longer than 5 minutes and it affects more
11 than 500 customers, we automatically initiate an
12 outage follow-up on our end.

13 Q. And so, as a result of undertaking that
14 process, is the company able to understand when an
15 outage is caused by aging or obsolete equipment?

16 A. Yes, yes, we can.

17 Q. But you don't prepare a report that
18 specifically quantifies that, correct?

19 A. That is correct.

20 Q. In response to a question from Mr. Serio,
21 you talked about one of the programs proposed to be
22 implemented with rider DCI that would allow you to
23 provide information to customers about ETRs, do you
24 remember that?

25 A. Yes, I do.

1 Q. Could you explain what ETRs are?

2 A. Sure. So the industry term is ETRs,
3 E-T-R, and as mentioned this morning, it's estimated
4 time of restoration. One of the data points that I
5 hear from customers personally is constant updates.
6 They want to know when I can go back home, when my
7 power is on, is my food going to be okay.

8 And with mobile technology today, the
9 more data points that we can provide them, including
10 with an updated time of restoration when the crew
11 shows up, is significant. The program that was
12 mentioned in my testimony of the distribution
13 operation centers is in order to provide realtime
14 updates, you have to have the equipment to do so.
15 Today, we're still pretty much the voice-to-voice
16 communications with the people in the field, so that
17 program specifically is to help update ETRs.

18 Q. Thank you.

19 Now, with respect to replacing aging
20 infrastructure, I am going to give you a
21 hypothetical. Suppose, Mr. Arnold, you go out and
22 you buy a new car today, and I'm going to bias this
23 question a little bit and suppose it's a Honda which
24 I understand tend to last longer than other cars, so
25 they are regarded as reliable. Suppose you go out

1 and buy a Honda and you own that car for five years.

2 Are you with me so far?

3 A. I am.

4 Q. And during that five years you replace
5 the oil, replace the other fluids, you may put new
6 tires on it, you may change the breaks out in that
7 five-year period, correct?

8 A. That is correct.

9 Q. But, ordinarily, with a new car, one
10 doesn't expect that new car to have major problems
11 like a transmission failure or something like that,
12 correct?

13 A. That is correct.

14 Q. But as you approach the end of that five
15 years, does the warranty run out?

16 A. In most cases, yes.

17 Q. So what -- what, just hypothetically,
18 what's the longest car warranty that you are aware of
19 now?

20 A. As far as bumper to bumper, it's either
21 36 months or four years in most cases.

22 Q. Okay. So, and the reason for that is
23 why?

24 A. The reason is at some point there comes a
25 point of diminishing returns where you can continue

1 maintaining that asset, kind of a slang term, but it
2 will nickel and dime you from every time you are
3 going out to maintain that equipment. So there
4 becomes a point where not only maintaining the
5 equipment is costly, but due to the configuration or
6 age of the equipment there may not be a direct
7 replacement available.

8 Q. And so, can you draw a parallel between
9 that hypothetical and the systems that need to be
10 replaced that you -- repaired or replaced with
11 respect to the DCI programs?

12 A. Certainly. So the closest parallel that
13 I will draw is with our submersible transformer
14 replacements. As mentioned, those are overhead
15 transformers that are down in a submersible structure
16 today. If they fail, we do not replace them. We
17 actually have to bring them up above grade from a
18 safety perspective as well as it's a lengthy outage
19 for the entire subdivision when we have to do that.
20 That's probably the closest parallel I can draw.

21 Q. Okay. And, again, when you have to buy
22 parts for an older car as opposed to a newer car,
23 those parts tend to be more expensive, correct?

24 A. Correct. As the age of the equipment
25 gets older, the parts get more expensive because they

1 get more rare.

2 MS. BOJKO: Objection, your Honor.

3 EXAMINER PIRIK: Ms. Bojko.

4 MS. BOJKO: I've allowed a little leeway,
5 but there has been no foundation that he has this
6 automobile expertise to even say yes or no to the
7 questions and then draw the parallel links.

8 EXAMINER PIRIK: Ms. Watts.

9 MS. WATTS: Well, I think this is just
10 common understanding, your Honor. I don't think one
11 needs to have any specific automotive experience to
12 answer the questions he's answered.

13 MS. BOJKO: I actually disagree with many
14 of the facts that you've stated and my common
15 knowledge is different than this witness, so I
16 disagree. There's been no foundation he can even
17 make these assertions, let alone then draw the
18 comparisons.

19 EXAMINER PIRIK: I tend to agree with
20 Ms. Bojko. I'll allow a limited amount of
21 questioning along these lines and then we will have
22 recross.

23 MS. WATTS: I can move away from the
24 analogy.

25 Q. (By Ms. Watts) Mr. Arnold, with respect

1 to the parts that the company now needs to acquire
2 for aging pieces of the company's distribution
3 system, are those parts more expensive these days?

4 A. Yes, they are. An example is some of the
5 poly-phase transformers that I mentioned in my
6 testimony. We've actually just submitted purchase
7 orders and they actually have to create a special
8 line in order just to build those, so that's one of
9 the challenges we have today.

10 Q. And in some instances is it possible that
11 you may not even find the appropriate part?

12 A. That is correct.

13 Q. And with respect to the surveys that
14 Mr. Serio questioned you about on Friday, this was a
15 series of questions related to one survey where he
16 pointed out it was of the midwest states as opposed
17 to just Duke Energy Ohio. Do you recall those
18 questions?

19 A. I do.

20 Q. And would you expect customers' responses
21 to vary significantly among the three midwest states
22 in those surveys?

23 A. I would not.

24 Q. And the three states would be Ohio,
25 Kentucky, and Indiana, correct?

1 A. That is correct. They are all in the
2 midwest.

3 Q. And do you live in Kentucky?

4 A. Yes, I do.

5 Q. And do you find that customer perceptions
6 and expectations are similar in Kentucky as they are
7 in Ohio?

8 A. They are very similar across the midwest.

9 MS. BOJKO: Objection, your Honor.
10 Again, there's no foundation because he's a resident
11 of Kentucky that he has this knowledge all of a
12 sudden that he can compare them to Ohio residents
13 without laying any further foundation of doing any
14 surveys or any additional information. I move to
15 strike the response to that question.

16 EXAMINER PIRIK: I'll allow the question.
17 You will have an opportunity to recross.

18 Q. And one final question, Mr. Arnold. The
19 Black & Veatch document that Mr. Serio put before you
20 earlier.

21 A. Yes.

22 Q. Is it your understanding that that was
23 prepared in Indiana in connection with a SmartGRID
24 application?

25 A. That is correct.

1 Q. And why, to the extent you know, was that
2 application before the Indiana Commission?

3 A. And I believe I mentioned this during the
4 questioning, TDS-IC stands for transmission
5 distribution investment rider. It's Senate Bill 560.
6 My understanding of it, it involves obviously T&D but
7 is primarily an AMI as well as a SmartGRID
8 infrastructure.

9 Q. Do you know what the total revenue
10 requirement would be for that proposed program in
11 Indiana at all?

12 A. I believe it's a seven-year term, to the
13 best of knowledge, and it's 1.7 billion.

14 MS. WATTS: Thank you. I have nothing
15 further. Thank you.

16 EXAMINER PIRIK: Ms. Hussey.

17 MS. HUSSEY: No questions, your Honor.

18 EXAMINER PIRIK: Ms. Bojko.

19 MS. BOJKO: Yes, your Honor.

20 - - -

21 RECROSS-EXAMINATION

22 By Ms. Bojko:

23 Q. Sir, you just responded because you live
24 in Kentucky that you have knowledge of similarities.
25 Did you -- did you conduct any studies of Kentucky

1 customers and compare those to Ohio customer studies?

2 A. From a comparison, no. That's based on
3 my working knowledge working in both states.

4 Q. Right. But you personally didn't go out
5 and conduct any such studies that you drew the
6 conclusion you just stated.

7 A. I meet with residential and residential
8 customers almost on a daily basis so I know their
9 needs.

10 Q. I asked if you conducted any studies,
11 sir.

12 A. Any specific surveys that I can pinpoint,
13 no.

14 MS. BOJKO: Thank you. No further
15 questions, your Honor.

16 EXAMINER PIRIK: Thank you.

17 Mr. Serio?

18 MR. SERIO: Thank you, your Honor.

19 - - -

20 RECROSS-EXAMINATION

21 By Mr. Serio:

22 Q. You indicated you had some knowledge of
23 the SmartGRID deployment in Ohio, correct?

24 A. Yes.

25 Q. Is cost/benefit analysis part of the

1 SmartGRID program?

2 A. I wasn't part of that filing, so I don't
3 know the cost/benefit analysis.

4 Q. I didn't ask if you knew the results. I
5 asked is a cost/benefit study part of the program?

6 A. I'm not aware of it.

7 Q. Do you know if system reliability
8 improvement guarantees are part of the SmartGRID
9 program?

10 A. From what I've heard thirdhand, yes,
11 there was some reliability improvements as part of
12 it.

13 Q. And those were guaranteed, correct?

14 A. I -- again, I don't know the word
15 "guaranteed," if I can answer that.

16 Q. Are there any similar system reliability
17 improvements -- assurances as part of the DCI rider?

18 A. For the individual customers they will
19 see a significant reliability increase. As far as
20 CAIDI and SAIDI, as we mentioned previously, in
21 addition SAIFI, there may be some indirect results,
22 but, again, it's blending a small program across the
23 entire base.

24 Q. Now, you indicated that some of the 19
25 DCI programs would see an O&M cost increase, correct?

1 A. Potentially.

2 Q. Is there anything in your testimony or
3 the application that spells out which programs would
4 see any O&M spending increases and how much those
5 might be?

6 A. I believe I mention in my testimony that
7 there could be potential, but I do not recall
8 attributing a specific dollar amount.

9 Q. So we don't know if it could be a dollar
10 or \$10 million, correct?

11 A. It -- a lot of it is predicting a future
12 outage.

13 Q. Now, you indicate that you have lots of
14 interactions with residential customers in Ohio and
15 Kentucky. Yet, your testimony, on page 15, indicates
16 that Ohio Revised Code section 4928.143(B)(2)(a)
17 requires the Commission to look at customer
18 expectations for Ohio customers, correct?

19 A. That is correct.

20 Q. And the Commission relies on survey
21 results for that and not your personal interactions,
22 correct?

23 A. I would have to check the Revised Code.
24 I don't think it's specific to just survey results.

25 Q. Now, you indicated that older parts might

1 be impossible to find. Is there any documentation in
2 your testimony or the application of past instances
3 where you could not find replacement parts?

4 A. There's nothing in my direct testimony
5 that states a specific situation, no.

6 Q. And then you just indicated the Black &
7 Veatch report for Indiana was a seven-year program at
8 1.7 billion?

9 A. That's my understanding, subject to
10 check.

11 Q. How much is the DCI program for three
12 years going to be?

13 A. Incremental or total?

14 Q. Total for the three years.

15 MS. WATTS: Which three years, Mr. Serio?

16 MR. SERIO: The three years of the ESP
17 program.

18 A. The proposal, and subject to check my
19 math, would be approximately \$600 million, but not
20 knowing what is included in the TDS filing in Indiana
21 and what is proposed as part of the DCI, I don't know
22 if it's a direct comparison.

23 Q. If I double the three-year term and
24 doubled the spending, that 600 million would become
25 almost 1.2 billion, correct?

1 MS. WATTS: Objection.

2 EXAMINER PIRIK: Sustained.

3 MR. SERIO: That's all I have, your
4 Honor. Thank you.

5 EXAMINER PIRIK: Ms. Kyler?

6 MS. KYLER COHN: No questions.

7 EXAMINER PIRIK: Mr. Oliker.

8 MR. OLIKER: Maybe a question or two if
9 he's got understanding. Thank you, your Honor.

10 - - -

11 CROSS-EXAMINATION

12 By Mr. Oliker:

13 Q. Mr. Arnold, you talked a lot about
14 surveys today, right?

15 A. Yes.

16 Q. And with respect to smart meters, would
17 you agree that they do more than help reliability?
18 Would you agree they also have -- they record data
19 regarding customer usage?

20 A. Based on my working knowledge, yes, I
21 would agree with that.

22 Q. Do you know whether Duke has done any
23 surveys regarding expectations of customers with
24 access to their customer usage?

25 MS. WATTS: Your Honor, I object to this

1 line of questions. No. 1, it's not relevant to
2 anything that was elicited on direct examination and,
3 No. 2, Mr. Arnold is not here to testify about
4 customer data access.

5 EXAMINER PIRIK: Overruled.

6 MR. OLIKER: Thank you, your Honor.

7 A. As far as my involvement with the AMI
8 piece, it was merely deploying the meters and getting
9 those. As far as the back office, I am not familiar
10 with data that's collected.

11 Q. To be sure, you don't know if Duke did
12 any surveys to see what customers' expectations are
13 about access to customer usage?

14 A. I don't recall.

15 MR. OLIKER: Okay. Thank you, your
16 Honor.

17 And thank you, Mr. Arnold.

18 EXAMINER PIRIK: Staff?

19 MR. BEELEER: Nothing. Thank you.

20 EXAMINER PIRIK: Thank you, Mr. Arnold.

21 THE WITNESS: Thank you, your Honor.

22 MS. WATTS: Your Honor, Duke Energy Ohio
23 moves Exhibits 21 and 21a, please.

24 EXAMINER PIRIK: Are there any objections
25 to Duke 21 and 21a?

1 Hearing none, they will be admitted into
2 the record.

3 OCC.

4 MR. SERIO: Thank you, your Honor. I
5 would move OCC Exhibits 33, 34, 36, 37, 38, 39, and
6 39a at this time.

7 EXAMINER PIRIK: Are there any objections
8 to those exhibits?

9 MS. WATTS: There -- was the Black &
10 Veatch -- I lost track of how that one was marked.

11 MR. SERIO: That's No. 40 and I am going
12 to reserve moving that one for the time being, your
13 Honor.

14 MS. WATTS: No objections otherwise.

15 EXAMINER PIRIK: Those exhibits will be
16 admitted into the record.

17 (EXHIBITS ADMITTED INTO EVIDENCE.)

18 EXAMINER PIRIK: Our next witness,
19 Mr. Serio, OCC's witness.

20 MR. BERGER: Your Honor, could we take a
21 brief break before we go to Mr. Dougherty?

22 EXAMINER PIRIK: Sure.

23 MR. BERGER: Thank you.

24 (Recess taken.)

25 EXAMINER PIRIK: We will go back on the

1 record. OCC.

2 MR. BERGER: Thank you, your Honor. At
3 this time we would call Bryan Dougherty of Duke
4 Energy to the stand. We are calling Mr. Dougherty,
5 as with Duke's previous witness, Mr. Jennings, as on
6 cross as part of our direct case.

7 EXAMINER PIRIK: Thank you.

8 (Witness sworn.)

9 EXAMINER PIRIK: Thank you. Please be
10 seated.

11 - - -

12 BRYAN DOUGHERTY
13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 CROSS-EXAMINATION

16 By Mr. Berger:

17 Q. Good morning, Mr. Dougherty.

18 A. Good morning, sir.

19 Q. As you know, I'm Tad Berger with the
20 Office of Consumers' Counsel. And I have a few
21 questions for you today regarding the subject matter
22 that we briefly discussed at your deposition.

23 A. Okay.

24 Q. Thank you. Mr. Dougherty, as I
25 understand it, you are the Financial Forecasting

1 Manager for Midwest Commercial Generation; is that
2 correct?

3 A. That's correct, yes, sir.

4 Q. And in that capacity, you work on
5 budgets, forecasts, and long-term plans; is that
6 correct?

7 A. Yes, sir, correct.

8 Q. And do those budgeting and forecasting
9 planning include the forecasts that involve the Duke
10 Energy Ohio's interest in the Ohio Valley Electric
11 Corporation entitlement?

12 A. That's correct, yes, sir.

13 EXAMINER PIRIK: Before we get too far
14 in, could I have you just state your name and address
15 and the business you're affiliated with for the
16 record.

17 THE WITNESS: Yes, ma'am. It's Bryan
18 Dougherty. I work for Duke Energy. 139 East Fourth
19 Street, Cincinnati, Ohio.

20 EXAMINER PIRIK: Thank you.

21 MR. BERGER: I'm sorry about that, your
22 Honor.

23 Q. (By Mr. Berger) Mr. Dougherty, are you
24 aware of the subpoena that was served in connection
25 with your appearance here today?

1 A. Yes, sir.

2 Q. And do you have that with you?

3 A. I do not.

4 Q. Okay. Do you recall what documents that
5 you were asked to bring in accordance with that
6 subpoena were?

7 A. It was my understanding I was to bring
8 any documents that I had not provided as part of my
9 original testimony.

10 Q. Okay. Did you understand that you were
11 to bring any documents related to the economic value
12 of the Duke Energy Ohio's interest in OVEC that you
13 had not already produced?

14 A. Yes, sir, I think that's a fair
15 statement.

16 Q. And any documents also regarding the net
17 cost or benefit to customers related to the price
18 stabilization rider that you may have produced?

19 MS. KINGERY: Objection. It might be
20 helpful for the witness to have a copy of the
21 document Mr. Berger is reading from.

22 EXAMINER PIRIK: That would be helpful.
23 It would probably go quicker that way.

24 MR. BERGER: Sure, your Honor. If I may
25 approach, I will provide him with a copy of his

1 subpoena.

2 EXAMINER PIRIK: Thank you.

3 Q. (By Mr. Berger) Let me know when you have
4 had a chance to review, and I think it would be
5 particularly on page 2 of the subpoena, items under
6 No. 2.

7 A. Okay. I've read it.

8 Q. And did I correctly characterize before
9 that the requested information concerned documents
10 related to the estimates of the value of the OVEC
11 entitlement?

12 A. Yes, sir. So under 2a. would have been
13 the documents that I've already provided and
14 prepared.

15 Q. And you already provided and prepared any
16 documents you had showing assumptions, calculations,
17 and workpapers underlying those estimates as well?

18 A. Yes, that's correct.

19 Q. And you also provided any and all
20 estimates you prepared regarding the net cost or
21 benefit to customers of the price stabilization
22 required?

23 A. I did not do any analyses in that regard,
24 so I would not have prepared or delivered any of
25 those documents.

1 Q. Okay. So you didn't specifically look at
2 the price stabilization rider. You just primarily
3 looked at the net cost or benefit of the OVEC
4 entitlement; is that correct?

5 A. That's correct, yes, sir.

6 Q. And -- do you have any documents that you
7 have not previously provided to us?

8 A. I do not, no, sir.

9 Q. Okay. Thank you.

10 MR. BERGER: Now, we previously marked in
11 this proceeding as OCC Exhibit 4 the attachment to
12 IGS-POD-101-003.

13 Your Honor, at this time I would like to
14 mark as an exhibit the written response that was
15 provided by Mr. Dougherty to -- to OEG-DR-01-001, and
16 the response -- the written response to
17 IGS-POD-01-003 that was provided -- that related to
18 that attachment. Can we mark that as OCC Exhibit 41,
19 please, 41a since it would be confidential?

20 EXAMINER PIRIK: You're marking both
21 documents as one exhibit?

22 MR. BERGER: Yes, if I may. If you would
23 rather, I can split them up, but I figure they both
24 relate to the same attachment and provide the same
25 information. He is the witness on both of them.

1 MS. KINGERY: Your Honor, if I might
2 suggest, I think it makes more sense to have them
3 separate only because the response to OEG-DR-01-001,
4 I believe, was simply two pages, and the second --
5 the IGS-POD that Mr. Berger referenced included those
6 same two pages but then many workpapers.

7 EXAMINER PIRIK: I think that would be
8 appropriate to have them marked separately.

9 MR. BERGER: Okay. Well, let's mark the
10 written response to OEG-DR-01-001 as OCC Exhibit 41a,
11 and the written response to IGS-POD-01-003 as OCC
12 Exhibit 42a. And I would ask that the parties
13 separate the documents for their own purposes since
14 they have been stapled together here if that's okay.

15 EXAMINER PIRIK: Okay. And so -- well,
16 we need to see the document. Once we see the
17 document we'll --

18 MR. OLIKER: Tad, for clarification, are
19 these the interrogatory responses?

20 MR. BERGER: Yes. These are the
21 interrogatory responses not including the attachment.

22 MR. SERIO: May I approach, your Honor?

23 EXAMINER PIRIK: Yes.

24 MR. BERGER: I note, your Honor, I
25 provided copies of these exhibits with my statement

1 of my intent to offer them today to Ms. Kingery first
2 thing this morning.

3 EXAMINER PIRIK: Okay. So before we go
4 any further, they are marked confidential and you
5 labeled them as "a." Is there confidential
6 information within these documents?

7 MS. KINGERY: Yes, your Honor, a limited
8 amount.

9 EXAMINER PIRIK: In both documents?

10 MS. KINGERY: Yes, but it's, as I said,
11 extremely limited.

12 EXAMINER PIRIK: Okay. So that we're
13 clear on the record, as we instructed earlier today,
14 we need to mark both the 41 and 41a and 42 and 42a
15 and we need -- when we introduce them and mark them,
16 we need to state that on the record so that the court
17 reporter has both documents in there. Okay. So
18 could you -- is it possible for you to go through
19 right now and tell us what you deemed confidential?

20 MS. KINGERY: Yes, I believe so, your
21 Honor. In OCC 41a, there is nothing confidential in
22 the request. If we look at the response, in
23 paragraph b. the number of megawatts that are -- that
24 is forecasted as the UCAP for the period, that number
25 would be confidential. And I believe that's -- that

1 matches what we've said in other exhibits.

2 EXAMINER PIRIK: Okay. With regard to
3 41a, you're correct. That's consistent with our
4 other exhibits and we will grant confidential
5 treatment of that number.

6 MS. KINGERY: Thank you, your Honor. And
7 in 42a in the confidential response within the
8 parenthetical, right at the end of that sentence,
9 that number would be confidential. It's my
10 understanding -- hold on. Let me just confirm. I
11 did get an e-mail I was trying to confirm whether
12 that would be.

13 Okay. No, that number would be public
14 because it's still an ICAP, it's an ICAP going
15 forward, but our folks have told me that would be
16 public information in which case there would be
17 nothing left in that document that would be
18 confidential.

19 EXAMINER PIRIK: So we will not have a
20 42a. We will just have a 42, and 42 will be in the
21 open record.

22 And just to be clear so the witness
23 knows, the one item that we noted in 41a, I think you
24 are aware we will have the public record, and then if
25 there is a need to cross on specifics that have been

1 marked confidential, we will close the room and have
2 conversations on that.

3 THE WITNESS: Okay.

4 EXAMINER PIRIK: So you shouldn't say any
5 of the things that are marked confidential in the
6 open record.

7 THE WITNESS: Okay.

8 (EXHIBITS MARKED FOR IDENTIFICATION.)

9 EXAMINER PIRIK: Mr. Berger.

10 MR. BERGER: Thank you.

11 Q. (By Mr. Berger) Mr. Dougherty, you
12 prepared these responses other than the portions that
13 relate to legal objections?

14 A. Yes, sir, correct.

15 Q. Thank you.

16 And you prepared the first page of OCC
17 Exhibit 4a -- 4 and 4a, is that correct, are you
18 familiar with that document, the attachment to
19 IGS-POD-01-003?

20 MS. KINGERY: Could Mr. Berger provide it
21 to the witness?

22 MR. BERGER: Yes. I have a copy here.
23 Although, I have it in portrait version rather than
24 landscape, so.

25 EXAMINER PIRIK: Does it have marked on

1 it what is found confidential?

2 MR. BERGER: No, it doesn't, your Honor.

3 EXAMINER PIRIK: It doesn't?

4 MR. BERGER: No. This would be the --

5 MS. KINGERY: I do have a copy, if that
6 would help, that's redacted.

7 MR. BERGER: Yeah. I want him to have
8 the unredacted version, so.

9 EXAMINER PIRIK: Okay.

10 MR. BERGER: That's why I am providing
11 that to him. I am not going to ask him about numbers
12 on the public record, but I do -- will ask -- may ask
13 him about questions on the confidential record. I
14 want him to be able to see the numbers.

15 EXAMINER PIRIK: He needs to understand,
16 I mean I just want to be sure that whatever we give
17 the witnesses has the confidential piece marked on
18 it. If Ms. Kingery has one that has it marked on it,
19 that's what he should be looking at. Even though you
20 are not asking that question, sometimes the answer
21 could bring that forth. So Ms. Kingery has one
22 that's marked. Does that one have the cash flow
23 line?

24 MS. KINGERY: Yes, cash flow is out.

25 MS. BOJKO: Your Honor, quickly, I guess

1 I'm a little confused, and I know you wanted to do
2 this after lunch, but I think it's going to -- if we
3 don't rule on confidential/not confidential prior to
4 this witness, then I think that we are going to have
5 to go through a series of unredactions again, and it
6 just may be helpful if the attorneys understand.

7 I was under the impression -- it might
8 be -- I was under the impression from last week that
9 the only thing that was deemed confidential were the
10 actual numbers. That -- because we released the cash
11 flow line, we were able to make assumptions of, like,
12 increases, decreases, we released such words as, I
13 believe, "jump" and everything, so that's what my
14 understanding was going into today.

15 And then when I look at what's been
16 handed out as an example, this is a transcript from
17 last week, they both have it in it, so I'm not sure
18 which one you want to use, for example, but if you
19 look at VII, Volume VII, it has those words in it.
20 And I guess I just thought that the Bench already
21 ruled that those words were not confidential.

22 MS. KINGERY: And I certainly made an
23 attempt to go back to the transcript and match what
24 the rulings had been, and I'm not looking at it right
25 this minute, but my recollection was that words like

1 "jump" were redacted, but perhaps I'm wrong. I'm
2 not -- because I am not looking at it.

3 EXAMINER PIRIK: And you are asking this
4 because in your cross of this witness you may?

5 MS. BOJKO: And, I'm sorry, I don't have
6 the transcript in front of me, so I didn't -- but I
7 would like an understanding before.

8 EXAMINER PIRIK: Let me ask OCC, do you
9 think this will be a problem with your open record
10 cross-examination?

11 MR. BERGER: I don't think so at this
12 point, your Honor. My -- my understanding had been
13 that directional information was not a concern with
14 respect to the cash flow numbers during the -- during
15 the ESP period. But the directional information
16 related to generation volumes, related to fuel
17 forecasts, or other things like that were being
18 treated by you as confidential and that's why -- so I
19 was planning on staying out of that area in terms of
20 it being public. That's my -- that was my
21 understanding and I was not planning to ask questions
22 that were directional in nature related to anything
23 but cash flow.

24 MS. BOJKO: And if that's the distinction
25 your Honor, I'm fine. I just wanted to know that

1 before.

2 EXAMINER PIRIK: And I think that's been
3 the disconnection we've made. Obviously we haven't
4 had time to look at the proposed redactions to the
5 transcript, but in looking at them it does appear as
6 if, at least the first glance, it appears this might
7 be the distinction that the company made.

8 So for purposes of crossing this witness,
9 obviously cash flow items, directional items with
10 regard to cash flow, is in the open record. Anything
11 that has to do with generation, capacity, and
12 directional items, with that regard let's keep that
13 in the confidential portion until we have a chance to
14 actually look at what the proposal is and rule on
15 them in the transcript and then -- and we'll rule on
16 if, you know, if there is a need to have a closed
17 record on that item here, we'll then rule on it with
18 regard to this transcript too.

19 Mr. Olikar.

20 MR. OLICKER: Just one brief question and
21 I think I know the answer. CO-2 type projections,
22 regarding specific numbers I believe that would also
23 fall under confidential; is that what we've
24 determined or we will just cross that bridge when we
25 come to it?

1 EXAMINER PIRIK: I think we will just
2 cross that bridge, but I think that is a good
3 question.

4 MR. OLIKER: Thank you, your Honor.

5 MS. BOJKO: Thank you, your Honor. I
6 appreciate the clarification.

7 EXAMINER PIRIK: Thank you.

8 Do you understand what we just --

9 THE WITNESS: Yes, ma'am.

10 EXAMINER PIRIK: Okay. Thank you.

11 Q. (By Mr. Berger) Mr. Dougherty, the
12 attachment that is Exhibit 4a, 4 and 4a, you prepared
13 the first page of that attachment; is that right?

14 A. That's correct, yes, sir.

15 Q. And that was prepared by you in this
16 proceeding in response to a discovery response?

17 A. Yes, sir, correct.

18 Q. And was it prepared by you in
19 approximately July of this year?

20 A. Yes, sir, correct.

21 Q. It was not prepared for you for purposes
22 of the company's application in this proceeding; is
23 that correct?

24 A. That's correct, yes.

25 Q. And in preparing that response, would I

1 be correct it was responded -- it was a response that
2 was prepared to answer the question asking for "The
3 most recent forecast of attributes, costs or benefits
4 associated with DEO's entitlement to OVEC." And I
5 think you'll --

6 A. Yes, sir, that's correct.

7 Q. And you have not prepared an update to
8 the forecast that you prepared on that page 1 of OCC
9 Exhibit 4 or 4a.

10 A. I have not.

11 Q. And you're not aware of whether any
12 estimate of the price stabilization rider and its
13 effect on customers was prepared in advance of the
14 filing in this case; is that correct?

15 A. That's correct. I'm not aware.

16 Q. Would you agree with me that you weren't
17 consulted at all regarding the development of the
18 price stabilization rider in this proceeding?

19 A. That's correct.

20 Q. And you don't understand the purpose of
21 the price stabilization rider? Or do you?

22 A. I have a high-level understanding of what
23 the overall goal is, but, specifically, I haven't
24 been involved in those discussions.

25 Q. Okay. Do you recall at your deposition

1 testifying that you didn't know the purpose of the
2 price stabilization rider at that time? Has your
3 understanding of that changed since?

4 A. So I thought at the time I had just
5 mentioned that I understood that if, you know, the
6 OVEC, our entitlement in OVEC was cash positive to us
7 that we would return that to the customers; if it was
8 negative, then the customers would, you know, we
9 would charge that to the customers, so that was my
10 high level understanding. And I thought that was
11 consistent with what I had said at the deposition as
12 well. But I didn't -- I did not know the specifics
13 of the price stabilization rider.

14 Q. Okay.

15 MR. BERGER: Your Honor, I'd like to
16 provide the witness and your Honors with a copy of
17 Mr. Dougherty's public transcript of his public
18 deposition.

19 Q. Now, Mr. Dougherty, when you prepared
20 your response to OEG-DR-1-1, did you know that it was
21 being requested in connection with the price
22 stabilization rider?

23 A. Specifically, no. I knew it was involved
24 with the rate case, but I didn't know that was the
25 specific portion of it.

1 Q. And, Mr. Dougherty, are you involved at
2 all in the OVEC budgeting process?

3 A. No, sir, I am not.

4 Q. And you don't provide any numbers to Ohio
5 Valley Electric Corporation for purposes of OVEC
6 preparing its forecast; is that correct?

7 A. That's correct, I do not.

8 Q. And on exhibit -- on Exhibit 4a, at
9 page -- strike that.

10 Are you familiar with OVEC's use of a --
11 what they call an "estimated surplus energy use
12 factor"? Are you familiar with that term at all?

13 A. I don't think I am, no, sir.

14 Q. Do you know whether Duke Energy Ohio
15 provides OVEC with an estimate of its anticipated use
16 of its OVEC entitlement for purposes of OVEC
17 projecting usage and for operational purposes?

18 A. I am not aware of that, no, sir.

19 Q. Do you know whether Kyger Creek or Clifty
20 Creek is a more expensive plant to operate? And I am
21 not asking you whether one or the other is more
22 expensive. I am just asking you whether you know. I
23 don't want you to give any confidential information
24 out.

25 A. I do not know.

1 Q. Okay. And with respect to the UCAP
2 number that's shown on Exhibit 4a, are you familiar
3 at all with its derivation?

4 A. So my understanding is that is our
5 9 percent share of the total capacity of the OVEC
6 units.

7 Q. The UCAP number is?

8 A. Oh, I'm sorry, excuse me, I was thinking
9 ICAP, I'm sorry.

10 Q. And again, keep in mind that the UCAP
11 number is a confidential number. So I'm just asking
12 you whether you're aware of its derivation.

13 A. I am, through being an observer of
14 Mr. Jennings' testimony.

15 Q. Okay. But prior to hearing Mr. Jennings'
16 testimony, either in his deposition or in the
17 hearing, you weren't aware of the derivation of that
18 number; is that correct?

19 A. That's correct, yes, sir.

20 Q. And in terms of the derivation of the
21 "Generation Volumes" line that's shown on OCC Exhibit
22 4a which was, as I understand it, that was developed
23 by Ben Zhang's group in the commercial -- as part of
24 the commercial business model?

25 A. That's correct, yes, sir.

1 Q. But you're not specifically familiar with
2 the methodology through which that is developed?

3 A. I am not, no, sir.

4 Q. Could you tell us who Mr. Zhang and his
5 group are and how they are connected and what the
6 commercial business model is?

7 A. So Mr. Zhang works in the Commercial
8 Asset Management group under -- for the Midwest
9 Commercial Generation Group, and they run a model
10 that we use for forecasting purposes that projects
11 revenues, generation output, costs from all of our
12 generating units.

13 Q. And the numbers that Mr. Zhang and his
14 group develop as part of the commercial business
15 model, are they reflected in the workpapers that are
16 attached to -- that follow the first page of
17 Exhibit 4a?

18 A. That's correct, yes, that represents
19 model output.

20 Q. Okay. Did you run this model output
21 yourself that's reflected in OCC Exhibit 4a?

22 A. No, sir, I did not.

23 Q. Do you know who ran the model output
24 that's reflected in OCC Exhibit 4a?

25 A. It just would have been somebody from

1 Mr. Zhang's team. I don't know specifically who.

2 Q. Okay. Did you make a specific request or
3 was it a model output -- did you make a specific
4 request for the model output?

5 A. So there's two peak -- there is two model
6 runs that are associated with the data. One is from
7 our 5 and 7 forecast which is part of our normal
8 forecasting procedures. So that would have been
9 generated just as part of routine business at the end
10 of each month for a forecast.

11 The balance of the forecast then, the
12 data from 2019 through 2024, that came from a
13 separate model request that was based on a set of
14 fundamental curves, so that was a specific request to
15 Mr. Zhang's group for that then.

16 Q. Okay. Can you tell us what the 5 and 7
17 model forecast that you are referring to is?

18 A. Yes. Our nomenclature, when we do
19 forecasts for each of the current years, is based on
20 the number of months of actuals and then the number
21 of months of forecast. So when I refer to a "5 and 7
22 forecast," it would reflect five months of actual
23 data and seven months of forecasted data. So, in
24 this case, five months being January through May, and
25 then the seven months June through December of the

1 current year.

2 Q. And is that to make your forecast
3 consistent with the PJM planning year that you use
4 that particular structure?

5 A. No, sir. That -- it's based on a
6 calendar-year basis, so when we do the forecast, we
7 include a full year projection, so it would include a
8 piece of actuals as well as a piece of forecast.

9 Q. Okay. And do you know who develops the
10 UCAP number? Is there a particular group that
11 develops that number?

12 A. I know where I got the number from, but I
13 don't know if there is a specific group that's part
14 of their responsibility.

15 Q. Now, in -- in preparing this exhibit, am
16 I correct that you made an assumption regarding PJM
17 capacity prices on the line that says "PJM capacity
18 price dollar per megawatt-day"?

19 A. Yes, sir, that's correct.

20 Q. And you made an assumption for the
21 balance of 2018?

22 A. Yes, sir, that's correct.

23 Q. Can you describe that assumption for us,
24 please?

25 A. So that assumption was -- I just used an

1 average of the published prices for the PJM capacity
2 auctions that had already cleared for the prior
3 either 10 or 11 years.

4 Q. And when we're talking about the balance
5 of 2018, we are talking about June through December,
6 2018.

7 A. That's correct, yes, sir.

8 Q. And otherwise for the timeframes, I think
9 we've already discussed in this proceeding, that the
10 PJM capacity prices reflect the actual prices, is
11 that correct, prior to that time?

12 A. That's correct, yes, sir.

13 Q. And the average you used would have been
14 the average of all the historical cleared auction
15 prices from PJM from 2007 to -- from the 2007-'8 year
16 to the 2017 to '18 BRA period?

17 A. That's correct, yes, sir.

18 Q. And in terms of the revenue numbers
19 reflected where it says "Revenue dollars," "Energy,"
20 "Capacity," do you see that?

21 A. Yes, sir, I do.

22 Q. Was that -- were those numbers the result
23 of Mr. Zhang's model and the forecast you referenced
24 earlier, the 5 by 7 numbers?

25 A. The line item titled "Energy," those

1 revenues would have come from Mr. Zhang's model.

2 Q. Okay. Would those numbers for the entire
3 period have come from Mr. Zhang's numbers?

4 A. Yes, sir.

5 Q. Okay. And what about the capacity
6 numbers, would that simply have been a multiplication
7 of the PJM capacity prices through 2018 times the
8 forecasted -- explain what those capacity revenues
9 would be.

10 A. So the capacity revenues then would be
11 the UCAP multiplied by the PJM capacity price, times
12 365 days as a basis for the calendar year.

13 Q. Okay. Now, the -- the workpapers that
14 lie behind the energy prices and behind the energy
15 revenues shown on that line, are those reflected on
16 the succeeding pages, pages -- the volumes are shown
17 on pages 2 through -- 2 through 6, is that correct, 2
18 through 5, and the revenues are shown on pages 6
19 through -- 6 through 10; is that correct?

20 A. For the 2015 through 2018 time period,
21 that's correct.

22 Q. Okay. And were those numbers developed
23 by Mr. Zhang?

24 A. Those are model outputs from the model,
25 so when you say "developed," I would say yes.

1 Q. Okay. And you don't know the pricing
2 that was used in the model to develop these model
3 outputs; is that correct?

4 A. That's correct.

5 Q. Now, with respect to page 11 through 15
6 that says at the bottom "2014 5 by 7 cogs." Do you
7 see that?

8 A. Yes, sir, I do.

9 Q. Does that refer to -- does "cogs" stand
10 for cost of goods sold?

11 A. That's correct, yes, sir.

12 Q. Do you know what "cost of goods sold"
13 means in this context?

14 A. This would be the cost of the energy.

15 Q. So if we look on page 1 of the Exhibit
16 4a, that would be under "Costs," "Energy," that line?

17 A. That's correct, yes, sir.

18 Q. And these would be the numbers for the
19 period 2015 through 2018; is that correct?

20 A. Correct, yes, sir.

21 Q. And these also were developed based upon
22 forecasts of Mr. Zhang and his group?

23 A. Correct, yes, sir.

24 Q. And you don't know the costs that were
25 utilized, you don't know how those costs were

1 developed or what the costs actually were, is that
2 correct, other than the information reflected here?

3 A. My high-level understanding is these
4 costs come from OVEC. They provide, on the billable
5 cost summary, a dollar per megawatt-hour cost. It
6 was my understanding that those are used in the
7 model. But that's a high-level understanding, so
8 there may be -- I don't know if they make any
9 modifications to those or not.

10 Q. Okay. So you don't know whether -- what
11 numbers, what particular forecast or billable cost
12 summary that Mr. Zhang used when he prepared these
13 numbers?

14 A. Correct, I do not.

15 Q. Now, the next page of this exhibit,
16 page 17, it says "output," do you see at the bottom
17 left it says "output using eva curves."

18 A. Yes, sir.

19 Q. And I think earlier in this case we
20 discussed that "EVA" stands for Energy Ventures
21 Analysis which is an analysis group?

22 A. Yes, that's correct.

23 Q. And you're not familiar with how they
24 develop their curves, are you?

25 A. I am not, no, sir.

1 Q. And they develop those curves just for
2 the period 2019 to 2024 for purposes of this exhibit;
3 is that correct?

4 A. That's correct.

5 Q. And with respect to the OVEC budget, you
6 included pages 18 and 19 related to the OVEC budget
7 for the period 2015 to 2024; is that correct?

8 A. That's correct, yes.

9 Q. Now, this was an OVEC budget that was
10 published, I think it indicates in December of 2013.
11 You just obtained this document through OVEC; is that
12 correct or through somebody else who obtained it from
13 OVEC?

14 A. Yeah. I would say somebody else who
15 obtained it from OVEC.

16 Q. Okay. And you just accepted the numbers.
17 You haven't evaluated the accuracy of those numbers
18 in any way, have you?

19 A. That's correct, I have not.

20 Q. And do you know when you -- when you
21 obtained this document, the OVEC numbers?

22 A. It probably would have been either
23 December of 2013 or January of 2014, somewhere in
24 that timeframe when we were setting the budget.

25 Q. Now, do I understand correctly that the

1 only number that you independently developed in
2 Exhibit 4a in OCC Exhibit 4a, 4 and 4a, is the -- the
3 PJM capacity price for the balance of 2018, for June
4 through December of 2018, you developed that number.

5 A. That's correct, yes, sir.

6 Q. And other than that number, you did put
7 together a spreadsheet that reflected summation of
8 numbers that you were provided by other -- by
9 Mr. Zhang and his group and by OVEC and the summation
10 of that information is reflected on the first page of
11 the exhibit; is that correct?

12 A. That's correct, yes. I would say I
13 compiled the data.

14 Q. Okay. But, otherwise, other than for the
15 PJM capacity price for the period from June through
16 December of 2018, you performed no analysis of the
17 data; is that correct?

18 A. That's correct.

19 Q. Do you have access to the commercial
20 business model for -- if you want to run your own
21 scenario?

22 A. I do not.

23 Q. And who would you normally ask to run a
24 scenario for you if you wanted to find out what the
25 outputs were with -- from particular inputs? Would

1 you ask somebody in Ben Zhang's group?

2 A. It would be somebody in Mr. Zhang's
3 group.

4 Q. In preparing OCC Exhibit 4a, would you
5 have asked to -- would you have asked a particular
6 individual can you put these inputs into your
7 commercial business model and tell me what the -- or
8 produce for me the results?

9 A. As far as any particulars, no. The only
10 caveat I would say is, again, for the 2019 through
11 2024 period, you know, the request was to make a run
12 using the set of fundamental curves, but as far as
13 individual -- what those curves are and each
14 individual value from those curves, I would not
15 have -- I would not have made that type of request.

16 Q. Okay. So your request to Mr. Zhang's
17 group was simply to run the commercial business model
18 and provide you with -- with the outputs of the model
19 as it was presently -- as it -- including the current
20 forecasted fundamental assumptions and forward
21 curves; is that correct?

22 A. That's a fair statement, yes, sir.

23 Q. So the output you would have been
24 provided would have been outputs that were
25 reflected -- reflected information that the

1 commercial business model had in place in July of
2 2014; is that correct?

3 A. That's correct, yes.

4 Q. And you have no information regarding the
5 inputs to the commercial business model and cannot
6 individually attest to the -- to the validity of the
7 inputs to the commercial model; is that correct?

8 A. That's correct, yes, sir.

9 Q. Now, as I understand it, this was the
10 first time where you specifically requested analysis
11 just of the OVEC units; is that correct?

12 A. No. So this analysis would have
13 incorporated or encompassed all of our generating
14 assets so it wasn't specific for OVEC.

15 Q. Okay. And was this the first analysis
16 you produced in this proceeding? You didn't produce
17 an analysis, prior to the July analysis, relating to
18 the OVEC assets that's reflected on OCC Exhibit 4a,
19 page 1?

20 A. That's correct, I did not.

21 Q. Did you do a similar analysis in 2013?

22 A. No, sir, I did not.

23 MR. BERGER: Just one minute, your Honor.

24 Q. Would you agree with me you've developed
25 cash flows for OVEC in prior analyses not necessarily

1 for this particular time period?

2 A. Yes, sir. We have the data to do that.

3 Q. And you haven't specifically prepared
4 what you've termed an "OVEC analysis" before; is that
5 correct?

6 A. That's correct.

7 Q. You did not produce any analysis that you
8 prepared previously of OVEC cash flow in this
9 proceeding, did you?

10 A. I did not, no, sir.

11 MR. BERGER: That's all the questions I
12 have for Mr. Dougherty on the public record, your
13 Honor.

14 Thank you, Mr. Dougherty.

15 EXAMINER PIRIK: Ms. Hussey.

16 MS. HUSSEY: No questions, your Honor.

17 EXAMINER PIRIK: Ms. Bojko.

18 MS. BOJKO: Thank you, your Honor.

19 - - -

20 CROSS-EXAMINATION

21 By Ms. Bojko:

22 Q. Good afternoon, Mr. Dougherty.

23 A. Good afternoon.

24 Q. You stated in response, and I apologize,
25 I am not going to try to repeat, but some questions

1 need foundation. So you state in response to
2 Mr. Berger that you, except for the calculation of
3 the partial 2018 capacity price year, that you didn't
4 provide any numbers, you just compiled the numbers
5 from other individuals and put them in this
6 spreadsheet; is that right?

7 A. That would be the only number I
8 developed, yes.

9 Q. Okay. But then you also ran the
10 spreadsheet; isn't that correct? Meaning that you
11 ran some of the calculations to get some of the --

12 A. So I --

13 Q. -- lines?

14 A. I would have put the calculation in --
15 the calculation of the capacity, so if you want to
16 call that "running," yes, ma'am.

17 Q. Well, some of the -- some of the line
18 items on OCC Exhibit 4 are a result of a calculation
19 performed within the spreadsheet; is that right?

20 A. Yes, ma'am, correct.

21 Q. Okay. And I believe that you have
22 explained to us that this was done in July, 2014; is
23 that right?

24 A. Yes, ma'am.

25 Q. Okay. And I don't think Mr. Berger asked

1 it quite this way, but Duke did not prepare any other
2 such document prior to Duke filing its ESP
3 application in May of 2014; is that right?

4 MS. KINGERY: Objection. Asked and
5 answered.

6 EXAMINER PIRIK: Overruled.

7 A. That's correct, yes, ma'am.

8 Q. And you stated that you have the data to
9 do that, I think was the phrase that you used,
10 meaning that you have the data necessary to do an
11 OVEC-type analysis and pull it away from other
12 generating units, you just have not previously done
13 it; is that correct?

14 A. That's correct, yes, ma'am.

15 Q. And looking at OCC Exhibit 4a, when you
16 run the model or put the inputs in the spreadsheet,
17 the result output, the cash flow line on the OCC
18 Exhibit 4a, is that exact result, is that correct,
19 that's an output line from your spreadsheet
20 calculations?

21 A. Yes, that's correct.

22 Q. And so that this cash flow is a resulting
23 calculation or the net of the revenues and the costs;
24 is that correct?

25 A. That's correct, yes, ma'am.

1 Q. And this gives you either a positive or
2 negative number; is that correct?

3 A. Yes, ma'am, that's correct.

4 Q. And on your spreadsheet, the parentheses
5 indicates a negative number; is that accurate?

6 A. That's correct, yes, ma'am.

7 Q. And this would be the amount of money, if
8 it is represented in the negative form, this would be
9 the amount of money that would be needed to be
10 collected from customers via the PSR rider; is that
11 correct?

12 A. From my understanding of the PSR rider,
13 that is correct, yes, ma'am.

14 Q. And you called the cash flow line neither
15 a net cost or net benefit; is that correct?

16 A. I think that's a fair way to label it,
17 yes, ma'am.

18 Q. And when you performed the OVEC analysis,
19 you did it on a calendar-year basis; is that correct?

20 A. That's correct, yes, ma'am.

21 Q. You are familiar with Duke's application
22 in this case? Are you familiar?

23 A. Only at a very high level in terms of the
24 OVEC piece of it, so.

25 Q. Well, you did actually provide responses

1 to discovery in this case; is that correct?

2 A. I did, yes, ma'am.

3 Q. And you are familiar with the purpose of
4 the exhibit, OCC Exhibit 4a that you were asked to
5 create; is that correct?

6 A. I would say yes, ma'am.

7 Q. And, sir, looking just at the cash flow
8 line which is -- are public numbers, during the ESP
9 period, the cash flow model that you created results
10 in a net charge or cost to customers; is that
11 correct?

12 A. That's correct, yes, ma'am.

13 Q. And if we were to calculate the entire
14 cash flow line for the entire period of your
15 analysis, the result is a net charge of costs to
16 customers; is that correct?

17 A. Subject to check, I think it's slightly
18 negative, yes, ma'am.

19 Q. Okay. In looking at the OCC Exhibit 4,
20 the "Capacity" label provided in the document, that
21 is OVEC's rated installed capacity; is that correct?

22 A. Yes, ma'am.

23 Q. And, I'm sorry, I think you said that
24 number came from Mr. Jennings; is that what you said?

25 A. I think the overall capacity, the 203,

1 that capacity number is available in public sources.
2 Mr. Jennings would have been -- I would have gotten
3 the UCAP number as part of his work.

4 Q. Thank you for that clarification.

5 And the UCAP is projected capacity after
6 assuming forced outages; is that your understanding?

7 A. That's my understanding, yes, ma'am.

8 Q. Do you know whether the forced outage
9 number includes all outages, planned and forced
10 maintenance outages?

11 MS. KINGERY: I am going to object. This
12 witness is not an expert on capacity and how the UCAP
13 is calculated.

14 EXAMINER PIRIK: He can answer if he
15 knows.

16 A. I'm not positive.

17 Q. I'm sorry. I didn't hear your response.

18 A. I'm not positive.

19 MS. BOJKO: Your Honor, may I approach?
20 I am going to be looking at OCC Exhibit 30. I am
21 going to apologize, since Mr. Dougherty was scheduled
22 to go on the stand days ago, I made copies of a
23 document prior to it already being admitted as
24 somebody else's exhibit, as well as prior to the
25 confidential decisions being made, so I don't have

1 copies of the confidential result.

2 EXAMINER PIRIK: Okay.

3 MS. BOJKO: So I think it was just the
4 numbers, if I recall correctly.

5 EXAMINER PIRIK: Let's see.

6 MS. BOJKO: OCC Exhibit 30. Do you have
7 a redacted version?

8 MS. KINGERY: This is 16-417?

9 MS. BOJKO: Yes.

10 MS. KINGERY: Yes, I do. The highlighted
11 numbers are redacted.

12 Q. There's two pages, so I'm handing you the
13 one that was -- the entire exhibit that does not show
14 any -- this shows it as all being confidential, but
15 here are the numbers that were deemed confidential.

16 A. Okay.

17 Q. Sir, do you have in front of you what has
18 previously been marked as OCC Exhibit 30?

19 A. Yes, ma'am.

20 Q. And, sir, is this discovery response
21 OCC-INT-16-417?

22 A. Yes, ma'am.

23 Q. Would you turn to the second page of this
24 discovery response. And your name is listed on -- as
25 one of the responders; is that correct?

1 A. Yes, ma'am.

2 Q. Okay. And without revealing any
3 confidential information, this discovery response
4 discusses the UCAP calculation and talks about it
5 being forced outages; is that correct?

6 A. That's correct, yes, ma'am.

7 Q. And it states that there were outage
8 assumptions in -- is the date confidential?

9 MS. KINGERY: No. I don't believe so.

10 Q. Okay. It says for 2016 and '17, it
11 includes outage assumptions; is that right?

12 A. That's what it says, yes, ma'am.

13 Q. And also, sir, for 2015 and '16 auction,
14 it states that Duke's "entitlement to OVEC was
15 treated as part of the overall portfolio and no
16 attempt was made to reflect assumptions about forced
17 outages"; is that correct?

18 A. That's what it reads, yes, ma'am.

19 Q. So it appears in 2016 and '17 Duke began
20 recognizing forced outages; is that accurate?

21 A. I think that's a fair interpretation.

22 Q. Okay. Okay. Sir, and the reduction from
23 2016-'17 year to 2017-'18 in the amount of capacity
24 that cleared was due to the EFOR rates and the lower
25 ICAP values; is that correct?

1 A. Correct. And that's what it reads, yes,
2 ma'am.

3 Q. Okay. And if we look at OCC Exhibit 4a,
4 on this document we see the capacity bid and the
5 number cleared in 2015 and '16; is that accurate?

6 A. Can you please repeat that? I'm sorry.

7 Q. Sure. The capacity number, we see that
8 it's the capacity that's bid and cleared into the
9 2015-'16 auction, is that right, on what would be
10 reflected on 4a?

11 A. So the number on 4a is a number we had
12 used in the forecast. I don't know -- it doesn't
13 look like that's specifically what would have
14 cleared.

15 Q. Okay. Well, let's talk about -- you are
16 talking about the capacity total at the top?

17 A. The UCAP?

18 Q. Right. And the capacity, you are talking
19 about the UCAP number was your response?

20 A. Yes, yes, ma'am.

21 Q. Okay. So when you say it was a number,
22 it's a -- it's a historic number that has not been
23 updated based on the recent auctions; is that
24 correct?

25 A. That's correct.

1 Q. So we also don't know the 2016-'17
2 capacity that cleared on your forecast; is that
3 correct?

4 A. Correct. We would have just used the
5 one -- the number on the UCAP number.

6 Q. Okay. And the same would be true for
7 2017 and '18?

8 A. Yes, ma'am.

9 Q. Okay. So for all the years the UCAP
10 number is the same number that you -- is a historical
11 number and you use that for every year?

12 A. Yes, ma'am, correct.

13 MS. BOJKO: I'm sorry, your Honor. I am
14 just making sure we get the proper exhibit reference
15 instead of marking new exhibits.

16 EXAMINER PIRIK: That's a good plan.

17 MS. BOJKO: Your Honor, two data
18 responses that I would like to use at this time
19 appear to be in Mr. Wilson's -- attached to
20 Mr. Wilson's testimony, so I think the way you have
21 been handling that would be for me to mark
22 Mr. Wilson's testimony and then just refer to
23 attachments to his testimony?

24 EXAMINER PIRIK: Yes. Are you certain
25 that they are the exact attachment?

1 MS. BOJKO: Yes, your Honor.

2 EXAMINER PIRIK: Okay. So OCC would mark
3 this his testimony?

4 MR. BERGER: Pardon?

5 EXAMINER PIRIK: OCC would mark his
6 testimony and then we will refer to the attachment?

7 MR. BERGER: Yes. We can mark his
8 testimony as OCC Exhibit 43 and 43a.

9 EXAMINER PIRIK: The document is so
10 marked.

11 (EXHIBITS MARKED FOR IDENTIFICATION.)

12 MS. BOJKO: Thank you, your Honor. May I
13 approach?

14 EXAMINER PIRIK: Yes.

15 MS. BOJKO: I have copies, your Honor, if
16 that makes it easier. The exhibit label will just
17 have to be corrected.

18 MR. BERGER: Your Honor, I would note
19 this is referenced -- sorry.

20 EXAMINER PIRIK: Hold on just a minute
21 until we get everybody copies.

22 Okay. Mr. Berger, which attachments are
23 these in?

24 MR. BERGER: They are -- it's part of
25 attachment JFW-3, pages 36 through page 41 of that

1 attachment.

2 EXAMINER PIRIK: So it's not a full
3 attachment.

4 MR. BERGER: I thought they were.

5 EXAMINER PIRIK: It's a full attachment
6 but it's part of one of his attachments.

7 MR. BERGER: Yes. It's part of one of
8 his attachments.

9 EXAMINER PIRIK: I think in order to be
10 clear, I think we need to mark these separately since
11 it's small portions of an overall attachment that has
12 alleged confidential information in it, it would be
13 easier to go with these as OMA exhibits.

14 MS. BOJKO: Okay. Thank you, your Honor.
15 At this time I would like to mark these as OMA
16 Exhibit 3 will be OCC Interrogatory 16-420, and then
17 OMA Exhibit 4 would be OCC Interrogatory 16-421.
18 Those would be the public versions. Then I would
19 like to mark the confidential versions. OMA Exhibit
20 3a will be the confidential version of OCC
21 Interrogatory 16-420, and 4a would be the
22 confidential version of OCC Interrogatory 16-421.

23 Your Honor, based on your prior request,
24 I did provide Duke's counsel with copies of these
25 prior to the cross-examination. I believe she's had

1 time to look at the confidentiality portions.

2 MS. KINGERY: Yes, your Honor.

3 EXAMINER PIRIK: Yes, Ms. Kingery.

4 MS. KINGERY: Yes. And both of these are
5 quite similar. I'll talk about OMA 3a, and there's
6 nothing on page 1 that would be confidential.

7 Page 2, the numbers in the two tables
8 showing forced outage rates and the maintenance
9 outage rates, those numbers would be confidential.

10 And on page 3 the projected coal costs
11 numbers in the table at the top would be confidential
12 as would be the "Projected Non-Coal Costs" in the
13 table at the bottom.

14 EXAMINER PIRIK: Just the last column or
15 the -- all the numbers?

16 MS. KINGERY: All of the numbers, yes. I
17 said "Non-Coal Costs" just because it's the title of
18 the table. And OMA 4a would be exactly corresponding
19 to that. One relates to Kyger Creek and one relates
20 to Clifty Creek.

21 EXAMINER PIRIK: And your argument?

22 MS. KINGERY: Yes. The forced outage and
23 maintenance outage ratings are not released. They
24 are kept confidential by OVEC. And we maintain them
25 as such, as well, inside Duke.

1 The projected coal cost is competitively
2 sensitive as that information is looking forward from
3 2015 through '24 and could impact then the ability of
4 OVEC to obtain good competitive prices for the coal
5 in the market.

6 And as to the noncoal costs that are
7 identified in the final chart, those are similarly
8 competitive, competitively sensitive costs, and
9 certainly ones that indicate forward-looking
10 assumptions and plans for OVEC.

11 EXAMINER PIRIK: Any responses?

12 MR. BERGER: No response, your Honor.

13 EXAMINER PIRIK: The motion for
14 protective order as described by Ms. Kingery in 3a
15 and 4a will be granted.

16 MS. KINGERY: Thank you, your Honor.

17 (EXHIBITS MARKED FOR IDENTIFICATION.)

18 EXAMINER PIRIK: Ms. Bojko.

19 MS. BOJKO: Thank you, your Honor.

20 Q. (By Ms. Bojko) Sir, do you have what's
21 been previously marked as OMA Exhibit 3 in front of
22 you which is OCC-INT-16-420?

23 A. Yes, ma'am, I do.

24 Q. Okay. And, sir, do you recognize this
25 document as being a discovery response from the

1 company?

2 A. Yes, ma'am, I do.

3 Q. And if you look at the person responsible
4 on page 3, you are listed as one of the people
5 responsible; is that correct?

6 A. That's correct.

7 Q. And as far as OMA Exhibit 3 goes, this
8 appears to be forced outage rates and data for the
9 Clifty Creek OVEC generating unit from 2015 to '24;
10 is that correct?

11 A. For part A.

12 Q. And then in part B it appears to be a
13 maintenance outage rate for Clifty Creek from the
14 same years 2015 to -24; is that correct?

15 A. Well, both of those are part A. I guess
16 the table has kind of a top section and then a bottom
17 section, but you are correct, yes, ma'am.

18 Q. Thank you for clarifying that.

19 And then if you turn to page 3, the
20 discovery response provides projected coal costs for
21 the Clifty Creek generating unit; is that correct?

22 A. That's correct.

23 Q. And then in g. there is a projected
24 noncoal costs in that table; is that correct?

25 A. Correct, yes, ma'am.

1 Q. And, sir, I believe if you look at what's
2 been previously marked as OMA Exhibit 4, this is a
3 very similar response from Duke regarding the Kyger
4 Creek generating OVEC unit; is that correct?

5 A. That is correct, yes, ma'am.

6 Q. And if I were to ask you all the
7 questions I just asked you regarding the table that
8 appears in the Clifty Creek response, your responses
9 would be the same for Kyger Creek; is that correct?

10 A. That's correct, yes, ma'am.

11 Q. And what these two responses show is that
12 Duke did provide forced and projected outage rates;
13 is that accurate?

14 A. So these are the outage rates that are in
15 the model, but, honestly, I don't know whether they
16 were just sourced from OVEC or whether they were
17 somebody that -- someone on Mr. Zhang's team would
18 have put in.

19 Q. Okay. You don't know whether these are
20 OVEC corporation's forced outage and maintenance
21 outage rates and coal costs or whether these were
22 created internally or projected internally by Duke;
23 is that correct?

24 A. I specifically do not know that, that's
25 correct.

1 Q. And if we look at the discovery response.

2 EXAMINER PIRIK: Ms. Bojko, could you
3 turn your microphone on, please.

4 Q. And if we look at the discovery response,
5 it doesn't appear that you can ascertain that
6 information either, does it?

7 A. That's correct. There is nowhere in
8 there where it specific -- specifies the source.

9 Q. However, if you look at the response to
10 b., it does say that the answering further would --
11 would not be in the custody and control of Duke, and
12 Duke actually directs you to an OVEC website; is that
13 correct?

14 A. The response b., yes, does indicate that.

15 MS. KINGERY: Your Honor, I would note,
16 just for the record, Mr. Dougherty is not identified
17 as the person responsible for paragraph b.

18 Q. Sir, did you do any calculations with
19 regard to the cash flow analysis from OCC Exhibit 4
20 that results for the electric security plan year June
21 2015 through May 31, 2018?

22 A. Yes, ma'am.

23 MS. BOJKO: Your Honor, I have another
24 discovery response that is similarly in Mr. Wilson's
25 testimony, but based on your prior ruling we will

1 mark that separately as OMA Exhibit 5.

2 EXAMINER PIRIK: The document is so
3 marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MS. BOJKO: Which will be discovery
6 response OCC-INT-16-413. May I approach?

7 EXAMINER PIRIK: Yes.

8 MS. KINGERY: And just so we can be
9 clear, Ms. Bojko, are you talking about just the
10 public response since you just identified a "5" or is
11 it going to be the public and the confidential?

12 MS. BOJKO: I'm sorry. There will
13 obviously be a confidential version as well, so the
14 confidential we'll mark OMA Exhibit 5a. Thank you.

15 EXAMINER PIRIK: Thank you.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 Q. (By Ms. Bojko) Sir, do you have in front
18 of you OCC -- or, OMA Exhibit 5 which is OCC
19 Interrogatory 16-413?

20 A. Yes, ma'am, I do.

21 EXAMINER PIRIK: With regard to the
22 confidential piece of it, Ms. Kingery?

23 MS. KINGERY: Yes, thank you, your Honor.

24 The first page of this exhibit is merely
25 the public version of the interrogatory response so

1 there is nothing there that's confidential.

2 The second page is the confidential
3 version. The first two pages of that are simply the
4 textual response have nothing in them that's
5 confidential, but the attachments which start in
6 the -- on the fourth page of the exhibit that
7 Ms. Bojko passed out, does start to have confidential
8 information. And here, this is the same information
9 that we've kept confidential on OCC 4, just
10 reorganized into ESP years instead of calendar years.

11 And the following pages are, if I read
12 them correctly, splitting those same cost categories
13 and revenue categories into months. So we would
14 propose that the UCAP number on each one of these
15 pages be redacted as well as all of the remainder of
16 the numbers within the tables except for the line
17 labeled "cash flow." Cash flow would be public.

18 EXAMINER PIRIK: Any responses?

19 MS. BOJKO: Yes, your Honor. I
20 believe -- I believe the capacity numbers would not
21 be because they are already produced at least for a
22 year.

23 MS. KINGERY: Agreed.

24 MS. BOJKO: Year one and year two and
25 year three.

1 MS. KINGERY: Yes, agreed. The nameplate
2 capacity, that first line, is public. It's only the
3 UCAP that's confidential with regard to capacity.

4 MS. BOJKO: No, I'm talking about the PJM
5 capacity prices.

6 MS. KINGERY: Okay. I misunderstood,
7 yes, you're correct. So in the ESP Year 1, Year 2,
8 and Year 3, because they are ESP years, that would be
9 public.

10 EXAMINER PIRIK: Okay. So looking at
11 page 1 of 11 of the attachment, the line -- the
12 numbers on the line titled "PJM capacity" are open,
13 all three numbers?

14 MS. KINGERY: Yes, your Honor.

15 EXAMINER PIRIK: Okay. What about the
16 remaining pages?

17 MS. KINGERY: Give me just a moment.

18 The PJM capacity line would be public up
19 through, if you look on page 5 of 11, there's a
20 column labeled "May 2018," that would be the end of
21 the public.

22 EXAMINER PIRIK: So the first two
23 numbers, the one under "April 2018" and "May 2018,"
24 under "PJM capacity" those two numbers are open?

25 MS. KINGERY: Correct.

1 EXAMINER PIRIK: And the remainder are
2 closed?

3 MS. KINGERY: Correct. And then from
4 there forward in the exhibit, that line would be
5 redacted.

6 MS. BOJKO: And, I'm sorry, except for
7 the cash flow analysis line?

8 MS. KINGERY: Absolutely. I was just
9 talking about that line.

10 MS. BOJKO: Okay.

11 MS. KINGERY: Cash flow would be open
12 throughout.

13 EXAMINER PIRIK: Are there any comments,
14 any response?

15 Hearing none, the requested protective
16 order shall be granted.

17 MS. KINGERY: Thank you, your Honor.

18 EXAMINER PIRIK: Thank you.

19 Q. (By Ms. Bojko) Sir, if you turn to page 2
20 of the discovery response which is really, I guess,
21 page 3 of your packet, there's two page 1s. Do you
22 see that, sir? Are you at page 2 where it says you
23 are the responsible person for this discovery
24 response?

25 A. Yes, ma'am.

1 Q. And, sir, if you compare page 1 of 11 to
2 OCC Exhibit 4a, some of the numbers in this analysis
3 appear to be different than the numbers in what I'll
4 call July, 2014, OVEC analysis. Do you understand
5 when I say "July, 2014, OVEC analysis" I am talking
6 about the OCC Exhibit 4a?

7 A. I do.

8 Q. Let's step back for a minute. When was
9 the discovery -- the ESP years, the OVEC analysis for
10 the ESP term, when was that completed?

11 A. Same time from same dataset.

12 Q. It was completed in July of 2014?

13 A. July of 2014.

14 Q. And that -- even though the data response
15 is dated September 8, 2014, you believe that this
16 chart was created in July of 2014?

17 A. It's created from the same dataset, so
18 that would be my interpretation that -- I guess
19 specifically if we're saying when was this specific
20 response created, it would have been later in the
21 year, yes.

22 Q. So you believe the data came from the
23 July, 2014, OVEC analysis, that those data -- that
24 data appears to be the same, but this specific chart,
25 it was probably created specifically in response to

1 this data request?

2 A. Yes, ma'am, that's correct.

3 Q. And that's dated September 8?

4 A. That is, yes, ma'am.

5 Q. Okay. But if we look at some -- so you
6 believe the number should be the same on these two
7 documents.

8 A. Well, they won't be the same because they
9 are presented in different time periods, but they
10 came from the same dataset.

11 Q. Okay.

12 A. So taking an entire dataset and rolling
13 it up into two different formats.

14 Q. And just so the record's clear, you're
15 saying that OCC Exhibit 4a was done on a
16 calendar-year basis, and because what's now been
17 marked OMA Exhibit 5, it was done on an ESP-year
18 basis, that some of the numbers are going to be
19 different; is that correct?

20 A. That's correct, due to the fact that the
21 ESP-year basis does not coincide specifically with
22 the calendar-year basis.

23 Q. Okay. And you, when you say "ESP
24 Year 1," you're stating that it would be June 1,
25 2015, and then that would go through May 31, 2016; is

1 that correct?

2 A. That's correct, yes, ma'am.

3 Q. And, similarly, it will be a June to May
4 for each of the subsequent ESP years?

5 A. That's correct, yes, ma'am.

6 Q. So you had to take portions of calendar
7 years in order to create those -- those data numbers;
8 is that accurate?

9 A. Correct, yes, ma'am.

10 Q. Okay. And, sir, based on OMA Exhibit 5,
11 it's your understanding or the analysis reflects that
12 the result of the -- during the ESP term the result
13 on your OVEC analysis is that it would be a negative
14 cash flow which means a charge to customers; is that
15 correct?

16 A. That's correct, yes, ma'am.

17 Q. Okay. And if we can go back to OCC
18 Exhibit 4, it's your understanding that the
19 generation volumes listed on OCC Exhibit 4 are
20 economic generation?

21 A. That's correct, yes, ma'am.

22 Q. So it's your understanding that the PJM
23 capacity line item on the OVEC analysis is a forecast
24 that was conducted by the external vendor EVA and the
25 internal forecast by Mr. Jennings; is that right?

1 A. Starting in 2019, that's an average, yes,
2 ma'am, of those two.

3 Q. Okay. And so, it's your understanding
4 that -- did you personally receive one EVA forecast
5 analysis and one Mr. Jennings' forecast and then you
6 did that calculation to average the two?

7 A. That's correct, yes.

8 MS. BOJKO: If you would give me one
9 minute, your Honor, I think I might be finished.
10 Actually, I have one more document I would like
11 marked as OMA Exhibit 6. It would be the public
12 version of OCC-INT-18-428.

13 EXAMINER PIRIK: The document is so
14 marked.

15 MS. BOJKO: And then there would be a
16 confidential version which would be OMA 6a of that
17 same interrogatory response.

18 EXAMINER PIRIK: It will be so marked.

19 (EXHIBITS MARKED FOR IDENTIFICATION.)

20 MS. BOJKO: May I approach?

21 EXAMINER PIRIK: Yes.

22 MS. BOJKO: Similarly, your Honor, I did
23 provide a copy to Duke's counsel regarding the
24 confidential treatment.

25 MS. KINGERY: Yes, your Honor.

1 EXAMINER PIRIK: Ms. Kingery.

2 MS. KINGERY: And the only things we
3 would ask to be redacted would be the actual
4 numerical information in the responses to parts a.
5 through f. This is information that is not
6 publicized in any -- in any regard by Duke Energy,
7 it's maintained as confidential, and the item in
8 paragraph f., I would note, is also forecasted.

9 EXAMINER PIRIK: Any responses?

10 The motion for protective order will be
11 granted.

12 MS. KINGERY: Thank you, your Honor.

13 Q. (By Ms. Bojko) Sir, do you have what's
14 been marked as OMA Exhibit 6 in front of you?

15 A. I do, yes, ma'am.

16 Q. And is that a discovery response from
17 Duke Energy Ohio for OCC-INT-18-428?

18 A. Yes, ma'am.

19 Q. And do you recognize this document?

20 A. I do, yes, ma'am.

21 Q. And you participated in -- you were one
22 of the responsible parties for this document?

23 A. I was, yes, ma'am.

24 Q. And this document was -- is dated
25 September 12 of 2014; is that correct?

1 A. That's correct, yes, ma'am.

2 Q. And this document reflects the capacity
3 revenue that Duke Energy Ohio has received from 2009
4 through 2013 for Duke's OVEC entitlement; is that
5 correct?

6 A. Yes, ma'am, that's correct.

7 Q. And then there's a forecasted number for
8 2014; is that correct?

9 A. That's correct, yes, ma'am.

10 MS. BOJKO: Your Honor, I have no further
11 questions. Thank you.

12 EXAMINER PIRIK: Thank you.

13 Ms. Kyler.

14 MS. KYLER COHN: No questions, your
15 Honor.

16 EXAMINER PIRIK: Mr. Olikar.

17 MR. OLIKER: Just a few, your Honor, in
18 the public record. Before I get started, how long do
19 you think we'll go, your Honor?

20 EXAMINER PIRIK: Let's take a -- go off
21 the record.

22 (Discussion off the record.)

23 EXAMINER PIRIK: We'll go back on the
24 record.

25 MR. OLIKER: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Oliker:

Q. Good afternoon, I guess it is afternoon,
good afternoon, Mr. Dougherty.

A. Good afternoon, sir.

Q. My name is Joe Oliker and I represent IGS
Energy.

A. Nice to meet you.

Q. Just a few questions for you today. I
think earlier you mentioned you are part of the
Midwest Commercial Generation Group?

A. I support the Midwest Generation Group,
yes, sir.

Q. And the responsibility of Midwest
Commercial Generation historically has been to manage
Duke Energy Ohio's interests in its generating
assets, correct?

A. That's fair, yes, sir.

Q. And it's fair to say the Midwest
Commercial Generation Group does not have any
influence on Duke's distribution assets.

A. To the best of my knowledge, that's true.

Q. Okay. So that group is solely focused on
competitive services?

A. That's true, yes, sir.

1 Q. Okay. And there's been some discussion
2 about a cash flow analysis that you performed. I
3 believe it's been marked as OCC Exhibit 4.

4 A. Yes, sir.

5 Q. And 4a. Now, just briefly, if you look
6 at the UCAP values and understand the mechanics of
7 this, if you were to increase the UCAP value, there
8 would be additional revenue reported on the capacity
9 revenue line, correct?

10 A. That's correct.

11 Q. And if you reduce the UCAP level, then
12 there would be less revenue reported on the capacity
13 revenue line.

14 A. That's correct.

15 Q. Thank you.

16 And you are familiar with the EPA's
17 proposed rules regarding limits on carbon emissions
18 for existing power plants, correct?

19 A. I know rules have been prepared, but as
20 far as specifics, I don't know the specifics of them,
21 sir.

22 Q. But you would agree that the cash flow
23 projection marked as OCC Exhibit 4, contains an
24 impact for proposed CO-2 regulation, correct?

25 A. In the sense that there is a price for

1 carbon included in there, yes, that's correct.

2 Q. Okay. And we'll try not to get down to
3 the details on that so we don't cross the line of
4 confidential, but I just wanted to make sure we got
5 that, okay?

6 You would agree that one of the impacts
7 of CO-2 regulation for existing power plants is it
8 could potentially limit the amount of megawatt-hours
9 that a coal-fired power plant could produce?

10 A. Potentially, yes, sir.

11 Q. And you would agree that the proposed
12 carbon rules for existing power plants will affect
13 coal-fired power plants the most.

14 MS. KINGERY: Objection. Your Honor, the
15 witness just said that he is not particularly aware
16 of details regarding any environmental legislation.
17 He was aware only that it existed.

18 EXAMINER PIRIK: If he knows, he can
19 answer.

20 A. So I would say that power produced from
21 coal power plants is probably the most carbon
22 intensive as compared to the major generation
23 sources, so to the extent there are carbon
24 legislation rules that coal plants in general are
25 probably going to be affected more than most.

1 Q. Thank you, Mr. Dougherty.

2 MR. OLKER: Jeanne, if I cross over into
3 anything that you think is confidential, please
4 interrupt the witness before he responds. I am just
5 trying to get as much as I can in the public record.

6 MS. KINGERY: Okay.

7 Q. Mr. Dougherty, you indicated that the
8 cash flow analysis in OCC Exhibit 4 was produced by
9 something called the "commercial business model,"
10 correct?

11 A. That's correct, yes, sir.

12 Q. Okay.

13 A. That was the source of part of it,
14 correct.

15 Q. Okay. And you're not familiar with a
16 concept called "environmental dispatch," correct?

17 A. That's correct.

18 Q. And you -- the commercial business model
19 has not run a simulation in which power plants are
20 dispatched based on a combination of economic
21 dispatch and also CO-2 emission limits?

22 MS. KINGERY: And I think we should
23 probably move that question to the confidential
24 record.

25 MR. OLKER: Thank you, Jeanne. Let me

1 put a note so I remember.

2 Q. I would like to show an exhibit to the
3 witness in a second. Mr. Dougherty, earlier you said
4 that you performed an analysis of the price of
5 carbon, correct?

6 A. I have not prepared one.

7 Q. You -- let me say this differently.
8 Earlier you stated OCC Exhibit 4 contains an impact
9 for carbon regulation, correct?

10 A. That's correct.

11 Q. And you provided an interrogatory
12 response which described the impact of carbon
13 regulations in OCC Exhibit 4, correct?

14 A. Yes, I did.

15 MR. OLIKER: Can I please approach the
16 witness, your Honor?

17 EXAMINER PIRIK: Yes.

18 MR. OLIKER: Your Honor, I just placed
19 the document in front of the witness which is
20 previously marked as IGS Exhibit 4.

21 EXAMINER PIRIK: Yes. And I know that
22 document goes with transcript III, and we have not
23 ruled on the contents of confidentiality as of yet.

24 MR. OLIKER: No. Also, it's come to my
25 attention Mr. Hamilton included this document in his

1 TH -- Exhibit TH-7 in his testimony, so I could also,
2 alternatively, not try to move this exhibit in and
3 mark Mr. Hamilton's testimony if that would be easier
4 for the record.

5 EXAMINER PIRIK: I think at this point,
6 because it's already marked and it's in transcript
7 III, it was already crossed on, at least in part
8 there, I think we need to keep it as your exhibit.

9 MR. OLIKER: Okay. Sure. We can do
10 that, your Honor.

11 EXAMINER PIRIK: Perhaps it would be --
12 is the company prepared to make their arguments on
13 this document and transcript III and perhaps this
14 document? I don't know that necessarily looking at
15 transcript III, I think we could still do that after
16 lunch.

17 MS. KINGERY: Yes, your Honor. I have
18 not looked at it previously, but I believe what we
19 argued in transcript III was that the numbers under
20 "Energy Revenue" and "Energy Costs" should be
21 redacted. Let me just check on one thing.

22 MR. OLIKER: Jeanne, I think the key is,
23 could you look at the sentence, it's the last
24 sentence above the table.

25 MS. KINGERY: I was just looking at that,

1 exactly. So I think that sentence also should be
2 redacted because that demonstrates an assumption that
3 was used in making the forecast.

4 EXAMINER PIRIK: You mean the second
5 sentence, not the first sentence.

6 MS. KINGERY: Correct.

7 EXAMINER PIRIK: So the first sentence
8 that references a data request can be in the open
9 record.

10 MS. KINGERY: Yes.

11 EXAMINER PIRIK: The second sentence that
12 has to do with the assumption.

13 MS. KINGERY: Yes. The assumption would
14 be confidential.

15 EXAMINER PIRIK: Okay. And then the
16 numbers in the chart.

17 MS. KINGERY: Correct. Obviously not the
18 years, but, otherwise, all the numbers.

19 EXAMINER PIRIK: Okay. And the header
20 stays in.

21 MS. KINGERY: Correct.

22 EXAMINER PIRIK: Any responses?

23 With regard to IGS Exhibit 4, the motion
24 for protective order will be granted. And then we
25 will still do transcript III, it's a little bit

1 different, after lunch.

2 Go ahead, Mr. Olikier.

3 MR. OLIER: Thank you, your Honor.

4 Q. (By Mr. Olikier) Mr. Dougherty, do you see
5 the document that's been placed in front of you as
6 IGS Exhibit 4?

7 A. I do, yes, sir.

8 Q. And is this a discovery response that was
9 prepared by you?

10 A. It is, yes, sir.

11 Q. And its marked as IGS-INT-01-11, correct?

12 A. That's correct, yes, sir.

13 Q. And does this response appear to be a
14 true and accurate copy of the response you previously
15 prepared?

16 A. Certainly looks to be, yes, sir.

17 Q. Okay. Now, given the ruling, I don't
18 think I can ask you anything on this page. We'll
19 save that for the confidential record.

20 EXAMINER PIRIK: That works.

21 MR. OLIER: And, Jeanne, feel free again
22 to interrupt because I don't know if these questions
23 cross the line.

24 MS. KINGERY: Thank you. I will.

25 Q. Mr. Dougherty, do you know whether the

1 commercial business model calculates Clifty Creek and
2 Kyger Creek's revenue based upon the OVEC node or a
3 PJM internal resource node?

4 A. Specifically I do not.

5 Q. Okay. And do you know whether the
6 commercial business model considers any external
7 ramping limitations that may apply to Clifty Creek
8 and Kyger Creek as an external resource?

9 A. I don't have knowledge of that.

10 MS. KINGERY: And just so we're not
11 confused tomorrow when Mr. Zhang is here, my
12 understanding is the answers to those questions would
13 likely be confidential.

14 MR. OLIKER: Good to know ahead of time.

15 I think the rest of my questions are in
16 the confidential record, your Honor.

17 EXAMINER PIRIK: Okay. Ms. Petrucci?

18 MS. PETRUCCI: No questions.

19 EXAMINER PIRIK: Ms. Kingery?

20 MS. KINGERY: Just a couple. Thank you.

21 - - -

22 CROSS-EXAMINATION

23 By Ms. Kingery:

24 Q. You talked earlier with Ms. Bojko about
25 economic generation. Could you define that term just

1 so the record is clear?

2 A. So my understanding of the economic
3 generation would be those instances when the model
4 runs where the revenue exceeds the cost, and in those
5 hours, then, the model would dispatch the unit.

6 Q. And so, when we look at economic
7 generation in actual fact, whether it -- the
8 generation might be economic tomorrow or next year,
9 we won't actually know until we get to that time when
10 it's -- the actual facts are realized; is that
11 correct?

12 A. That's correct, yes.

13 Q. And you've also talked at some length
14 about whether the UCAP figure has been updated, and I
15 just wondered whether you could explain to us, in the
16 context of developing forecasts, would a small change
17 in the UCAP result in a significant change in the
18 cash flow line?

19 A. Well, part of it depends on what the
20 capacity price would be. But as a point of
21 reference, if I can, just based on the calculation of
22 dollar per megawatt-day, if I just assume 365 days
23 and if I would just assume, say, 10 megawatts, that
24 would be 3650 -- 3,650, and then multiply that times
25 the price, and then that would give you, you know,

1 the change in the value per every 10 megawatt change.

2 So, again, depending upon the price, you
3 know, you could come up to what that value would be.
4 But from our -- from a forecasting perspective, that,
5 you know, if we would be 10 higher or 10 lower, it
6 didn't seem like it would be material in the overall
7 scheme of the forecast.

8 MS. KINGERY: Thank you. I have nothing
9 further.

10 EXAMINER PIRIK: Thank you.

11 Mr. Berger?

12 MR. BERGER: No recross on the public
13 record.

14 EXAMINER PIRIK: Staff, I forgot to ask.

15 MR. BEELER: No questions.

16 EXAMINER PIRIK: Ms. Hussey?

17 MS. HUSSEY: Nothing, your Honor.

18 EXAMINER PIRIK: Ms. Bojko?

19 - - -

20 RE CROSS EXAMINATION

21 By Ms. Bojko:

22 Q. Your -- Mr. Dougherty, your response to
23 the economic generation request was that the unit --
24 it's your understanding that there would be -- the
25 units would be dispatched if it was economic; is that

1 correct?

2 A. Per the model, yes, correct.

3 Q. And you're not in any way referencing
4 Duke's proposal to -- whether it would or would not
5 bid in the OVEC generation into the PJM market; is
6 that right?

7 A. That's correct. It doesn't reference
8 that at all.

9 Q. And it's your understanding that Duke's
10 proposal is to bid it in regardless of any kind of
11 economic determination.

12 MS. KINGERY: Objection. This witness
13 has already said he does not know the details around
14 rider PSR.

15 EXAMINER PIRIK: If he knows.

16 A. I do not know that.

17 MS. BOJKO: I have nothing further.

18 Thank you.

19 EXAMINER PIRIK: Ms. Kyler?

20 MS. KYLER COHN: No questions.

21 EXAMINER PIRIK: Mr. Olikier?

22 MR. OLIKER: No questions.

23 EXAMINER PIRIK: Ms. Petrucci?

24 MS. PETRUCCI: No questions.

25 EXAMINER PIRIK: We can go into the

1 confidential portion of the record.

2
3 EXAMINER PIRIK: Mr. Berger.

4 - - -

5 CROSS-EXAMINATION (Continued)

6 By Mr. Berger:

7 Q. Mr. Dougherty, referring to OCC Exhibit
8 4a again, are you aware that that reflects a -- a
9 (Confidential) percent utilization factor with respect to
10 the generation volumes for 2016. So, for example, there
11 is generation volumes for 2016 of (Confidential) and,
12 relative to the UCAP, that would be (Confidential) percent.
13 Do you see that?

14 A. I see the numbers. So, subject to check,
15 the UCAP times the number of hours in the year and
16 then, you know, what the generation volumes are.

17 Q. And you're familiar with how -- are you
18 familiar with how that compares to the OVEC use
19 factor that's currently projected?

20 A. I have seen the billable cost summary so
21 I know that, you know, these volumes are (Confidential)
22 than what's on the billable cost summary.

23 Q. Yes. You might recall from the hearing
24 that it was around (Confidential) percent for 2016. Do you
25 know why the projection that you have that Duke Energy

1 prepared is (Confidential) than the OVEC overall
2 projection?

3 A. I really don't. I don't have the
4 knowledge of how OVEC makes their projection and,
5 again, the projection here is just model output so,
6 again, my assumption this would be the economic
7 generation that the model is telling us based on, you
8 know, price curves and inputs at the time the model
9 was run.

10 Q. Okay. And you don't know whether Duke
11 would then be proposing to bid in this -- would it be
12 your assumption -- strike that.

13 Would it be your assumption that Duke
14 then would be proposing to bid in to the -- into PJM
15 the volumes that are reflected on this exhibit and
16 not the (Confidential)-percent utilization rate reflected
17 in the OVEC forecast?

18 MS. KINGERY: Again, your Honor, I would
19 just note this is not a witness who's testifying
20 about rider PSR or what Duke has planned to do under
21 rider PSR.

22 EXAMINER PIRIK: Right. If he knows, he
23 can answer.

24 A. I would say that my impression is that if
25 they are going to bid into the market, that they

1 would bid that on a daily basis, so I don't think
2 they would bid a calendar year in. So I don't think
3 you could really judge until the time realizes
4 whether it would be closer to this projection here or
5 closer to what OVEC's protection would be.

6 Q. But this is Duke's projection, the
7 (Confidential)-percent utilization factor, for example,
8 for 2016 is Duke's protection of how -- of what the economic
9 generation for Duke would be for that period.

10 A. Based on a model run at a particular
11 point in time.

12 Q. And do you know why there was a
13 projection of a (Confidential)-percent (Confidential) between
14 2018 and 2019 in the generation volumes? Do you see where it
15 (Confidential) from (Confidential) to (Confidential)?

16 A. I see that and my thought is that's
17 where -- that's kind of the delineation of 2018 was
18 the last year of the market curves. 2019 is when we
19 first started using fundamental curves. So my guess
20 is there's enough difference in those projections
21 that the model run may be -- may give you (Confidential)
22 economic generation.

23 Q. So the model run projects a (Confidential)
24 (Confidential) in prices between the forward market curves
25 ending in 2018 and the fundamental forecast beginning

1 in 2019; is that right?

2 MS. KINGERY: Objection. That
3 mischaracterizes the witness's testimony.

4 EXAMINER PIRIK: Overruled.

5 Q. Do you need the question read back to
6 you?

7 A. No. I don't -- I think that -- again, I
8 think my answer would be it reflects different
9 expectations of economic generation. I don't tie
10 that specifically to a revenue rate, per se.

11 Q. But you would agree that it does reflect
12 the (Confidential) in the -- in the prices that
13 are forecast to develop those volumes.

14 A. I would say the volumes represent (Confidential)
15 (Confidential). I'm just not quite sure whether, you know,
16 the prices, as a whole, reflect that.

17 Q. So you don't know if the prices are the
18 driving factor for the (Confidential) in volumes? Is
19 that what you're saying?

20 A. Correct. I don't know that 100 percent.

21 Q. And you made no assessment of the
22 validity of the fundamental forecast or the forward
23 market curves for that matter; is that correct?

24 A. Correct. I did not validate the curves.

25 MR. BERGER: That's all I have. Thank

1 you very much, Mr. Dougherty.

2 EXAMINER PIRIK: Thank you.

3 Ms. Kyler.

4 MS. KYLER COHN: No questions, your
5 Honor.

6 EXAMINER PIRIK: Mr. Olikar.

7 MR. OLIKAR: Thank you, your Honor. Just
8 a few. Let me see where I left off.

9 EXAMINER PIRIK: Oh, I didn't go over
10 here.

11 MS. BOJKO: Go ahead. Mr. Olikar can go
12 first.

13 EXAMINER PIRIK: No, that's okay. Let's
14 keep it in order.

15 Ms. Hussey.

16 MS. HUSSEY: Nothing, your Honor.

17 EXAMINER PIRIK: Ms. Bojko.

18 MS. BOJKO: Thank you, your Honor.

19 - - -

20 CROSS-EXAMINATION (Continued)

21 By Ms. Bojko:

22 Q. Mr. Dougherty, could we go back to OMA
23 Exhibit 5, please.

24 A. Which one was that, was that the ESP
25 year?

1 Q. That's your ESP OVEC analysis.

2 A. Okay. Got it.

3 Q. And I'm on page 1 of 11.

4 A. Okay.

5 Q. Sir, if you look at the ESP period cash
6 flow lines -- I asked you in the public record
7 whether this was a net cost to customers. I guess I
8 could have asked you this question and I didn't
9 realize -- I forgot the numbers were unredacted. My
10 question for you, sir, does this equate to an
11 approximate \$21.9 million charge to customers during
12 the ESP period?

13 A. It does, yes.

14 MS. BOJKO: I have nothing further.
15 Thank you, your Honor.

16 EXAMINER PIRIK: Thank you.

17 Now Mr. Olikier.

18 MR. OLIER: Thank you. Thank you, your
19 Honor.

20 - - -

21 CROSS-EXAMINATION (Continued)

22 By Mr. Olikier:

23 Q. Mr. Dougherty, just a few more questions.
24 This question shouldn't be new. Would you agree that
25 the commercial business model has not run a

1 simulation in which power plants are dispatched based
2 on a combination of economic dispatch and carbon
3 emission limits?

4 MS. KINGERY: Objection, your Honor.
5 This witness does not run the model. He's --

6 EXAMINER PIRIK: If he knows. If he
7 knows.

8 A. I don't know whether that's been done or
9 not, sir.

10 Q. Great. Thank you.

11 Now, Mr. Dougherty, isn't it correct that
12 Duke has assumed that carbon emission limits will
13 have a (Confidential) on market prices, but there
14 will be an (Confidential) on the cost of
15 producing energy for Clifty Creek and Kyger Creek?

16 A. So in this analysis that was done, the --
17 there were prices for carbon included in the
18 forecasts starting in 2020. So that was based on the
19 set of fundamental curves and then that came out of
20 the model and then we correspondingly made an
21 assumption of an impact on energy pricing as well
22 then.

23 Q. Now, just so I understand your answer,
24 you've assumed that carbon emissions will (Confidential)
25 the market price, but there will be an (Confidential)

1 (Confidential) for Clifty Creek's and Kyger Creek's cost
2 of production.

3 A. So just -- the methodology of how it was
4 done was the cost of carbon, the total cost would
5 have been based on the model carbon emissions times
6 the carbon price from the fundamental -- set of
7 fundamental curves. So it would have been price
8 times quantity to get the total amount of costs
9 associated with the carbon for the units. And then,
10 again, there was an assumption made around the
11 corresponding energy price as well.

12 Q. Mr. Dougherty, I am not sure you've
13 answered my question.

14 A. Okay.

15 Q. I guess we can do this two ways. First,
16 would you look at what's been marked as IGS
17 Exhibit 4a.

18 A. Yes, sir.

19 Q. And am I correct when this statement
20 reads "The energy revenue is assumed to be an
21 (Confidential) to these values, so the cost and
22 revenues are (Confidential)"?

23 A. Yes, that's correct.

24 Q. Is that just another way of saying that
25 you've assumed that market price will (Confidential) as a

1 result of carbon regulations, but you've also assumed
2 that the cost of production for Clifty Creek and
3 Kyger Creek will have an (Confidential)?

4 A. Correct, yes, sir.

5 Q. Thank you.

6 And the reason for that assumption is you
7 would agree that it wouldn't be prudent to put a
8 margin on the cost of carbon for a coal plant?

9 A. That's the assumption that I made, yes,
10 sir.

11 Q. Okay. And you discussed this a little
12 bit with counsel for, I think, OCC or OMA, but you've
13 indicated in the cash flow analysis in OCC Exhibit 4
14 that there will be about a (Confidential)-percent
15 (Confidential) in generation volumes between, I think
16 it's right around 2019?

17 A. Yes, sir, that's correct.

18 Q. And the generation volumes will then
19 (Confidential) from the 2019 levels all the way
20 through 2024?

21 A. That's what the projection shows, yes,
22 sir.

23 Q. Okay. And you have not modeled a
24 scenario where Clifty Creek and Kyger Creek have a
25 (Confidential) generation output level from 2018 and forward;

1 is that correct?

2 A. Specifically, no, I have not.

3 Q. Okay. But you would agree that all else
4 being equal, if the generation volumes do not
5 (Confidential) from 2018 levels, then Clifty Creek and
6 Kyger Creek will have negative cash flow in 2019?

7 A. That's correct, yes, sir.

8 Q. And you would agree that all else being
9 equal, if the generation volumes (Confidential)
10 between 2018 and 2024, there will be negative cash
11 flow in each of those years and 2024 will be close to
12 being breakeven.

13 A. That's correct, yes, sir.

14 Q. I think I just have one more thing I
15 would like to do. Either counsel for Duke can
16 provide it to him or I can do it, does anybody have a
17 copy of OCC Exhibit 23? I can give him mine, but
18 it's my only one.

19 MR. OLIKER: Jeanne, I have got one.

20 MS. KINGERY: Oh, okay. Sure.

21 MR. OLIKER: For the record, I have given
22 the witness OCC Exhibit 23a.

23 Q. And can you turn to the last page which
24 is marked OVEC 103.

25 A. Okay.

1 Q. And then can you turn to, also at the
2 same time, compare that with the billable cost
3 summary which is on OCC Exhibit 4. And what I would
4 like to ask you about is specifically the "Demand
5 Cost" line on OCC Exhibit 4 which is on the billable
6 cost summary versus OCC Exhibit 23. And can you just
7 confirm for me the demand charge on OCC Exhibit 4 is
8 the same as OCC 23 in the bottom line for years 2015,
9 '16, '17, and '18?

10 A. Without numbers on the graph, they
11 certainly appear to be.

12 Q. Okay. Thank you.

13 So just to -- to tie that up, you would
14 agree that this is -- these two documents you're
15 discussing the same demand charge level?

16 A. I would, yes, sir.

17 MR. OLIKER: Your Honor, if I could have
18 just one moment, then I think I might be done.

19 That's all the questions I have, your
20 Honor. Thank you, Mr. Dougherty.

21 THE WITNESS: Thank you.

22 EXAMINER PIRIK: Ms. Petrucci.

23 MS. PETRUCCI: No questions.

24 EXAMINER PIRIK: Ms. Kingery.

25 MS. KINGERY: Just a couple.

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CROSS-EXAMINATION (Continued)

By Ms. Kingery:

Q. Mr. Dougherty, you just had a conversation with Mr. Olikier in which he was talking about the impact of the generation volumes from the OVEC plants (Confidential) instead of (Confidential). Do you remember that conversation?

A. Yes, ma'am.

Q. And he asked you if all else is equal, what would happen to the cash flow. So I would simply ask would all else be equal in the event the generation volume (Confidential)?

A. I don't know that I can make that determination. It's model outputs so there is a lot of different variables so I just can't make that determination.

Q. Okay. And you also had a conversation with Mr. Olikier about the demand charges (Confidential). So if all else were equal, if you (Confidential) the demand costs, what would happen to the net revenue?

MR. OLIER: Objection. I don't think she's characterized the document correctly that I put in front of the witness.

EXAMINER PIRIK: I'll overrule.

A. Can you repeat the question?

1 Q. Let me rephrase. Maybe that would be
2 better.

3 So, just in general, if demand charges or
4 other costs (Confidential), what will happen to the net
5 revenues all else being equal?

6 A. If it's just the demand charge that
7 (Confidential), I don't think that there is any impact on
8 the revenue. If other costs (Confidential) in terms of
9 the generation cost, then, you know, you can make the
10 assumption that the model may (Confidential) and the
11 net revenues will (Confidential), but that is an assumption.

12 Q. How about cash flow, same question.

13 A. So if the demand charge would (Confidential)
14 then cash flow would (Confidential), all else equal.

15 MS. KINGERY: Thank you. Nothing
16 further.

17 EXAMINER PIRIK: Mr. Berger.

18 MR. BERGER: Nothing further.

19 EXAMINER PIRIK: Staff, did you have
20 anything?

21 MR. BEELEER: No.

22 EXAMINER PIRIK: Nothing further?

23 Ms. Hussey?

24 MS. HUSSEY: Nothing, your Honor.

25 EXAMINER PIRIK: Ms. Bojko?

1 MS. BOJKO: No. Thank you.

2 EXAMINER PIRIK: Ms. Kyler?

3 MS. KYLER COHN: No.

4 EXAMINER PIRIK: Mr. Olikar?

5 MR. OLICKER: Just very briefly, your
6 Honor.

7 - - -

8 RECROSS-EXAMINATION

9 By Mr. Olikar:

10 Q. Mr. Dougherty, you just had the
11 discussion just a minute ago with Ms. Kingery about
12 demand charges and where the levels are. Just to be
13 clear in our discussion, what appears on OCC Exhibit
14 23, the bottom line, for the years 2015 through 2018,
15 those are the demand charges that are incorporated
16 into OCC Exhibit 4 in the billable cost summary,
17 correct?

18 A. That's correct, yes, sir.

19 MR. OLICKER: No more questions, your
20 Honor.

21 Thank you, Mr. Dougherty.

22 EXAMINER PIRIK: Ms. Petrucci?

23 MS. PETRUCCI: No questions.

24 EXAMINER PIRIK: That will conclude our
25 confidential piece of the record then.

1

2

EXAMINER PIRIK: Thank you,

3

Mr. Dougherty.

4

MS. BOJKO: Your Honor.

5

EXAMINER PIRIK: We will go off the

6

record.

7

(Discussion off the record.)

8

EXAMINER PIRIK: With regard to OCC

9

exhibits.

10

MR. BERGER: Yes, your Honor. OCC

11

Exhibits --

12

EXAMINER PIRIK: Do you have your

13

microphone on?

14

MR. BERGER: -- 41 and 41a --

15

EXAMINER PIRIK: I can't really hear you.

16

Just a second until you get your microphone on.

17

MR. BERGER: OCC would move the admission

18

of OCC Exhibits 41, 41a, and 42.

19

EXAMINER PIRIK: Are there any

20

objections?

21

MS. KINGERY: No, your Honor.

22

EXAMINER PIRIK: Those exhibits will be

23

admitted into the record.

24

(EXHIBITS ADMITTED INTO EVIDENCE.)

25

MR. BERGER: Thank you, your Honor.

1 EXAMINER PIRIK: OMA.

2 MS. BOJKO: Yes, your Honor, thank you.

3 I would move the admission of OMA Exhibits 3, 3a, 4,
4 4a, 5, 5a, 6, 6a.

5 EXAMINER PIRIK: Is there any objections?

6 MS. KINGERY: No, your Honor.

7 EXAMINER PIRIK: It will be admitted into
8 the record.

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 EXAMINER PIRIK: Let's take a break for
11 lunch until 2:15.

12 MR. OLIKER: Your Honor, could I move my
13 exhibit too?

14 EXAMINER PIRIK: Yes.

15 MR. OLIKER: It's been languishing for a
16 while.

17 EXAMINER PIRIK: Yes.

18 MR. OLIKER: Your Honor, I would also
19 like to move for the admission of IGS Exhibit 4 and
20 4a.

21 MS. KINGERY: No objection, your Honor.

22 EXAMINER PIRIK: Hearing no objection, it
23 will be admitted into the record.

24 (EXHIBITS ADMITTED INTO EVIDENCE.)

25 EXAMINER PIRIK: Now, we will take our

2526

1 lunch break.

2 (Thereupon at 1:00 p.m., a lunch recess
3 was taken.)

4 - - -

Monday Afternoon Session,
November 3, 2014.

- - -

EXAMINER PIRIK: We'll go on the record.
You know, perhaps -- perhaps we should go through the
OCC exhibits first. Okay. We will go through the
OCC exhibits first. We've already heard arguments on
this. We have a couple of questions with regard to a
couple of items, but, be that as it may, we will go
through and we will make our rulings.

With regard to OCC Exhibit 6, the motion
for protective order is denied and it will be in the
open record.

With regard to OCC Exhibit 7, the motion
for protective order is denied and it will be in its
entirety in the open record.

With regard to OCC Exhibit 8, after
hearing the arguments of the parties, we find that
the first page of the document that has a Bates stamp
00174 and is page 1 shall be in the open record.

We find that the majority of the document
doesn't relate to the -- to this hearing, and after
hearing what OVEC had to say, we feel that the
easiest thing to do would be to allow the majority of
the document that is not -- not relevant to this case

1 just to allow it to be in the closed record, but to
2 have, in the open record, information that is
3 important to this case.

4 On page 8 of the document, the third
5 paragraph from the top, that paragraph will be in the
6 open record. And on page 12, the last sentence
7 ending in "the meeting was adjourned" and the
8 signatures shall be in the open record.

9 OCC Exhibit 9 was not admitted.

10 Looking at OCC Exhibit 10, 11, 12, 13,
11 with regard to these exhibits, we find that we will
12 close the company names and the individual
13 identifiers that have been proposed to be redacted
14 that would identify specifically who's within the
15 document, but everything else needs to be open.

16 So there are some, for example, on OCC
17 Exhibit 1, while they are in the attachments line,
18 while there are obviously names in that attachment
19 line, anything that's not a name of a company needs
20 to be unredacted. And we'll review -- I mean I would
21 put together the proposed edits and then we will
22 review them.

23 Another example is OCC Exhibit 12, that
24 sentence beginning with "All" of the first e-mail,
25 the words in that sentence that were proposed

1 redacted should be in the open record.

2 OCC Exhibit 16, page 1, the header
3 through the list of names of those who are present on
4 the conference call will be in the open record.

5 MS. KINGERY: Your Honor, did you skip 14
6 and 15?

7 EXAMINER PIRIK: No. We did 10 through
8 15 together.

9 MS. KINGERY: Oh, okay.

10 EXAMINER PIRIK: However, we might have
11 one caveat in 13. Is it 13. I thought it was 15.
12 We may have one caveat in 15 which we will get to in
13 a moment. There may be something else we need to
14 discuss.

15 But to finish 16, so the first page, the
16 header through the names, and then on page -- will be
17 in the open record. On page 2, the second full
18 paragraph beginning with "Mr. Akins" will be in the
19 open record. And I believe OVEC requested that the
20 number on the sixth line down at the end only the
21 number be redacted. The remainder of the paragraph
22 is in the open record.

23 MR. BERGER: Your Honor, on that document
24 if you don't mind me asking for clarification, did
25 you say the first page in its entirety is in the open

1 record?

2 EXAMINER PIRIK: Hold on just a minute.

3 (Off the record.)

4 EXAMINER PIRIK: We'll go back on the
5 record. I am going to revise the ruling on OCC
6 Exhibit 16 in that the entire document will be in the
7 open record with the exception of the number in the
8 second full paragraph on page 2.

9 Okay. The next items I'm going to go to
10 OCC Exhibit 17 through 21. This is the same ruling
11 with regard to the name being redacted and any
12 identifier -- or, names of companies being redacted.
13 Any identifying labels of individuals where you could
14 ascertain the context of the e-mail can be redacted.
15 Everything else needs to be in the open record.

16 We do have some questions, and this is
17 what we'll also relate to 15, but for right now we
18 will keep it focused on this group of exhibits before
19 we go backwards. In Exhibit 21 on page 8 of the
20 attachment which is page 14 of 31, there are numbers
21 that have been proposed to be redacted. I know we've
22 had some discussion about that on the record. And
23 what -- our question is that it's inconsistent
24 between the different documents.

25 For example, in 15 it's not being

1 proposed to be redacted but in this document it's
2 being proposed to be redacted. Yet, for example, on
3 the next page on page 15 of that document of OCC 21,
4 the number is open, numbers are open. We prefer to
5 have as much open as we possibly can, but we don't
6 want to accidentally leave something open.

7 MS. SPILLER: And, your Honor, if I may
8 briefly in connection with that, that simply would
9 have been inadvertence. As we had discussed with the
10 Bench, gosh, I believe it was maybe Thursday morning,
11 we had proposed redaction of the name as well as the
12 percentage. Otherwise -- and the dollar figure
13 associated with that calculation otherwise you back
14 right into who it is. So that was just an oversight
15 on our part.

16 EXAMINER PIRIK: Okay. I know there had
17 been arguments in the other direction, but I think
18 that might have been because there were some
19 questions as far as different exhibits. So just so
20 that we close this loop, we'll go back to OCC
21 Exhibit 15, page 9 of the attachment, OVEC 00203
22 Bates, the numbers in the last line which represents
23 the percentage as well as the total number at the
24 bottom of the page will be redacted.

25 MS. SPILLER: Thank you, your Honor.

1 EXAMINER PIRIK: And I would ask if there
2 are any -- as you go through the documents, I would
3 ask you to go through them again and if there are any
4 other redactions, we need to bring those to the
5 attention of OCC in making their redactions so they
6 can appropriately redact those numbers.

7 So in 17, let's see, similar numbers are
8 in OCC Exhibit 18 and OCC Exhibit 21. Some of them
9 are marked and some of them aren't, so as long as we
10 are consistent, then I think we're fine.

11 Okay. OCC 22, I know there was some
12 discussion as far as the estimated delivered power
13 sales from OVEC generation in both Exhibits 22 and
14 23, not with regard to the projections but with
15 regard to the 2013 levels. I guess I am looking to
16 the company to maybe clarify for us exactly what the
17 purpose was. I know there had been a couple of
18 parties that had said that 2013 should be open.

19 MS. SPILLER: Your Honor, I certainly
20 appreciate this is historical information. I believe
21 that OVEC's counsel had requested confidentiality. I
22 would just note that when you look at the figures,
23 particularly the budget under the -- the budget 2013
24 column on OCC Exhibit 23, the plants are pretty
25 predictable and so disclosure of that budgeted

1 information which, at the time, would have been
2 budget information as well as a projected information
3 is probably somewhat indicative of the forecasts and
4 the assumptions that OVEC makes with respect to
5 putting together their billable cost summaries.

6 Again, I think there's been testimony
7 throughout this case that the operations are state --
8 are relatively stable. The fixed costs are
9 relatively stable. And so, I think again disclosure
10 of this information would allow one to pretty much --
11 make some pretty fair assumptions, if you will, in
12 respect of OVEC's future assumptions with regard to
13 their generation sales.

14 EXAMINER PIRIK: Are there any responses?

15 MR. BERGER: Yeah. I mean, historic
16 information is published throughout the annual
17 reports. The fact that the budget reflects a
18 projection at a point in time in the past doesn't
19 make it any more helpful, I don't think, for anybody
20 to guess what any future budget would provide. I
21 don't think it has any -- any necessary protection
22 after it's -- after the actual has been realized.

23 EXAMINER PIRIK: Ms. Bojko?

24 MS. BOJKO: Yeah. I guess I would just
25 add that I'm not sure I agree with Ms. Spiller's

1 characterization of what the testimony has or hasn't
2 been throughout the hearing. I think that there's
3 been testimony that these numbers do change, and so
4 I'm not sure it has the -- the merit as stated.

5 We know, for example, that the surplus
6 energy use factor has changed. So I'm not sure it's
7 exactly -- or completely accurate to say these are
8 fixed and they'll never change. So I would concur
9 with Mr. Berger that these are historic and they are
10 in the annual reports that are issued by OVEC so they
11 should be treated as historical numbers.

12 EXAMINER PIRIK: And you're specifically
13 talking about 2013? I mean, just the -- I know the
14 arguments that we had just dealt with that first line
15 "Estimated Delivered Power Sales from OVEC
16 Generation." I just wanted to be sure or are you
17 talking about the whole column?

18 MS. BOJKO: If you are narrowing our
19 discussion, that's fine, your Honor.

20 MR. BERGER: I was talking about the
21 whole column.

22 MS. BOJKO: I was too. It's the same
23 information. It's historic. It's in the annual
24 reports, I believe. Not all of it.

25 MS. SPILLER: Your Honor, I am looking at

1 OCC -- I'm sorry, IEU Exhibit 7, the annual report
2 for 2013 and I don't see a publication -- admittedly
3 a multi-page document here, but I don't see a
4 publication as to that estimated delivered power
5 sales. I would think in your annual report you
6 would, if anything, publish what actually happened.
7 Which is neither the budget nor the projected on OCC
8 Exhibit 23.

9 MS. BOJKO: Well, I think that's the
10 point that it's no longer useful information if it's
11 been published differently. Which exhibit are you
12 looking at?

13 MS. SPILLER: I am looking at IEU
14 Exhibit 7 which is OVEC's annual report for 2013.

15 MS. BOJKO: Thank you.

16 MS. SPILLER: And, your Honor, I believe
17 if memory serves, OVEC's counsel, with respect to
18 some of the financials in the board documents, had
19 indicated that there were interim reports that were
20 prepared. Those were not the final financial
21 statements that had been reviewed by outside
22 auditors. I believe he had indicated this financial
23 information is all worthy of confidential protection.

24 EXAMINER PIRIK: With regard to OCC
25 Exhibit 22, at the bottom, I know OMA had argued

1 those two numbers at the bottom under "Projected
2 Power Production Costs" should be in the open record.
3 I think we wanted to hear more information with
4 regard to that argument.

5 MS. SPILLER: Your Honor, with respect to
6 these exhibits and I believe has been consistent with
7 the prior rulings in this case, all of the numeric
8 information has been afforded confidential treatment
9 and that would include certainly, if I'm looking at
10 OCC Exhibit 22, above that bottom box, there is a
11 line, projected power production costs less the
12 dividend. That information, to the extent it has --
13 it's forecasted information, protected information,
14 has all been afforded confidential treatment.

15 The two particular numbers at the bottom
16 are different only because there are different
17 assumptions with respect to the particular use
18 factor, but I don't see why that information, assumed
19 information, based upon OVEC's internal confidential
20 methodologies would be any less deserving of
21 confidential treatment than that which has been
22 previously afforded confidential treatment in this
23 case.

24 EXAMINER PIRIK: Responses?

25 MS. BOJKO: Your Honor, I'm sorry. I'm

1 stretching my memory here, but I believe that if you
2 look, the reason we argued that, at least with regard
3 to 22 in the bottom two, is if you look at the OVEC
4 annual report, IEU Exhibit 7, the 50 -- well, I mean
5 in the open record already is a \$55 number, and so
6 they -- they produced an average power cost.

7 And then I believe, again, I'm stretching
8 my memory, but I believe if we went to the one FERC
9 filing, I think it was the 2014 FERC filing, that
10 FERC filing had both of these numbers open. It had
11 it based on differing use factors. So I believe that
12 is what the argument was at the time last week.

13 MS. SPILLER: And, your Honor, I would
14 just note that what OVEC included in its annual
15 report for 2013, IEU Exhibit 7, that numeric
16 information is different than what's included in this
17 bottom -- the bottom box on OCC 22.

18 MS. BOJKO: I mean, they summarized and
19 did an approximate number. I guess we could concur
20 to that.

21 EXAMINER PIRIK: Okay. With regard to
22 OCC Exhibit 22, with an effort towards
23 confidentiality and caution, we will grant protective
24 agreement to all the numbers under the headers "2013"
25 through "2025."

1 However, the designation in the last box
2 at the bottom of the page regarding "Projected Power
3 Production Costs" the 70 percent and the 90 percent,
4 both of those numbers will be in the open record.
5 But all of the other numbers in the chart will be
6 confidential.

7 With regard to OCC 23, we will grant
8 confidentiality to -- okay. OCC Exhibit 23 on the
9 first page, the proposed numbers under "Budget 2013,"
10 "Projected 2013," we will keep those confidential.
11 On page 2 which is OVEC 00102 base we will keep the
12 numbers on this page in the columns 2014" through
13 2018" confidential. On the third page which is
14 OVEC 00103, we will keep the lines in the bar chart
15 confidential. However, the axis will stay in the
16 open record. And in the box at the bottom, where it
17 says "Floating Rate Notes - Forward Curve Projected,"
18 the following word will be kept in the confidential
19 record.

20 OCC 24, we will keep all of -- on the
21 front page and on the second page we will keep all of
22 the numbers in the chart under the columns "2014"
23 through "2040" in the confidential record, as well as
24 the line beside the words "Projected (Confidential)
25 dash" and then the words after that on the first page

1 will be considered confidential as well as on the
2 second page.

3 MS. KINGERY: Your Honor, if I might
4 clarify on that particular last item, I think there
5 may have been some other places where this same
6 language appeared in other exhibits where we either
7 redacted everything after the word "Projected" or
8 redacted the part you just said and left the details
9 open. So I'm just -- so long as it's consistent one
10 way or the other.

11 EXAMINER PIRIK: Okay. On the copy that
12 we have here, and you're correct, the number that I
13 just said in the open record was kept confidential in
14 those other exhibits. But on the document we have in
15 front of us, it's not proposed to be closed. So it
16 either needs to be opened in the other documents if
17 that's what we would prefer or it needs to be closed
18 here and we need to redact that page.

19 MS. KINGERY: My sense is the dollar
20 value is competitively sensitive. I don't think --
21 if that's proposed action for the future, I don't
22 think we would want to have that out there so
23 everybody knows what's about to come.

24 EXAMINER PIRIK: Okay. Then on that one
25 page, I would ask the court reporter to take out that

1 dollar number after the word "Projected" and put that
2 in the confidential record.

3 MS. KINGERY: Thank you, your Honor.

4 EXAMINER PIRIK: OCC Exhibit 25, we'll
5 grant protective -- protective order to the proposed
6 redactions on the page that the company gave us which
7 is basically the number -- numbers. Anything that's
8 not a number, which there are a few symbols and
9 words, needs to be in the open record.

10 MS. BOJKO: Does that include dates, your
11 Honor? Last two lines on the left side.

12 EXAMINER PIRIK: I don't really see any
13 need to keep those two dates confidential. So I
14 think that would be a good clarification is to keep
15 those two dates open.

16 OCC Exhibit 26, almost done, pursuant to
17 the request from OVEC, they had requested that the
18 numbers be confidential. And therefore, while there
19 is quite a bit of other proposed redactions in this
20 document, we find that just the numbers. Symbols,
21 letters, words need to be in the open record.

22 MS. BOJKO: Your Honor, point of
23 clarification, when you say "numbers," are you
24 talking about the value word after the number? Like
25 thousands? Millions? Tens? Place value?

1 EXAMINER PIRIK: I think -- I think that
2 unless -- I think that the value should be open.

3 MS. BOJKO: Okay. Thank you.

4 EXAMINER PIRIK: With regard to OCC
5 Exhibit 27, like the other previous exhibits we've
6 already gone over, we find that the names of the
7 entities should be redacted, but everything else
8 should be in the open record. I think that covers
9 OCC Exhibits 6 through 27.

10 With regard to Ms. Jackson's testimony,
11 we haven't received arguments on Ms. Jackson's
12 testimony yet, so we'll allow the company to make an
13 argument or it's not really -- well, it's
14 Ms. Jackson's testimony; it's the company's
15 information. So I am assuming Sierra Club is willing
16 to allow the company to make the arguments?

17 MR. ALLWEIN: Certainly.

18 MS. KINGERY: I am trying to locate a
19 copy. I apologize.

20 EXAMINER PIRIK: Okay.

21 MS. KINGERY: And, your Honor, I had
22 proposed -- made these proposed redactions I think
23 before you had ruled on some of these issues so some
24 of them will, I think, change, so I'll be looking at
25 it the same time you are.

1 So the first page that we had proposed a
2 redaction on was page 7, and I believe that's
3 something you have said should be out in the public
4 record.

5 EXAMINER PIRIK: Yes.

6 MS. KINGERY: And I believe the same
7 would go for the table on that page.

8 EXAMINER PIRIK: Yes.

9 MS. KINGERY: As well as the dates, the
10 two dates on page 7. On page 8 we're talking about
11 assumptions and energy prices, so here I think the
12 redactions that we proposed on that page should
13 remain as they are. The same goes for page 9.
14 Again, we are talking about projected energy prices,
15 costs and volumes, so the date should remain the
16 same -- I mean should remain redacted. Page 10, this
17 is the energy market, so the redactions would be as
18 indicated. Page 11, the table at the top is market
19 price forecast and that would remain redacted as
20 would the redactions in the text immediately below
21 the table.

22 And we skip to page 13 and this is
23 historical and projected capacity factors for the
24 OVEC plants. And this should remain redacted as
25 indicated so the table would be redacted and there's,

1 on line 9, there's a date. Page 14, we are a now
2 back to looking at net benefits to the customer, so
3 it appears to me that those should be open. Page 15,
4 here we're talking about a CO-2 price forecast and
5 that I believe should remain redacted as indicated.
6 Looking at page 16, this is a projected cost so that
7 should remain redacted.

8 The next page is 22. And in uniformity
9 with the Bench's requirements, that would -- the
10 information on that page would be open.

11 Then if we move to SEJ-3, I believe we
12 worked through this document this morning as one of
13 the exhibits shown to Mr. Dougherty.

14 EXAMINER PIRIK: SEJ-2 also?

15 MS. KINGERY: Yes.

16 EXAMINER PIRIK: Okay.

17 MS. KINGERY: So these would be redacted
18 exactly as they have been elsewhere, both SEJ-2 and
19 -3.

20 SEJ-4, I believe this is one that we have
21 discussed with regard to somebody else's testimony
22 but I'm not now remembering who it is. But I believe
23 it's already an exhibit, isn't it?

24 MR. BERGER: Ms. Bojko introduced it this
25 morning as an OMA exhibit.

1 MS. KINGERY: Is it just this morning?

2 MS. BOJKO: It was, but I would note on
3 page -- you have a cash flow redacted in a couple of
4 these.

5 MS. KINGERY: Where?

6 MS. BOJKO: On like --

7 EXAMINER PIRIK: Are we in SEJ-4?

8 MS. BOJKO: Yes. I was in -- it appears
9 in SEJ-2, I'm sorry, SEJ-2 has cash flow redacted in
10 all of these charts that I think has been unredacted.

11 MS. KINGERY: Yes. These need to be
12 changed to correspond with what we've already --

13 EXAMINER PIRIK: Yeah, 2 and 3 will be
14 changed to what we had done before. But SEJ-4 --

15 MS. KINGERY: SEJ-4, I thought we looked
16 at last week and I thought Examiner Walstra ruled on
17 it, but I would have to look back.

18 EXAMINER PIRIK: In a separate document?

19 MS. KINGERY: I thought so. Your Honor,
20 we are going to check our list.

21 EXAMINER PIRIK: Okay.

22 MS. KINGERY: And if we could just table
23 that one for a moment.

24 SEJ-5, the information on pages 2 and 3
25 of that document are details with regard to the

1 workings of the commercial model that -- that we'll
2 be talking about more tomorrow with Dr. Zhang, and
3 the details around this model and what goes in and
4 how it's used, how the model functions is
5 proprietary, it's developed in-house at the company
6 and is highly sensitive. So we would ask that that
7 be redacted as indicated.

8 SEJ-6, so it -- I think we may have
9 actually looked at this one before also, the
10 redaction on page 2, I think the first four numbers
11 up through the number for 2017 to '18 would be public
12 and the remainder would be redacted. But, again, I
13 think we've already had a ruling on that document.

14 EXAMINER PIRIK: Yes.

15 MS. BOJKO: Your Honor, I think SEJ-4 was
16 dealt with as OCC Exhibit 31.

17 MS. KINGERY: OCC 31? Thank you. Yes,
18 Diane found that as well.

19 EXAMINER PIRIK: So the company would
20 propose the redactions to be similar to OCC Exhibit
21 31a?

22 MS. KINGERY: Yes. I would think they
23 should be identical.

24 EXAMINER PIRIK: Okay. Which reminds me,
25 I know I had originally said that the company's

1 intervenors did not need to give the Bench a copy of
2 the redactions as they are presented after Duke looks
3 at them, but I think it would be a good idea if they
4 were provided to us at the same time you are
5 providing them to the court reporter so we can just
6 double-check to make sure they match exactly what we
7 believe our ruling was, so if there are any
8 discrepancies we can clear it up at that point before
9 the record closes, so I think that would be
10 appropriate.

11 Does anyone have a response? Ms. Bojko.

12 MS. BOJKO: Just briefly on two. On
13 page 13, I think it's been stated many times on the
14 record the year of the carbon regulations or carbon
15 prices. So I don't -- I think that when you talk
16 about movement in the prices like on page 11 or
17 page 9, I can understand that, but when you are just
18 talking generally about regulations, I don't
19 understand why it would be on 13. And then the same
20 goes for on page 15, line 13, I don't understand why
21 that date would be redacted.

22 We just went through OVEC's environmental
23 capital projects update document and we left
24 everything in the open record except for the numbers
25 and those include dates of different projects and

1 when they started and there is even a chart of when
2 the environmental regulations come into play, so I'm
3 not sure why we would be redacting dates regarding
4 environmental regulations.

5 EXAMINER PIRIK: Is there anything else
6 with regard to these -- this document or the whole
7 testimony?

8 MS. KINGERY: Your Honor, if I might just
9 respond to that last item from Ms. Bojko, that is a
10 forecast and it's a question of what was in our
11 forecast, what wasn't in our forecast, so I think the
12 date on page 15, line 13, does still merit
13 confidential treatment. The date on page 13, line 9,
14 I would agree is just a general statement and
15 wouldn't have a problem with that being released.

16 EXAMINER PIRIK: Okay. So you are saying
17 the one on 15, line 13, should be confidential, but
18 the one on page 13 you are okay with.

19 MS. KINGERY: Yes.

20 MS. BOJKO: Your Honor, also on --

21 EXAMINER PIRIK: Ms. Bojko. Did you have
22 something?

23 MS. BOJKO: No, I don't. Thanks.

24 EXAMINER PIRIK: Okay.

25 MR. ALLWEIN: Your Honor, could I get a

1 clarification? I'm sorry. On page 22 were lines 20
2 through 22 unredacted; is that correct?

3 EXAMINER PIRIK: Correct.

4 MS. KINGERY: Yes. I was proposing to
5 unredact those.

6 MR. ALLWEIN: Okay. Thank you.

7 EXAMINER PIRIK: Okay. Okay. All right.
8 With regard to Ms. Jackson's testimony, the proposed
9 redactions on page 8, page 9, page 10, page 11 will
10 be granted. With regard to page 13, the proposed
11 redaction in the chart at the top of the page will be
12 granted and the company stated that the proposed
13 redaction on line 9 will be in the open record.

14 With regard to page 15, we find that the
15 proposed redaction on line 13 should be in the open
16 record. And there are a couple of words including
17 the fourth and fifth word and the eighth word on line
18 14, as well as the second and third word on line 18
19 that we think should be in the open record. There's
20 no real reason and it does not give anything away to
21 open up those words.

22 MS. BOJKO: Would you read the words you
23 can say?

24 EXAMINER PIRIK: Yeah. Line 14 the word
25 after "fall," the two words after "fall."

1 MS. BOJKO: Are open or redacted?

2 EXAMINER PIRIK: We think they should be
3 open and we think there is a -- the eighth word on
4 that line should be open.

5 Okay? Does that make sense, Ms. Bojko?

6 And then in line 18, the second and third
7 words should be open.

8 The request for confidentiality on
9 page 16 should be granted.

10 Turning to the attachments, Attachments 2
11 and 3 shall be redacted consistent with our previous
12 rulings with numbers redacted with the exception of
13 the cash flow line and the UCAP redacted for all
14 pages. Attachment 4 should be redacted consistent
15 with our previous ruling on OCC Exhibit 31. For
16 Attachment 5, we think that some of -- some of the
17 words obviously would tell someone what exactly --
18 how exactly the model is derived. But there are
19 quite a few numbers in this that really don't lend
20 itself to do that, so we would ask the company to go
21 back and present a further open document.

22 MS. KINGERY: We will, your Honor.

23 EXAMINER PIRIK: We probably need that
24 before tomorrow since Mr. Zhang is on the stand.

25 And with regard to Attachment 6 as

1 proposed redacted by the company, that should be
2 granted. So we still have to review Attachment 5,
3 but, other than that, I think we are completed with
4 this document.

5 MS. BOJKO: Your Honor, for point of
6 clarification, is Attachment 5 on your version the
7 Sierra Interrogatory 03-073?

8 EXAMINER PIRIK: No. Exhibit SEJ-5 is
9 OCC Interrogatory 16-414.

10 We still have IGS Exhibit 8.

11 MR. OLIKER: Your Honor, do you have the
12 top copy of the exhibit?

13 EXAMINER PIRIK: I'm sorry?

14 MR. OLIKER: You have a copy of the
15 exhibit?

16 EXAMINER PIRIK: Yes.

17 Does the company have one?

18 MS. KINGERY: Yes, your Honor.

19 EXAMINER PIRIK: Does everybody have one?

20 MS. KINGERY: Didn't we just argue this
21 same document?

22 EXAMINER PIRIK: It's pretty close to the
23 same document.

24 MS. SPILLER: It looks like OCC
25 Exhibit 23.

1 EXAMINER PIRIK: Yes, it does.

2 MR. OLIKER: This is the corrected Bates
3 number for OCC 23, I believe. So for all intents and
4 purposes this document probably is the same because
5 the only problem with 23, the numbers weren't there,
6 but we are redacting the numbers in both of them, it
7 may not make a difference.

8 EXAMINER PIRIK: The numbers are
9 different.

10 MS. KINGERY: So it should be identical
11 to OCC Exhibit 23?

12 EXAMINER PIRIK: Yes, yes.

13 Okay. I believe we are ready for our
14 next witness. Did we lose everybody?

15 MR. PETRICOFF: Because of the
16 confidentiality, they're outside.

17 EXAMINER PIRIK: Okay. That makes sense.
18 We will go off the record.

19 (Discussion off the record.)

20 EXAMINER PIRIK: We will go on the
21 record. Good morning -- afternoon, Ms. Ringenbach.
22 Could you please raise your right hand.

23 (Witness sworn.)

24 EXAMINER PIRIK: Thank you.

25 Mr. Petricoff.

1 MR. PETRICOFF: Thank you, your Honor.

2 At this time we would like to have marked as RESA
3 Exhibit No. 1 the Direct Prepared Testimony of Teresa
4 Ringenbach on behalf of the Retail Energy Supply
5 Association.

6 EXAMINER PIRIK: The document will be so
7 marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 - - -

10 TERESA L. RINGENBACH

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

13 DIRECT EXAMINATION

14 By Mr. Petricoff:

15 Q. Good afternoon, Ms. Ringenbach.

16 A. Hello.

17 Q. I have -- do you have before you what has
18 just been marked as RESA Exhibit No. 1?

19 A. Yes.

20 Q. Is that your direct prepared testimony?

21 A. It is.

22 Q. Was that prepared by you or under your
23 supervision?

24 A. Yes.

25 Q. Are there any changes or amendments you

1 would like to make to that document?

2 A. Yes. There's one. On page 9, line 17 to
3 18, we're changing the date from "May 28, 2014," to
4 "May 21, 2014." And the case should be, instead of
5 "12-2050," it should be "12-3151."

6 Q. After those changes are made, are there
7 any other amendments you would like to make to this
8 testimony?

9 A. No.

10 Q. And if I were to ask you the questions
11 today, would your answers be the same?

12 A. Yes.

13 MR. PETRICOFF: The witness is available
14 for cross-examination.

15 EXAMINER PIRIK: Thank you.

16 My intent is just to go around the table,
17 so Ms. Hussey?

18 MS. HUSSEY: No questions, your Honor.

19 EXAMINER PIRIK: Ms. Bojko?

20 MS. BOJKO: We did decide to do her as
21 two different people, two different pieces of
22 testimony, right?

23 MR. PETRICOFF: One person, two different
24 sets of testimony.

25 MS. BOJKO: I have no questions for this

1 witness for this piece of testimony.

2 MS. WATTS: No questions for Sybil.

3 MS. BOJKO: No questions for this Teresa.

4 EXAMINER PIRIK: Mr. Serio?

5 MR. SERIO: Thank you, your Honor.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Serio:

9 Q. Good afternoon, Ms. Ringenbach.

10 A. Hello.

11 Q. In your testimony you talk about the
12 company's purchase of receivables program, correct?

13 A. Yes.

14 Q. And as it's currently structured, the
15 purchase of receivables program for Duke currently
16 provides CRES providers with 100 percent of their
17 receivables, correct?

18 A. Yes.

19 Q. So that means that CRES providers do not
20 have to absorb any of the bad debt associated with
21 any of their shopping customers, correct?

22 A. Correct.

23 Q. And, similarly, because they get
24 100 percent cost recovery, CRES providers have no bad
25 debt risk, correct?

1 A. For the Duke charges, that's correct.

2 Q. Yes. And all those bad debt costs are
3 paid for by all customers through Duke's base rate
4 charges, correct, the bad debt costs?

5 A. Yes.

6 Q. So, essentially, what you have is that
7 SSO customers pay part of the bad debt associated
8 with shopping customers, correct?

9 A. That's correct. Well, depending on who's
10 creating the bad debt, yes.

11 Q. And you would agree with me that the
12 pricing of the competitive electric commodity is
13 deregulated?

14 A. The pricing itself is not determined by
15 the Commission, yes.

16 Q. And can you identify any other type of
17 deregulated product where pricing is not regulated,
18 yet the service provider is forwarded 100 percent
19 recovery of bad debt on a guaranteed basis?

20 A. I think it's common for companies to have
21 their receivables purchased.

22 Q. At 100 percent?

23 A. Well, I think it depends on what they
24 negotiate. In this situation, while we aren't paying
25 100 percent, on a normal POR, even when you have a

1 discounted rate, you are still passing that through
2 to the customer. I think it's the design of the
3 program that shows the customers are paying it
4 through the utility side rather than having it passed
5 through to their suppliers, but it's the same
6 discount rate that would apply if you didn't have a
7 bad debt type of rider.

8 Q. I understand that. What I am asking you
9 is are you familiar with any other services or
10 products in the market where the price is not
11 regulated, yet the service provider gets 100 percent
12 cost recovery of bad debt?

13 A. No.

14 Q. Now, on page 9 of your testimony, I think
15 you talk about the data associated with the smart
16 meter rollout, correct?

17 A. Yes.

18 Q. You're familiar with the term "used and
19 useful" as used in the regulatory construct at PUCO
20 proceedings?

21 A. In general, yes.

22 Q. If Duke does not make SmartGRID data
23 available to other providers in your opinion, is --
24 does that mean that the SmartGRID infrastructure is
25 not completely used and useful?

1 A. In my opinion, no, because the customer
2 doesn't get the full benefit of everything that they
3 can do with that data.

4 Q. Now, on page 12 of your testimony, you
5 provide your solution to the problem that you
6 described regarding "bill-ready UCB." Do you see
7 that?

8 A. Yes.

9 Q. If there is a cost associated with your
10 solution, who should be responsible for that cost?

11 A. The solution that's proposed is what
12 already exists today which is that you can have
13 bill-ready billing without the POR. So there
14 shouldn't be a cost. It already exists.

15 Q. I guess what I am asking you is, if in
16 implementing your fix, Duke identifies a cost that
17 the Commission deems to be recoverable, should that
18 be the responsibility of CRES providers or should
19 Duke be allowed to collect that from customers?

20 A. So you are saying Duke decides that what
21 exists today has to be changed to make it exist as it
22 does today, there's a cost to that? My solution is
23 exactly what happens today, which is you can have
24 bill-ready billing without POR, so there should be no
25 cost. My solution is don't make a change.

1 Q. Okay. On page 14 of your testimony, you
2 discuss supplier consolidated billing, correct?

3 A. Yes.

4 Q. Now, if a CRES provider purchased a
5 utility's receivables, would the CRES provider be
6 purchasing them similarly at 100 percent under your
7 proposal?

8 A. The CRES provider and the utility would
9 have to negotiate what that is. There is a utility
10 that offers supplier consolidated billing today in
11 Illinois and you do pay 100 percent.

12 Q. And then on page 14 of your testimony,
13 you talk about how would disconnections work under
14 supplier consolidated billing. Did you propose any
15 specific outline as far as how any potential
16 disconnection process would work?

17 A. No. We've asked that there be a working
18 group to work through all that, but, in general, our
19 recommendation is that disconnections should work the
20 same way that they do today.

21 MR. SERIO: That's all I have, your
22 Honor. Thank you.

23 Thank you, Ms. Ringenbach.

24 EXAMINER PIRIK: Thank you.

25 Mr. Allwein.

1 MR. ALLWEIN: I have no questions. Thank
2 you, your Honor.

3 EXAMINER PIRIK: Mr. Stinson?

4 MR. STINSON: No questions.

5 EXAMINER PIRIK: Ms. Kyler?

6 MS. KYLER COHN: No questions.

7 EXAMINER PIRIK: Mr. Olikar?

8 MR. OLIKER: No questions.

9 EXAMINER PIRIK: Mr. Clark?

10 MR. CLARK: No, your Honor.

11 MS. WATTS: That's a little awkward.

12 EXAMINER PIRIK: I am trying to remember
13 who the witness is with today.

14 Duke.

15 MS. WATTS: Thank you, your Honor.

16 - - -

17 CROSS-EXAMINATION

18 By Ms. Watts:

19 Q. Good afternoon, Ms. Ringenbach.

20 A. Hello.

21 Q. Take -- taking -- going back to the
22 discussion about customers paying for the cost of the
23 un -- the receivables of a utility.

24 A. Yes.

25 Q. Is it your understanding that Duke Energy

1 Ohio has an uncollectible rider where those costs are
2 recovered?

3 A. You know, off the top of my head, I might
4 be confusing the gas utilities too. But I know that
5 one of the reasons that we ended up at 100 percent
6 was because Duke had the ability for distribution and
7 commodity, to pass through those uncollectible costs
8 to all customers.

9 And the option was either have a discount
10 rate for suppliers and then your customer -- your
11 supplier customers would avoid the commodity
12 associated with that bad debt cost, so they didn't
13 pay twice; or leave it where everybody pays it, but
14 then the supplier is reimbursed 100 percent because
15 the supplier is no longer passing through that bad
16 debt, the customer is already paying it through the
17 wire side charge.

18 Q. And you don't recall right now which way
19 it went with Duke Energy.

20 A. I don't remember if they had a rider or
21 not.

22 Q. Okay. You remember talking about
23 whether -- let me see how to phrase that. You
24 responded to Mr. Serio by saying that if the
25 data-sharing provisions that you seek in this case

1 are not -- don't happen for Duke Energy Ohio, then
2 you would agree that the SmartGRID investment is not
3 used and useful in some respect; was that your
4 testimony?

5 A. Yes. I think one of the biggest benefits
6 to the smart meters themselves is giving customers
7 the data to change the way that they use their
8 energy, and the best way to get those types of
9 products and actually a variety of ways for customers
10 to individually use that data is through the
11 competitive market.

12 Q. Okay. So did you -- do you happen to
13 recall whether or not IGS participated in Duke Energy
14 Ohio's -- would have been the first ESP case, 08-920?

15 MR. OLIKER: Objection. I am not sure
16 what the relevance of what IGS did with respect to
17 Ms. Ringenbach's testimony.

18 MS. WATTS: Yes, Joe, I apologize.

19 Q. Direct Energy, Direct Energy Services, or
20 RESA.

21 A. First -- so, I am trying to remember
22 which -- so, not the ESP we are on now, the one
23 before this one?

24 Q. The one before the one before this one.

25 MR. PETRICOFF: Your Honor, could we have

1 the question reread?

2 A. I just need the year and then I can tell
3 you.

4 Q. It was -- it's 08-920.

5 EXAMINER PIRIK: Could you rephrase the
6 question?

7 MS. WATTS: I am sorry. With the right
8 parties on it, that might be a good idea.

9 Q. Ms. Ringenbach, when did you assume your
10 services with Direct Energy Services, Direct Energy
11 Business?

12 A. My first official day was August 31,
13 2009.

14 Q. Okay. So do you recall in your
15 responsibilities with Direct Energy Services, Direct
16 Energy Business, did you -- were you involved in any
17 respect with Duke Energy Ohio's first ESP application
18 which was filed in '08?

19 A. To be honest, I can't remember if I'm
20 remembering it because I was part of the Integrys or
21 RESA or Direct, so I can't -- I don't know for sure.
22 I know all the parties were part of the case.

23 Q. Okay. And is it your understanding that
24 that was where SmartGRID was first approved for Duke
25 Energy Ohio?

1 A. I remember there was -- SmartGRID was
2 part of the discussions.

3 Q. And do you recall whether data sharing
4 with third parties was ever proposed as part of
5 Duke -- as part of Duke Energy Ohio's SmartGRID
6 proposal?

7 A. Oh, wait. I take it back, yes, we were
8 part of that case. Thank you.

9 Q. Who "we"?

10 A. Direct Energy was part of that case and
11 there was negotiation, discussion on the access to
12 smart meter data as part of the '08 case which was an
13 election year so, yes.

14 Q. Okay. And do you recall whether there is
15 anything either in the stipulation or the
16 Commission's order with respect to that data access?

17 A. Yes. I don't remember the exact wording,
18 but basically Duke was to provide access to the data.
19 I would have to go back and look through it, but my
20 understanding was that we were supposed to get access
21 to the data once the meters were rolled out and the
22 systems were ready. And that hasn't quite come to
23 fruition in the way we had anticipated it was going
24 to come about which I think we dealt with in another
25 case where we got punted.

1 Q. Okay. We may have to deal with that in
2 another case yet, so thank you.

3 So would you turn, please, to page 3 of
4 your testimony where you list RESA's members.

5 A. Yes.

6 Q. Would you agree with me that more than
7 half of those members are active in Duke Energy
8 Ohio's service territory?

9 A. Subject to me checking on that, I think
10 most of them are.

11 Q. Okay. Thank you.

12 The testimony that you're offering here
13 today on behalf of RESA does not reflect the view of
14 every RESA member, correct?

15 A. That's correct.

16 Q. And as you recall, there are only four
17 RESA members who expressed an interest in Duke Energy
18 Ohio's ESP III, correct?

19 A. I don't recall that. There were four?

20 Q. Yes. Would you like me to refresh your
21 recollection or --

22 A. I believe my deposition I named the ones
23 I could remember, but I have never truly gone back
24 and checked everyone, and I think even then I said
25 there could be others I don't remember.

1 Q. Subject to check it would be
2 approximately four?

3 A. I don't know.

4 Q. Okay.

5 MS. WATTS: May I approach, your Honor?

6 EXAMINER PIRIK: Yes.

7 Q. If you'll take a minute to look at that.

8 MR. PETRICOFF: Could you identify what
9 she's looking at?

10 MS. WATTS: Ms. Ringenbach --
11 Mr. Petricoff, it begins at the bottom of 16.

12 MR. PETRICOFF: I'm sorry, the bottom
13 016?

14 MS. WATTS: Uh-huh.

15 A. So those are the ones I could remember.

16 Q. Okay.

17 MR. PETRICOFF: Your Honor, at this point
18 I would also like to note that I objected to this
19 line of questioning when it was brought up at the --
20 at the deposition. And at this point, I don't think
21 we crossed the line yet, but anything that would
22 identify who was interested within the trade
23 association and how that position was developed or
24 expressed would be, I think, both entitled to
25 privilege and also would be irrelevant to the

1 proceeding.

2 MS. WATTS: I promise, Howard, not to ask
3 anything along those lines.

4 Q. So, Ms. Ringenbach, having reviewed a
5 portion of your deposition at the time your
6 deposition was taken, isn't it correct that you
7 remembered approximately four members that were
8 interested in the proceedings?

9 A. Yes. And I believe I also said that
10 there could be more to that list.

11 Q. And have you identified more since then?

12 A. No. I did not go back and review the
13 list.

14 Q. Is it fair to say that on behalf of RESA
15 and Direct Energy you provide testimony on three
16 topics here? You're covering billing, purchase of
17 accounts receivable, and rate design for rider RC,
18 correct?

19 A. Yes.

20 Q. And with regard to billing and the
21 purchase of accounts receivable program, neither
22 RESA, Direct Energy Services, nor Direct Energy
23 Business Services oppose the continuation of the
24 company's purchase of receivables program, correct?

25 A. As it is today, we support it remaining.

1 Q. And, in fact, RESA has stated in filings
2 before the Commission that the absence of a POR could
3 styme the development of the competitive market for
4 residential and small commercial segments, correct?

5 A. RESA has said that.

6 Q. And you, on behalf of both RESA and the
7 Direct Energy entities, are aware of the Commission's
8 investigation into the retail market, correct?

9 A. We're talking about the market's
10 investigation and not the polar vortex one, yes.

11 Q. Yes. And I believe you changed a
12 reference in your testimony to Docket No. 12-3151.
13 Is that what you understand to be the retail market
14 investigation?

15 A. I don't remember docket numbers.

16 Q. Oh, okay.

17 A. We want to call it the "market
18 investigation," we will go with that docket.

19 Q. That works for me. Thank you. And you
20 know the Commission has established market -- working
21 groups to address a variety of issues as a result of
22 its investigation, correct?

23 A. Yes.

24 Q. And although you're not RESA's delegate
25 for the Market Development Working Group, you're

1 certainly informed of the activities occurring in
2 those meetings given your position as Senior Manager
3 of Government and Regulatory Affairs.

4 A. Yes.

5 Q. And you know that the Commission has
6 encouraged electric distribution utilities in Ohio to
7 implement purchase of accounts receivable programs,
8 correct?

9 A. Yes.

10 Q. And I said "electric distribution
11 utilities," but if I say "EDU," do you know what I
12 mean by that?

13 A. I do.

14 Q. Okay. And you agree the costs included
15 in the purchase of accounts receivable programs can't
16 be open ended -- open ended, correct?

17 A. The costs included cannot be open ended,
18 meaning there has to be a set amount to be recovered
19 for putting together the programs? I am not sure
20 what your question is.

21 Q. Well, my question would be do you agree
22 that certain -- it can't be open ended as to anything
23 to be put in that program?

24 A. Yes.

25 Q. Okay. And not every cost that the CRES

1 may seek to collect from a customer should be
2 included in a purchase of receivables program,
3 correct?

4 A. My testimony is put forward that we think
5 it should be your competitive retail electric
6 generation service and that there should be an option
7 to put something else on the bill that isn't part of
8 that, which is really what I was talking about when
9 we talked about the smart meter data and smart
10 thermostats kind of thing.

11 Q. Okay. I understand that. But your focus
12 with respect to your testimony is simply that the
13 costs included in the purchase of receivables program
14 are those directly related to competitive generation
15 supply, correct?

16 A. Yes. We would like the term "commodity
17 only" to be better defined.

18 Q. Okay. Would that include something like
19 an early termination fee?

20 A. I think RESA's position is that they
21 would be open to that as it is a cost associated with
22 being a CRES provider.

23 Q. But you're not recommending that right
24 now.

25 A. I think at this point they want it to be

1 everything that is involved with creating your
2 business, doing business in the state, to actually
3 bring the electrons to the customer.

4 Q. Okay. And you understand that Duke
5 Energy Ohio provides both gas and electric service,
6 correct?

7 A. Yes.

8 Q. And you know that as a general man -- as
9 a general matter, the Commission's rules provide for
10 different payment priorities for gas and electric
11 companies, correct?

12 A. Yes.

13 Q. And are you aware also that Duke Energy
14 Ohio operates under a waiver from the Commission with
15 respect to its payment priorities?

16 A. I would have to look at what the waiver
17 says, but generally I am aware of that.

18 Q. So if a CRES provider is given the
19 information to engage in its own collections, they
20 would similarly need to adopt the gas priority of
21 payment, correct?

22 A. Yes.

23 Q. So turning to your rate design proposal
24 for rider RC. You don't oppose the use of rider RC
25 to collect retail capacity charges from SSO

1 suppliers, do you?

2 A. No.

3 Q. And on behalf of RESA and the Direct
4 Energy entities, you don't oppose the allocation of
5 capacity using the 5 CP method, correct?

6 A. RESA supports using the 5 CP method.

7 Q. But you are advocating that the company,
8 Duke Energy Ohio, provide more granularity with
9 regard to capacity charges for SSO service customers,
10 right?

11 A. Yes.

12 Q. In fact, you believe that Duke Energy
13 Ohio should move toward implementing capacity charges
14 for SSO supply based upon an individual customer's
15 consumption pattern, correct?

16 A. Yes.

17 Q. And you believe that this would better
18 align CRES offers and the price to compare?

19 A. I think it would better align the
20 customer, depending on the size you're talking about,
21 for the bigger customers?

22 Q. Uh-huh.

23 A. We actually do also incorporate the PLC,
24 we have capacity passthrough products, we have those
25 sorts of things. When you get into the discussion on

1 all customers having individual PLCs, our belief is
2 that we can actually bring different products to
3 those smaller customers that they could use to impact
4 their -- their peak contribution to the grid.

5 And, today, there's no benefit to doing
6 that because they don't actually see any change in
7 their capacity pricing when an individual, small
8 commercial, residential customer makes a change,
9 because they are based on the average and the
10 percentage applied to their class.

11 Q. Okay. So I'm not sure in all of that
12 that I got an answer to my question, so, if you don't
13 mind, I am going to pose it again. You believe that
14 the increased granularity would better align CRES
15 offers with the price to compare.

16 A. I think for larger customers, yes. For
17 smaller customers, it would open the door to more
18 products offered from CRES providers.

19 Q. Okay. Thank you.

20 And for residential customers, are you
21 familiar with what the Apples to Apples chart is?

22 A. Yes.

23 Q. Would you just describe that briefly?

24 A. It's a website where CRES providers
25 provide their generally available offers for

1 residential and, if they choose, small commercial
2 customers. And customers can go and scroll through
3 and find out what's available from all the different
4 suppliers that are out there.

5 Q. Great. Thank you. I just wanted to make
6 sure we were on the same page with that. And the
7 Apples to Apples chart doesn't provide any prices
8 from CRES suppliers that's broken out by capacity and
9 energy, does it?

10 A. No, because it's for residential and
11 small commercial customers.

12 Q. Okay. And so, all residential offers are
13 based upon a price-per-kilowatt-hour figure, correct?

14 A. I think, speaking from my company's
15 perspective and what's on the apples chart, yes.

16 Q. Okay. So while you say that CRES
17 providers are moving away from a bundled offering,
18 that's not the case in Ohio, correct?

19 A. Correct.

20 Q. With regard to your testimony on page 17,
21 you're essentially stating that absent individually
22 determined capacity costs, customers will have no
23 incentive to reduce their usage during peak times,
24 correct?

25 A. Correct.

1 Q. A customer pays a demand charge and an
2 energy charge, correct?

3 A. Today they do, yes.

4 Q. So if a customer reduces its demand, it
5 will save money, correct?

6 A. Yes.

7 Q. With regard to the topic of billing, you
8 state that in your opinion some of the company's
9 proposals in this case prevent customers from
10 enjoying the convenience of having all of their
11 utility and CRES-related expenses on a single bill,
12 correct?

13 A. Yes.

14 Q. And the charges to which you refer can --
15 concern requiring CRES providers that use utility
16 consolidated billing to participate in the POR, and
17 limiting the POR and bill-ready billing to commodity
18 only, correct?

19 A. Yes.

20 Q. And so, what you're seeking is the
21 ability of a CRES to include charges for
22 noncommodity-related services on the Duke Energy Ohio
23 bill, correct?

24 A. I'm actually seeking two things. So
25 commodity only to be electric generation service

1 because it's not clear what's meant by "commodity
2 only." And then the ability to put what I am going
3 to call "noncommodity types of services" or "warranty
4 protection plans," those sorts of things on the bill.

5 Q. Could you talk to me a little bit about
6 what "home warranty" means?

7 A. So when I use that term, I mean things
8 like surge protection, HVAC repairs, air conditioning
9 tune-ups, those sorts of things.

10 Q. Okay. Thank you.

11 And you believe that this outcome is
12 consistent with the customer's preference for a
13 single bill, correct?

14 A. Yes.

15 Q. And you also believe that the company's
16 proposal would dampen competitive options for
17 customers, correct?

18 A. That is associated with the term
19 "commodity only" also and the concern that that does
20 not incorporate everything you would use to bring in
21 the commodity; but, combining the two, yes.

22 Q. Okay. And you don't know how many
23 customers have refused to shop because doing so would
24 result in them receiving two bills, correct?

25 A. That's correct.

1 Q. And you don't know how many customers, if
2 any, have refused to purchase other energy-related
3 products beyond generation service because doing so
4 would result in them receiving two bills, correct?

5 A. That's correct.

6 Q. And RESA is not provided with your
7 testimony or, in this case, any survey data or
8 polling data to see -- to demonstrate whether
9 customers prefer one bill or more than one bill,
10 correct?

11 A. That's correct.

12 Q. And your testimony is predicated upon a
13 competitive disadvantage that would occur if a CRES
14 provider could not include its charges on the Duke
15 Energy Ohio utility bill, correct?

16 A. Yes.

17 Q. Okay. So focusing for a moment on that
18 competitive neutrality concept, Direct Energy
19 Business Services engages in a variety of business
20 offerings, correct?

21 A. Direct Energy Business Services?

22 Q. Uh-huh.

23 A. Direct Energy --

24 Q. Direct Energy Business. Am I misstating
25 the name?

1 A. Yes. Yes.

2 Q. Direct Energy Business.

3 A. Okay.

4 Q. Isn't it true it engages in offering a
5 variety of services?

6 MR. PETRICOFF: Your Honor, I am going to
7 object. It has nothing to do with RESA, presentation
8 of the RESA testimony.

9 MS. WATTS: It's in her RESA testimony.

10 THE WITNESS: It's both. It's Direct
11 Energy.

12 MR. PETRICOFF: I withdraw my objection.

13 THE WITNESS: Sorry.

14 A. So I just want -- well, Direct Energy
15 Business does -- just to make sure I'm getting the
16 company straight because I am afraid you might be
17 getting the wrong company. So Direct Energy Business
18 offers energy-related products and services to
19 commercial customers. So they would cover things
20 like demand response products and -- they are the
21 side of the business that trucks in compressed
22 natural gas. They don't do the HVAC warranty work.
23 That's under Direct Energy Services.

24 Q. Okay.

25 A. So, with that, make sure I'm --

1 Q. I appreciate you straightening me out.

2 And so, which of those entities has a
3 partnership with SolarCity pursuant to which they
4 provide financing assistance with regard to solar
5 energy products?

6 A. That is Direct Energy Business.

7 Q. Business, okay. And Direct Energy
8 Business engages in only energy related lines of
9 business; is that what you just explained?

10 A. They don't typically branch out. They
11 have -- the upstream part of the business that does
12 all the scheduling, all the drilling of natural gas
13 resources, all of that falls under Direct Energy
14 Business. If you want to talk about things like Nest
15 thermostat partnerships and HVAC work or plumbers and
16 electricians, those fall under a different business.

17 Q. Okay. So that's Direct Energy Services.

18 A. Yes. And they do have a solar company
19 called Astrum in regard to Direct Energy Services
20 which is residential focused and fully owned, not a
21 partnership.

22 Q. Thank you.

23 So Direct Energy Services offers, for
24 example, home efficiency products, products that
25 pertain to home services such as HVAC and air

1 conditioning tune-ups and such; is that correct?

2 A. Yes.

3 Q. So Direct Energy Services also has a
4 partnership with Nest which I think you just
5 mentioned, correct?

6 A. Yes.

7 Q. And nest produces thermostats among other
8 things, correct?

9 A. Yes.

10 Q. And Direct Energy Services' competitors
11 with regard to offers -- strike that.

12 Other CRES providers also offer those
13 kinds of products, correct? Like a Nest thermostat,
14 for example?

15 A. They -- I think they offer thermostats.
16 Other CRES providers are prohibited from offering
17 Nest thermostats.

18 Q. Okay. But they might offer a competing
19 thermostat?

20 A. Yes.

21 Q. And thermostat companies like Honeywell
22 also offer thermostats, correct?

23 A. Yes.

24 Q. Okay. So to ensure competitive
25 neutrality or to avoid a competitive disadvantage

1 with regard to energy-related products and services,
2 all of these competitors would, under your proposal,
3 have to be given access to Duke Energy Ohio's bill,
4 correct?

5 A. In some form, yes.

6 Q. So charges for a home warranty from
7 Sears, for example, could show up on the utility
8 bill, correct?

9 A. If they entered into an agreement with
10 the utility to put it on the bill.

11 Q. Okay. And so, under those circumstances,
12 Duke Energy Ohio call representatives could find
13 themselves taking calls with customer complaints
14 related to all of these things, correct?

15 A. I think if they -- if it's structured in
16 a way they don't have to be affiliated with a CRES
17 provider, that is possible.

18 Q. Okay. And you also support your
19 recommendation with a reference to the EPA's proposed
20 carbon rules, correct?

21 A. Yes.

22 Q. The one you referenced, did you mean -- I
23 don't know if you explicitly stated, but was it
24 111(d) you were describing in your testimony?

25 A. Yes.

1 Q. And you indicate that getting CRES
2 providers into the market with any sort of material
3 penetration for CO-2 emission-reduction products
4 takes time and it's a waste of time to later reopen a
5 case for billing options, correct?

6 A. I agree. I think there are a lot of
7 changes coming and this is an opportunity to open up
8 the billing to allow products that are in front of
9 the potential changes.

10 Q. Okay. And as an initial matter, the
11 products and services to which you refer, such as
12 CO-2 emission-reduction products and services, could
13 be offered by more than just CRES providers, correct?

14 A. I think if you go back to the time when
15 carbon offsets were actually being sold in the
16 market, customers had the opportunity to actually go
17 and buy their own carbon offsets.

18 Q. Okay. And in an earlier answer you used
19 the term "affiliated with a CRES provider." What did
20 you mean by that reference?

21 A. So, currently, Columbia Gas allows the
22 ability to put services on the bill. The service --
23 the types of services that are allowed are defined in
24 the contract, and you have to be an affiliate of a
25 competitive natural gas supplier, so it would not

1 allow Sears to go and put something on the bill.
2 Sears would have to work either through Columbia's
3 affiliate or through a -- or, be an affiliate of a
4 competitive natural gas supplier.

5 Q. Would you view that arrangement as
6 competitively neutral?

7 A. At the time, yes, because they had their
8 own affiliate that was putting those types of
9 services on the bill, so it was one of those
10 situations where our affiliated services did not have
11 that same advantage, so for them it was competitively
12 neutral, and then just the access to the bill issues
13 that you had brought up and how people come in
14 through negotiations, it was decided that it should
15 be limited to a company that's a competitive natural
16 gas provider so the world was not open.

17 Q. Understood. Do you have any particular
18 knowledge of antitrust law?

19 A. I have to go through antitrust training
20 once a year.

21 Q. Bravo. Okay. And what's involved in
22 that training?

23 A. So essentially if you're in a room with a
24 competitor and they bring up pricing or setting
25 prices, you should get up and leave loudly.

1 Q. Good. Thank you. Under the scenario of
2 where non-CRES entities that have no Commission
3 oversight would be allowed to include their charges
4 on an EDU bill -- well, first of all, that's what
5 you're proposing, correct?

6 A. I'm proposing that we have the ability to
7 put services on the bill and that we should define
8 what those services are.

9 Q. Okay. But if I understand correctly,
10 you're also proposing that an affiliated entity of a
11 CRES provider be permitted to put services on the
12 bill as well.

13 A. I'm proposing that's an option to limit
14 it from being everyone in the world showing up with a
15 contract for Duke. That is an option that does exist
16 in another utility.

17 Q. Okay. I apologize, I'm skipping around
18 just a bit here. Going back to the environmental
19 legislation we were talking about, we don't know
20 right now when carbon rules will take effect, do we?

21 A. It's anticipated for June but the dates
22 keep getting moved. I think we'll know in a month if
23 we are going to hit that target or not.

24 Q. But as of right now, we don't know.

25 A. No.

1 Q. And a month from now we might not know.

2 A. It's possible.

3 Q. Okay. And when they do take effect,
4 whenever that might be, we don't know what those
5 rules will actually provide, do we?

6 A. We have general outlines but, no, we
7 don't know what the final list will say.

8 Q. And once rule 111(d), for example,
9 becomes effective, it will require action on behalf
10 of the state of Ohio, correct?

11 A. Yes.

12 Q. And some of that action could involve
13 legislative action.

14 A. Could, yes.

15 Q. And depending on the outcome of the next
16 Presidential election, that might change the outcome
17 of that rulemaking, correct?

18 A. That is definitely a possibility.

19 Q. So just to be clear, one thing that you
20 would propose perhaps -- correct me if I am
21 misunderstanding this, not necessarily you are
22 proposing in this case, but in the future you're
23 saying that affiliates of CRES providers should be
24 permitted to put services on the bill.

25 A. Yes.

1 Q. Okay. And how are you using the term
2 "affiliate" in that instance?

3 A. You belong to the same parent company.

4 Q. Okay. So that's your understanding of
5 what an affiliate is.

6 A. That's what I'm proposing.

7 Q. Okay. So in an instance where customers
8 could sign up to receive a home warranty, for
9 example, from Sears or from -- or a Nest thermostat
10 from Direct Energy Services, in that instance the
11 customer would be receiving two bills for
12 energy-related products, correct?

13 A. Ask the question again.

14 Q. In an instance where customers could sign
15 up to receive a home warranty, for example.

16 A. Yes.

17 Q. And if they receive it from Sears or get
18 a Nest thermostat from Direct Energy, in that
19 instance they would be receiving two bills for each
20 of those -- a bill for each of those products,
21 correct, so they would get two bills?

22 A. So today, based on a Sears warranty, they
23 are going to be billed for their Sears warranty from
24 Sears. And if they sign up -- well, technically,
25 today, the Nest is free. We don't include it in our

1 charges at all, so it -- it actually doesn't show up
2 anywhere. But assuming we decided we wanted to bill
3 for a Nest separately, then they would receive three
4 bills, right? They would have a bill from Duke for
5 their energy and distribution charges, they have a
6 bill from Sears for their warranty product, and then
7 if they wanted to purchase a Nest, they would have a
8 bill from Direct to purchase the Nest.

9 Q. Okay. With regard to utility
10 consolidated billing, to the extent a supplier is
11 allowed to include charges for their products and
12 services on that bill, you would agree that that
13 supplier needs to pay those costs, correct? The cost
14 for providing -- for putting that on the bill?

15 A. Yes. There is a per-bill fee that we
16 pay.

17 Q. Okay. So you agree that suppliers should
18 pay their share of the costs that are incurred.

19 A. We've always agreed if there is an
20 administrative cost to providing it, that we pay
21 that.

22 Q. And you also support supplier
23 consolidated billing, correct?

24 A. Yes.

25 Q. And, in this instance, the supplier could

1 include on its bill the distribution and transmission
2 charges as well as its own charges, correct?

3 A. Yes.

4 Q. But in a supplier consolidated billing
5 circumstance, a customer could still sign up for
6 products and services offered by different
7 competitors, correct?

8 A. Yes.

9 Q. So, for instance, Direct Energy is a
10 CRES, Direct Energy Services is a CRES.

11 A. Yes.

12 Q. And Direct Energy is the supplier for
13 consolidated billing, hypothetically.

14 A. Okay, yes.

15 Q. And then IGS could be the provider of a
16 surge protection device in that scenario.

17 A. Yes.

18 Q. And as a general matter, Direct Energy
19 Services will not allow IGS on its bill, will it?

20 A. I think that's what would be discussed in
21 the working group. I think you can put criteria down
22 that you can do true supplier consolidated billing
23 which is whatever the utility has to put on their
24 bill, you, as a supplier, consolidated biller have to
25 put that on your bill. You don't get an option.

1 We could work out in the working group
2 where you are only allowed to use supplier
3 consolidated billing in circumstances where you are
4 the provider for all of it, so you're not putting
5 other people's charges on your bill. I think that's
6 something that needs to be worked out. Our vision of
7 supplier consolidated billing is if the utility had
8 to put it on your bill, you have to put it on yours.

9 Q. Okay. So I'm hearing in your answer that
10 you essentially believe these are issues that are
11 ripe for working through in a working group.

12 A. Yes, the working group we recommended.

13 Q. You would agree with me that a retail
14 customer in Duke Energy Ohio's service territory
15 could have both a competitive retail electric
16 supplier and a competitive retail natural gas
17 supplier at the same time, correct?

18 A. Yes.

19 Q. And both CRES and CRNG, I am going to use
20 that term, and you understand what a CRES and a CRNG
21 is?

22 A. I do.

23 Q. Both the CRES and the CRNG could offer
24 energy-related products and services beyond the
25 commodity service, correct?

1 A. Yes.

2 Q. But under supplier consolidated billing,
3 if such a thing were adopted, one of these suppliers
4 would be a competitive -- be at a competitive
5 disadvantage because it would not be the billing
6 entity, right?

7 A. If they needed supplier consolidated
8 billing for their products and they prefer to be
9 that -- I think it depends on what you decide in the
10 working group. It could be first in gets supplier
11 consolidated billing, or it could be the customer
12 chooses to switch over and the customer switches to a
13 gas supplier with consolidated billing after they are
14 already with an electric supplier that trumps in and
15 flips over. I think those are all things that would
16 have to be worked out.

17 Q. Okay. Thanks.

18 Looking at page 11 of your testimony,
19 you're alleging at line 20 that Duke Energy Ohio is
20 engaged in discriminatory conduct. Do you see that?

21 A. Yes.

22 Q. But you have no indication that Duke
23 Energy Ohio is offering noncommodity products and
24 services, do you?

25 A. We -- we did receive some discovery that

1 shows that there were at least two noncommodity types
2 of products that are offered by Duke Energy One that
3 show up on the customer's utility bill.

4 Q. You're aware, are you not, that Duke
5 Energy Ohio's systems do not have functionality that
6 would enable a multitude of billing entries for a
7 multitude of noncommodity products and services,
8 correct?

9 A. I'm not aware of that. We do bill-ready
10 billing today as a supplier, can put multiple line
11 items on the bill, and clearly there's some service
12 products that were showing up on the bill, so there
13 has to be some capability.

14 Q. And are you aware, to the extent you
15 believe that there are some products showing up on
16 the bill, are you aware of how those are handled with
17 respect to the purchase of receivables program?

18 A. No.

19 Q. And if Duke Energy Ohio were obligated to
20 include other supplier charges, as you suggest,
21 related even to energy services but not strictly
22 commodity energy services, are you aware of whether
23 Duke Energy Ohio's billing system can manage that
24 with respect to the purchase of receivables program?

25 A. As it stands today, a supplier can opt

1 not to have purchase of receivables. So you could
2 actually dictate that if you put those things on your
3 bill, then that bill isn't subject to POR.

4 One of the solutions that we had talked
5 about was if you force POR, then we would have to
6 talk about some sort of ability to carve out those
7 line items separate from POR. But, right now, what
8 we are proposing is leave things as they stand today
9 so we can choose not to have POR if we have those
10 types of services on the bill.

11 Q. And you're aware, are you not, that the
12 Commission instructed Direct Energy Services to
13 pursue the complaint process if it thought Duke
14 Energy Ohio was engaging in discriminatory conduct,
15 correct?

16 A. Yes. I don't remember the docket number,
17 but there was an order that said that.

18 Q. Okay. Thank you.

19 And Direct Energy Services has not, to
20 date, filed any such complaint, correct?

21 A. That's correct.

22 Q. In the billing system changes that you
23 propose on page 12 of your testimony, beginning at
24 line 14. Do you see that?

25 A. Yes.

1 Q. And you're asking the Commission to
2 approve and direct Duke Energy to reprogram its
3 billing system to accommodate CRES providers
4 participating in the POR program. That section, do
5 you have any idea how expensive it might be for the
6 company to undertake that?

7 A. Well, our -- to be clear, the
8 recommending is only if they accept Duke's
9 requirement that you have to have POR if you use UCB.

10 Q. Okay.

11 A. So there's already going to be -- that's
12 assuming they've agreed to this change, and as part
13 of that change, they should still allow the
14 flexibility to exclude things from POR. But is there
15 a dollar amount to this, no.

16 Q. Okay. And you don't have any idea what
17 the magnitude of that would be?

18 A. I do not.

19 Q. Or the time it would take to implement.

20 A. My assumption is they already have to
21 exclude their distribution charges from POR, so there
22 has to be some ability to program to exclude certain
23 portions of the bill from POR.

24 Q. But that's just a guess on your part.

25 A. Yes.

1 Q. And are you offering any suggestion in
2 your testimony in this case to the Commission as to
3 who should pay for those additional costs?

4 A. No.

5 MS. WATTS: Okay. I think that's all I
6 have, your Honor.

7 EXAMINER PIRIK: Mr. Beeler?

8 MR. BEELEER: No questions. Thank you.

9 EXAMINER PIRIK: Mr. Petricoff?

10 MR. PETRICOFF: Yes, your Honor.

11 - - -

12 REDIRECT EXAMINATION

13 By Mr. Petricoff:

14 Q. Just a couple of redirect questions.
15 Ms. Ringenbach, do you remember the question you were
16 asked as to whether all of the offers made in the
17 residential Apples to Apples chart were on a
18 price-per-kilowatt-hour basis?

19 A. Yes.

20 Q. Could a CRES get the demand information
21 today from Duke in order to offer a residential
22 customer a bill that was based part on demand and
23 part on commodity?

24 A. No.

25 Q. Is there any way, then, under the current

1 system with Duke in which a residential customer -- a
2 CRES could provide a residential customer with
3 capacity costs that fit the costs being generated for
4 service to that customer?

5 A. Not without the hourly peaks, no.

6 Q. Are you familiar with the new smart
7 meters that are being installed in the Duke service
8 territory?

9 A. Yes.

10 Q. What kind of meters are they?

11 A. My understanding is they have the
12 capability to read at 15-minute and hourly intervals.
13 And the -- instead -- so, versus, I call them "dump
14 meters," you get one total lump sum amount of usage
15 once a month.

16 The smart meters will capture 15-minute,
17 hourly, whatever Duke programs them for usage. So it
18 doesn't necessarily mean that Duke isn't still just
19 reading that data once a month, but they have the
20 ability to capture those hourly peaks.

21 And then you could use that data to
22 coincide with the 5 CPs which are the five peak
23 periods of the summer, that one-hour peak in the
24 summer and the five highest points that PJM uses, to
25 determine your peak load contribution which is a

1 number that you use, multiply it by your capacity
2 costs, and then that would create that individual
3 customer's capacity cost.

4 So if you know when the peaks are coming
5 and they already have these products, a very plain
6 and simple product that you use for industrials today
7 which is basically you send them an alert that you
8 get from PJM that says we expect tomorrow is going to
9 be a peak, so you don't use your energy or you shut
10 something off or you do something, right, to reduce
11 your load during that peak period. If you manage to
12 do that and hit those five peaks, you can
13 significantly decrease your capacity costs.

14 So ComEd in Illinois is actually doing
15 that with their smart meter roll out. Starting in
16 December they will have individual peak load
17 contributions for each individual customer so they
18 will be able to read their individual peaks during
19 the summer based on those hourly rates from the
20 meters. And then, at that point, if the customer
21 reacts to it, we estimate that if they had reacted
22 and reduced their usage, simply by dialing back their
23 thermostats, they could save approximately \$60 based
24 on capacity prices this past year.

25 So there's -- the point is if you know

1 what they are using in their hourly peaks and you use
2 that to calculate their actual PLC number, you can
3 also use that to show the customer how to change
4 their usage during those five peak points and reduce
5 their capacity costs.

6 But when you do something where you have
7 what Duke is doing which is based on your class
8 average, it doesn't matter what I do, if there's
9 nearly another million customers out there that
10 haven't done anything, and my PLC number is based on
11 what they are using too.

12 Q. Commonwealth Edison, is that open for
13 residential customers as well?

14 A. It is. So in December they'll start
15 receiving individual NSPLs, and then by June they
16 will all have individual PLC numbers.

17 MR. PETRICOFF: No further questions.
18 Thank you very much.

19 EXAMINER PIRIK: Thank you.

20 Ms. Hussey.

21 MS. HUSSEY: No questions, your Honor.

22 EXAMINER PIRIK: Ms. Bojko.

23 MS. BOJKO: No questions, your Honor.

24 EXAMINER PIRIK: Mr. Serio.

25 MR. SERIO: No questions, your Honor.

1 EXAMINER PIRIK: Mr. Allwein.

2 MR. ALLWEIN: No questions, your Honor.

3 EXAMINER PIRIK: Mr. Stinson.

4 MR. STINSON: No questions.

5 EXAMINER PIRIK: Ms. Kyler.

6 MS. KYLER COHN: No questions.

7 EXAMINER PIRIK: Mr. Olikar.

8 MR. OLIKAR: No, thank you, your Honor.

9 EXAMINER PIRIK: Duke.

10 MS. WATTS: Just a couple quick ones.

11 - - -

12 RECROSS-EXAMINATION

13 By Ms. Watts:

14 Q. You were talking about what the Duke
15 Energy Ohio SmartGRID meters are capable of right
16 now?

17 A. Yes.

18 Q. Do you know whether they produce
19 information to the company on a 15-minute basis or an
20 hourly basis?

21 A. I believe -- I don't know what they're
22 reading right now. I want to say it's hourly, but I
23 would have to go back and double-check it.

24 Q. Okay. And do you know how frequently the
25 company collects the information from the meter?

1 A. They can do it daily, but I think they're
2 still only doing it once a month for the residential
3 customers.

4 Q. Okay. And do you know what information
5 is available to Duke Energy Ohio customers with
6 respect to their smart meter right now?

7 A. I know that they have a website that they
8 can log into and they can get the reads. I don't
9 believe the reads are what's called "bill ready," I
10 think there is still an adjustment to what they can
11 see online versus what ultimately shows up on their
12 bill.

13 Q. And so, if the company's pulling the data
14 and reading it on a monthly basis, it's your
15 understanding that the customer is only seeing the
16 previous month's history, 30 days at a time?

17 A. They could be, but that's not applicable
18 to how you would use a PLC product.

19 Q. Okay. I understand that. I am just
20 trying to understand what your view is of what
21 customers have available to them right now.

22 A. So I -- my understanding from everything
23 that we heard in other cases is that the customer
24 does have the ability, next day, to see what their
25 meter was. It's not bill quality data. The bill

1 quality data happens at the end of the month and then
2 shows up on their bill.

3 Q. Okay. And are you aware of whether Duke
4 Energy Ohio has offered any type of use rates to
5 customers?

6 A. They do have a pilot.

7 Q. And do you know if there has only been
8 one pilot?

9 A. I think it's two different products, but
10 I don't know if they are considered two different
11 pilots or one pilot with the two products.

12 Q. Okay. And so, you only know about two.

13 A. Yes.

14 Q. So if a CRES supplier had access to
15 individual PLCs for a customer --

16 A. Yes.

17 Q. -- and therefore, the CRES provider would
18 be able to offer more products and services; is that
19 your point?

20 A. Yes, so they would be able to design
21 products that are associated with reducing your peaks
22 during those five peak periods which would reduce
23 your PLC number which would reduce your capacity
24 costs.

25 Q. And is it your expectation that such a

1 product would be attractive to customers?

2 A. Yes.

3 Q. So would that increase switching for
4 customers then?

5 A. It could.

6 Q. Okay. And wouldn't that then result in a
7 higher price to compare?

8 A. Increased switching? Why would -- no.

9 MS. WATTS: Okay. Okay. I have nothing
10 further.

11 EXAMINER PIRIK: Thank you.

12 Mr. Beeler.

13 MR. BEELER: No questions.

14 EXAMINER PIRIK: Okay. That concludes
15 Ms. Ringenbach's first set of testimony. Now, with
16 regard to her second set of testimony.

17 MR. PETRICOFF: Well, your Honor, at this
18 point should we move to move this into evidence, RESA
19 Exhibit 1?

20 EXAMINER PIRIK: We might as well wait
21 until we have both sets and the witness is complete.

22 Mr. Clark.

23 MR. CLARK: Okay. Thank you, your Honor.

24 EXAMINER PIRIK: I would just like to
25 note that Ms. Ringenbach has already been sworn in,

1 so this will continue through this set of testimony
2 as well.

3 - - -

4 TERESA L. RINGENBACH

5 being first duly sworn, as prescribed by law, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Clark:

9 Q. I will skip a couple of obligatory
10 questions that Mr. Petricoff has already asked you.
11 Do you have in front of you testimony on behalf of
12 Direct Energy Services and Direct Energy Business,
13 the set that is not for RESA?

14 A. Yes.

15 MR. CLARK: Okay. I marked that as
16 Exhibit 1 and have given it to the court reporter as
17 well as the Bench.

18 Q. Was that testimony prepared by you or at
19 your direction?

20 A. Yes.

21 Q. Do you have any corrections or changes to
22 make to it?

23 A. No.

24 Q. If I ask you the same -- if I asked you
25 the questions today, would your answers be the same

1 in that testimony?

2 A. Yes.

3 MR. CLARK: Direct Energy moves -- Direct
4 Energy Exhibit 1 into evidence subject to
5 cross-examination. Thank you, your Honor.

6 EXAMINER PIRIK: Thank you.

7 Ms. Hussey.

8 MS. HUSSEY: No questions, your Honor.

9 EXAMINER PIRIK: Ms. Bojko.

10 MS. BOJKO: I do have questions for this
11 Ms. Ringenbach. Thank you.

12 - - -

13 CROSS-EXAMINATION

14 By Ms. Bojko:

15 Q. Good afternoon, Ms. Ringenbach.

16 A. Hello.

17 Q. Could you turn to page 6 of your
18 testimony, please. On line 19 on page 6, you use the
19 word "hedge." Do you see that?

20 A. Yes.

21 Q. And could you please define your use of
22 the word "hedge" here in your testimony?

23 A. Yes. So the way we use the term "hedge"
24 is it's a financial instrument or some sort of
25 instrument -- can you hear me?

1 Q. Not very well. Thank you.

2 A. I will try to lean closer to it. A
3 financial instrument or some sort of instrument
4 that's used to lock in a price for our customer. So
5 that price will not change regardless of what the
6 market does, whether it goes up or down, that
7 customer's price is set and fixed and is not going to
8 change.

9 Q. And could you -- I think -- that's with
10 regard to fixed price contracts, is that what your
11 response was with regard to, because that's what you
12 were talking about on line 19?

13 A. Yes.

14 Q. Okay. Could you describe the use of your
15 word "hedge" on a more broader basis from a
16 supplier's perspective?

17 A. So it can be used different ways, but
18 essentially you're locking in something in the market
19 for a period of time.

20 Q. And are you familiar with the company's
21 characterization of the PSR as a hedge in their
22 application?

23 A. Yes.

24 Q. And is this the same kind of hedge you've
25 discussed and what's discussed in your testimony?

1 A. I don't view the PSR as a hedge at all.
2 It doesn't protect from anything in the market. It
3 moves with the market.

4 Q. What would you characterize the PSR as?

5 A. A variable price.

6 Q. And does that mean -- do I understand
7 your response to say you don't believe that it's a
8 hedge for customers' pricing?

9 MS. SPILLER: I am going object to the
10 friendly cross here.

11 EXAMINER PIRIK: Overruled.

12 A. Can you ask the question again?

13 EXAMINER PIRIK: Karen, can you read it.

14 (Record read.)

15 A. I do not believe it's a hedge for
16 customers' pricing.

17 Q. Under the type of hedge that you
18 described in your testimony as well as right here on
19 the stand today, what happens if a supplier's hedge
20 is wrong?

21 A. The supplier eats the cost. Or the
22 benefit, whichever way it goes regardless; the
23 customer isn't touched.

24 Q. And what happens if a supplier's
25 forecasts regarding the pricing that they offer is

1 incorrect?

2 A. Then the supplier is subject to the costs
3 or penalties or anything that come with it. You have
4 to honor your contract with your customer.

5 Q. Okay. I think in our discussion you've
6 just described hedge as a use of -- by a supplier.
7 You agree that fixed price contracts are a type of
8 hedge -- hedging strategy that customers would use?

9 A. Yes.

10 Q. And under your analysis, will the PSR
11 stabilize customer rates who are under a fixed price
12 contract?

13 MS. SPILLER: Again, objection to the
14 friendly cross.

15 EXAMINER PIRIK: Overruled.

16 A. It would undue -- when customers enter
17 into a fixed price contract, they are entering into
18 that contract because they don't want their price to
19 change regardless of whether the market goes up or
20 whether it goes down. So having something on their
21 bill that now subjects them to the very thing that
22 they are seeking to avoid, would undue the hedge.

23 Q. And if a customer is under a fixed price
24 contract, what will the PSR do to that -- to the --
25 how would the PSR be reflected?

1 A. So if the customer has a fixed price with
2 their supplier, the PSR could show up as a credit or
3 it could be a charge to the -- to their bill. Either
4 way, when you enter into a fixed price, you are
5 expecting a certain amount to be billed to you every
6 month, right, it's a fixed per kilowatt charge. When
7 you add this other unknown, your budget could be
8 blown out of the water. You are budgeting based on
9 your fixed price and now you have something
10 completely unpredictable depending where the market
11 goes.

12 Q. And would your analysis be the same for
13 customers under a standard service offer pricing
14 scheme?

15 A. It would be to the extent that the SSO is
16 fixed for periods of time.

17 Q. And, Ms. Ringenbach, you're familiar, you
18 have been around the Ohio regulatory industry for
19 quite a while; is that true?

20 A. Yes.

21 Q. So you're familiar with Ohio regulations
22 and Ohio law?

23 A. In general.

24 Q. Based on your knowledge of Ohio
25 regulations and Ohio law, could your company, could

1 Direct Energy come before the Commission and seek
2 recovery for any of its costs related to the supply
3 of generation from other ratepayers on a
4 nonbypassable rider basis?

5 A. And -- I mean I think the Commission has
6 ordered things that are not market based, like
7 certain niche charges, to be passed through by
8 nonbypassable riders. Those are nonmarket based
9 charges that appear in the tariff on the wholesale
10 level that do appear in the bypassable charges. But
11 having a contract with a customer where we
12 misforecasted or had costs that we were not
13 predicting, we can't go back to the Commission and
14 say, oops, we messed up in the contract and now we
15 can't collect those charges. That is not allowed.

16 Q. Could Direct Energy apply for a rider
17 that's collected from all customers on customers'
18 bills.

19 A. No.

20 MS. SPILLER: Objection to the relevance.

21 EXAMINER PIRIK: Overruled.

22 A. No.

23 MS. BOJKO: That's all I have. Thank
24 you, your Honor.

25 EXAMINER PIRIK: Thank you.

1 Mr. Serio.

2 MR. SERIO: Thank you, your Honor.

3 - - -

4 CROSS-EXAMINATION

5 By Mr. Serio:

6 Q. Good afternoon, Ms. Ringenbach.

7 A. Hello.

8 Q. A couple of questions. I think you
9 indicated when Direct Energy enters into a contract
10 with a shopping customer, Direct Energy goes out in
11 the market and hedges the gap -- the electric supply
12 against that contract, correct?

13 A. If we're offering a fixed contract, yes.

14 Q. And if Direct Energy was going to bid
15 into an SSO auction, does Direct Energy engage in the
16 same type of hedging for whatever tranches they might
17 bid for?

18 A. Yes, because typically when you bid into
19 an SSO, you are bidding a set amount for that tranche
20 at a set price, so you have to lock in that pricing.

21 MR. SERIO: Thank you. That's all I
22 have.

23 EXAMINER PIRIK: Mr. Allwein.

24 MR. ALLWEIN: I have no questions. Thank
25 you, your Honor.

1 EXAMINER PIRIK: Mr. Stinson.

2 MR. STINSON: Thank you, your Honor.

3 - - -

4 CROSS-EXAMINATION

5 By Mr. Stinson:

6 Q. Good afternoon, Ms. Ringenbach.

7 A. Hello.

8 Q. Just a few questions about your
9 background initially. When did you graduate from the
10 University of Toledo?

11 A. Can I double-check it? It hasn't been
12 that long. It has been that long. Well, I would
13 have graduated '98 or '99, one of those years.

14 Q. Now, between that time, '98 or '99 and
15 when you took your position with WPS, did you hold
16 any other positions?

17 A. Yes. Between '98 -- oh, from the time I
18 graduated to when I started with WPS?

19 Q. Yes.

20 A. Yes, I worked for a company called
21 Aeroquip which was owned by Eaton Corporation.

22 Q. What was the nature of that business?

23 A. I sold, to distributors, in the southern
24 United States, hydraulic hoses and fittings.

25 Q. WPS and Integrys are both for-profit

1 companies, are they not?

2 A. Yes.

3 Q. And as is Direct Energy?

4 A. Yes.

5 Q. Page 4 of your testimony, line 14, you
6 state "As of December 2013, my position changed...."
7 Did the title of your position change at that point
8 or just your functions?

9 A. The internal title changed; the external
10 title did not change.

11 Q. What's the distinction there?

12 A. So we have external titles that we're --
13 that's what shows up on your business card; that's
14 what you use outside the company. Then internally
15 you might even -- you could even call it "nicknames"
16 in some -- that's probably the best way to describe
17 it, key market leads and you have things called "U.S.
18 north lead" and it's almost like the -- it's a way to
19 tell people internally what you do.

20 Q. So, in that instance, you're -- internal
21 title changed to key market lead for Ohio?

22 A. Yes.

23 Q. And what is a key market lead?

24 A. So we since reorged --

25 Q. Pardon?

1 A. We have since had another reorg, so I am
2 actually the regional lead for the midwest, but at
3 that time we had divided the U.S. up into five key
4 markets and then there were submarkets. The key
5 markets, one was the state of Ohio.

6 Q. On page 4 again, lines 15 through 17, you
7 indicated "As stated above, this position advocates,
8 protects and monitors...." My question is advocates
9 what?

10 A. So advocates for whether there are
11 regulatory changes or legal changes or operational
12 changes that allow us to advance our business.
13 Whether that be we thought of a new product but we
14 realize we can't bill for it so we can't actually
15 bring it to the market, or something that might be a
16 full barrier to us being able to expand our business
17 in the state, whatever that might be.

18 Q. You are talking about advocating before
19 the legislature or regulatory bodies?

20 A. I view advocating at all levels. So we
21 advocate before the Commission, we advocate directly
22 with the utilities, and it could be the legislature
23 also, and we advocate with customers.

24 Q. And what do you mean by "protects,"
25 protects what?

1 A. So if we have an existing business in the
2 state and somebody introduces legislation that
3 completely reregulates that state, that's an example
4 of me protecting our business. I would step up and
5 oppose that legislation.

6 Q. So, in a nutshell, you advocate and
7 protect the business interests of Direct Energy?

8 A. Yes.

9 Q. You're a registered lobbyist in Ohio,
10 correct?

11 A. Yes.

12 Q. Talking about or looking at your
13 testimony, regarding your prior testimony you've
14 testified before several regulatory agencies in Ohio
15 as well as other states.

16 A. Yes.

17 Q. And was that testimony given on behalf of
18 companies that employed you?

19 A. Yes.

20 Q. And perhaps trade associations to which
21 your company belonged?

22 A. Yes.

23 Q. Any other companies that you've testified
24 on behalf?

25 A. So the only companies I've testified on

1 behalf of are the Direct Energy companies, WPS and
2 Integrays which are the same, and then RESA is a trade
3 organization. I don't think I've testified on behalf
4 of any of the other trade orgs.

5 Q. That's the extent of your testimony in
6 those jurisdictions?

7 A. Yes.

8 Q. Thank you.

9 I want to talk a little bit about your
10 alternative recommendation here. And I do understand
11 that your primary recommendation is that you are
12 opposed to the PSR in its entirety?

13 A. Yes.

14 Q. Now, it's Direct Energy's alternative
15 position then that OVEC output be used to supply
16 energy supply to PIPP customers, correct?

17 A. Yes.

18 Q. And just to be sure, this is Direct
19 Energy's recommendations, not RESA's recommendation?

20 A. This testimony is only for Direct Energy.

21 Q. RESA is not sponsoring this
22 recommendation?

23 A. No.

24 Q. And I believe at page 9, line 6 through
25 10, just to paraphrase what that position is, is that

1 if the Commission believes OVEC costs should be
2 shifted to customers, they should be shifted to PIPP
3 customers?

4 A. The position is it should be shifted to
5 customers for not -- who have no other choices in the
6 market, so you don't disrupt the contracts of
7 customers who have made a choice, and PIPP customers
8 cannot choose.

9 Q. And those are PIPP customers.

10 A. Yes.

11 Q. At page 10, line 3, you state "this would
12 allow Duke a guaranteed price." What do you mean by
13 "guaranteed price" there?

14 A. So we -- it's Direct's position that the
15 Commission could order a set fixed price in the PPA
16 and that would be the price that would be -- should
17 the department accept it, that would be the price
18 that would be used for PIPP customers. So it would
19 allow Duke to enter into a long-term PPA at a set
20 known price amount and, therefore, there is no
21 needing to sell it into the market and share the
22 cost, there is actually a long-term place to put that
23 power.

24 Q. So your recommendation in the alternative
25 proposal you're making is that there be a PPA entered

1 into, a purchased power agreement?

2 A. To serve PIPP, yes.

3 Q. On page 11, don't you offer other
4 recommendations other than a PPA?

5 A. Yes. So you could do a PPA, the
6 Commission could use the PSR mechanism for the PIPP
7 load.

8 Q. I believe you also indicated they could
9 use the SSO price, correct?

10 A. Yes.

11 Q. So I'm a little bit confused. You're
12 actually recommending the purchase power agreement
13 option.

14 A. So while we put all three forward, that
15 would be our recommendation. We think it gives the
16 power someplace to go, somebody actually using it,
17 and it allows for the department to create a PIPP
18 program that's based on known costs for a longer
19 period of time.

20 Q. So your testimony is there are three
21 options, but you recommend the purchase power
22 agreement.

23 A. Yes.

24 Q. Do you have a general familiarity with
25 the PIPP program and the Universal Service Fund

1 program?

2 A. Yes, in general.

3 Q. And would you agree that the PIPP program
4 is available to low-income customers?

5 A. Yes.

6 Q. And would you also agree that when those
7 customers are enrolled in PIPP, their arrearages are
8 paid by the USF fund?

9 A. Yes.

10 Q. And the Universal Service Fund is
11 supported by Duke's Universal Service Fund rider; is
12 that correct?

13 A. Yes.

14 Q. And that rider is nonbypassable, correct?

15 A. That is correct.

16 Q. And are you also aware that PIPP
17 customers pay a fixed rate based upon their income?

18 A. They pay a fixed amount based on their
19 income, yes.

20 Q. And the difference between what the
21 utility's monthly bill is versus what the PIPP
22 customer pays under the PIPP program, that -- that
23 amount, that difference is also paid by the Universal
24 Service Fund, correct, paid to the utility?

25 A. I believe so, yes.

1 Q. And the utility keeps track of those
2 arrearages per customer?

3 A. Yes, yes, they do.

4 Q. You're familiar with the Apples to Apples
5 chart, correct?

6 A. Yes.

7 Q. And would you agree with me that there
8 are lengths of contracts on the Apples to Apples
9 charts currently ranging say, three months, six
10 months, one year, for a fixed price product?

11 A. Yes.

12 Q. Now, I want to consider for a moment that
13 the PIPP customer pays the fixed percentage of their
14 income for their electric service and that that
15 income, that their income remains constant for a
16 period of a year. If the PIPP price of electricity
17 increases, that customer's arrearage would increase,
18 wouldn't it?

19 A. It could, yes.

20 Q. In what circumstance would it not?

21 A. I think -- I mean I am pretty sure it
22 would go straight. I am -- I thought there was an
23 option where the customer still had to pay a portion
24 of their arrearage if they weren't on time with their
25 PIPP payments. But let's assume it's a straight,

1 here is your income, here is how much you pay,
2 anything outside of that the -- gets paid through the
3 USF fund, yes, the amount would go up.

4 Q. Just to be clear, we're assuming for a
5 one-year period the PIPP customer's income remains
6 the same. The customer pays that same fixed amount
7 during that one-year period and during that one-year
8 period the price -- the PIPP price of electricity
9 increases, that customer's arrearage is going to
10 increase during that one year.

11 A. Yes, it would.

12 Q. Now, also as you indicated there are
13 mechanisms in place for customers to receive a credit
14 for their arrearages say for timely payment?

15 A. Yes.

16 Q. But, regardless, whenever customers leave
17 the PIPP program, they are responsible for any
18 arrangement correct -- or, any arrearages, correct?

19 A. Yes.

20 Q. Okay. Now, am I correct that you didn't
21 perform any analysis as to what the price of OVEC
22 power to PIPP customers should be?

23 A. No.

24 Q. And, in fact, your recommendation
25 disregards the price of electricity to PIPP

1 customers, correct?

2 A. Right. My recommendation is focused on
3 those customers who don't have another choice.

4 Q. Right. And your recommendation
5 disregards the price to PIPP customers for
6 electricity.

7 A. Well, not fully. It does recommend the
8 Commission look at a way to set that price or use the
9 SSO price or benchmark it for the PSR. So there is a
10 consideration that you have to set a reasonable price
11 for PIPP. That's why there's three options.

12 Q. Well, I direct your attention to page 11,
13 line 18 of your testimony, and there you indicate
14 regardless of the price, correct? Is that your
15 testimony?

16 A. Regardless of the price meaning that
17 regardless of the things we've talked about just
18 before that.

19 Q. And is it your alternative recommendation
20 for the price of supply to PIPP customers, does that
21 extend throughout the term of the OVEC entitlement?

22 A. That is what we're recommending.

23 Q. That is through 2040?

24 A. Yes.

25 Q. And do you expect the price of OVEC power

1 to remain constant during that period of time?

2 A. There has been no data that we've seen
3 that shows what the ultimate price will be, but if
4 it's based on the market and not something set, that
5 is going to change.

6 MR. STINSON: I have no further
7 questions, your Honor.

8 Thank you, Ms. Ringenbach.

9 EXAMINER PIRIK: We need to take a short
10 break. We will take a 10-minute break right now and
11 we will go off the record.

12 (Discussion off the record.)

13 (Recess taken.)

14 EXAMINER PIRIK: We will go back on the
15 record.

16 Ms. Kyler.

17 MS. KYLER COHN: No questions, your
18 Honor.

19 EXAMINER PIRIK: Mr. Olikier.

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

22 EXAMINER PIRIK: Duke?

23 MS. SPILLER: Thank you, your Honor.

24 - - -

25

CROSS-EXAMINATION

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By Ms. Spiller:

Q. Good evening, Ms. Ringenbach.

A. Hi.

Q. You were asked some questions by Mr. Stinson about your background. You are currently employed by Direct Energy, LLC, correct?

A. Yes.

Q. And is that the parent company to the two entities on whose behalf you're providing testimony in this case?

A. Yes.

Q. And those two entities are Duke -- Direct Energy Services and Direct Energy Business, correct?

A. Yes.

Q. And so, Direct Energy Services and Direct Energy Business are affiliates, correct?

A. Yes.

Q. You had a conversation with Ms. Bojko about hedges. You would agree with me that a supplier would include the cost of hedges as part of their cost of doing business, correct?

A. Yes.

Q. And the offers that are extended on behalf of suppliers include the costs of doing

1 business, correct?

2 A. Yes.

3 Q. And the Public Utilities Commission of
4 Ohio does not set any competitive supplier's rates,
5 does it?

6 A. No, it does not.

7 Q. You were speaking about hedging
8 methodology and am I fair to assume, Ms. Ringenbach,
9 that you were referring to Direct Energy's
10 methodology, correct?

11 A. Yes.

12 Q. You were not offering comment on what any
13 other supplier may do with respect to hedging,
14 correct?

15 A. That's correct.

16 Q. And your title within Direct Energy, LLC
17 is currently Senior Manager of Government and
18 Regulatory Affairs, correct?

19 A. Yes.

20 Q. And in that position you're certainly
21 familiar with the regulatory proceedings that concern
22 the competitive retail market in Ohio, correct?

23 A. Yes.

24 Q. And, in fact, you've provided testimony
25 in various regulatory proceedings that concern the

1 competitive retail market, correct?

2 A. Yes.

3 Q. With regard to Direct Energy Services,
4 one of the entities on whose behalf you're providing
5 testimony in this case, they not only provide
6 competitive electric offers to residential customers
7 but they also extend offers to small commercial
8 customers, correct?

9 A. Yes. They handle all of the operational
10 capabilities for the small business. Technically,
11 the profits go to Direct Energy Business, so the
12 systems on Direct Energy Services handle everything
13 for Direct Energy. I just want to be clear on that.

14 Q. Sure, sure.

15 A. They handle everything for small
16 business, right, so small business goes to the
17 residential call center, that sort of thing. But the
18 entity for small business itself is housed under
19 Direct Energy Business.

20 Q. Okay. And in addition to competitive
21 retail electric offers, Direct Energy Services
22 engages in a multitude of other lines of business,
23 correct?

24 A. Yes.

25 Q. And those lines of business include HVAC.

1 A. Yes.

2 Q. So that would pull up plumbers,
3 electricians, correct?

4 A. So HVAC is heating and air conditioning.
5 Do you want me to just list them?

6 Q. Sure.

7 A. Electricians, plumbers, we have Home
8 Warranty of America. There is Astrum Solar which is
9 the solar company we own. I know I am missing
10 others, but that would be the services side of the
11 business.

12 And then Direct Energy, across the board
13 you get into the DEB -- Direct Energy Business side,
14 has the upstream business which also includes oil and
15 gas drilling in Canada, so that falls under Direct
16 Energy Business. And then they also have what we
17 call your normal upstream operations, scheduling the
18 power, buying the power, buying natural gas,
19 scheduling natural gas, that sort of thing.

20 And then Direct Energy Business handles
21 the business what you would consider normal commodity
22 types of contracts, like natural gas pricing offers,
23 electricity pricing offers.

24 And then you have, also under Direct
25 Energy Business, we have companies that do everything

1 from remodified buildings in New York City so they
2 don't run on heating oil and, instead, run on natural
3 gas. We have a business that trucks in compressed
4 natural gas to areas that don't actually have natural
5 gas so factories and companies can actually have that
6 as an option.

7 And then they have what we had talked
8 about previously, so they had partnerships with
9 companies like SolarCity. There is a company called
10 BuildingIQ that does submetering types of things.
11 They also do partnerships and they have a demand
12 response section which actually acts in some ways
13 like a curtailment service provider.

14 Q. Okay. Thank you.

15 A. There's more and I am probably missing
16 some of them.

17 Q. So Direct Energy Business engages in the
18 wholesale energy and capacity markets, correct?

19 A. Yes.

20 Q. And the services that you just
21 identified, Ms. Ringenbach, with respect to Direct
22 Energy Services, some of those competitive offerings
23 such as HVAC, furnace tune-ups, air condition
24 tune-ups, those are not products that are offered
25 only by competitive retail electric service

1 providers, correct?

2 A. Yes.

3 Q. There's a whole host of other entities
4 that would be considered Direct Energy's competitors
5 with regard to those energy-related offerings,
6 correct?

7 A. Yes.

8 Q. And on behalf of Direct Energy Business
9 and Direct Energy Services, you are offering
10 testimony in connection with Duke Energy Ohio's
11 proposed rider PSR, correct?

12 A. Yes.

13 Q. You are also in this case offering
14 testimony on behalf of RESA, correct?

15 A. Yes.

16 Q. Right. We just did that a moment ago.

17 A. Okay. I wanted to make sure, yes.

18 Q. But in your testimony on behalf of RESA,
19 you did not address Duke Energy Ohio's proposed rider
20 PSR, correct?

21 A. Correct.

22 Q. Okay. And one of your first opinions
23 with respect to rider PSR is that you believe it
24 would require Duke Energy Ohio's customers to pay
25 twice for generation service, correct?

1 A. Yes.

2 Q. So you would agree with me that if rider
3 PSR does not provide generation service to customers,
4 then they would not be paying twice for that
5 generation service, correct?

6 A. Well, they would be paying twice for --
7 they would be paying for the generation from their
8 supplier and then they would be paying for the
9 generation service for electrons they are not using
10 through rider PSR.

11 Q. Okay. We will get to that in a moment.
12 But if generation service is not directly provided to
13 end-use retail customers in Duke Energy Ohio's
14 service territory, as a result of or because of rider
15 PSR, then they would not be paying twice for
16 generation service, correct?

17 A. I think we have -- rider PSR is the
18 generation output from the plant being sold into the
19 market. Customers are paying for that if what flows
20 back to them is not a credit. And, therefore, they
21 are paying for generation they are not using.

22 Q. And, conversely, if it is a credit, they
23 are receiving the benefit of that generation that's
24 transacted in the market, correct?

25 A. Yes.

1 Q. And the second reason -- strike that.

2 I guess the second opinion that you have
3 with respect to rider PSR is that, and I am going to
4 use your words here, that is a proposal through which
5 Duke Energy Ohio would have the option to dump
6 additional assets into the rider in the future,
7 correct?

8 A. Yes.

9 Q. And the third opinion that you've offered
10 in respect of rider PSR is that you don't believe it
11 provides value to customers, correct?

12 A. Yes.

13 Q. And these are the only reasons on which
14 the Direct Energy entities have relied, for purposes
15 of their opinions in this case, concerning the
16 company's proposed rider PSR, correct?

17 A. Yes.

18 Q. And certainly, Ms. Ringenbach, you would
19 agree with me that to the extent that Duke Energy
20 entities thought that Duke Energy Ohio was acting in
21 a manner that is inconsistent with the ESP
22 requirements, that they would make that known through
23 direct testimony in this case, correct?

24 A. Yes.

25 Q. And, in fact you've done that in this

1 case with respect to suggestions that Duke Energy
2 Ohio is engaging in discriminatory conduct, correct?

3 A. Yes.

4 Q. So certainly if you had a view with
5 respect to other inconsistent acts on behalf of Duke
6 Energy Ohio, you would have stated that in your
7 testimony, correct?

8 A. Yes.

9 Q. You would agree with me, Ms. Ringenbach,
10 that Duke Energy Ohio is not proposing, under rider
11 PSR, that the energy and capacity from its
12 contractual entitlement in the OVEC-owned assets
13 would be used to displace any of the supply procured
14 in the SSO auction, correct?

15 A. Yes.

16 Q. And you would further agree with me that
17 Duke Energy Ohio is not proposing, under rider PSR,
18 to use the energy and capacity from its contractual
19 entitlement in the OVEC units to supply -- to supply
20 any of the energy or capacity that is -- that is part
21 of the CRES provider's offering, correct?

22 A. Yes.

23 Q. And retail customers in Duke Energy
24 Ohio's service territory would still have the option
25 of participating in choice if rider PSR is approved,

1 correct?

2 A. That's correct.

3 Q. And would you agree with me that hedges
4 are beneficial?

5 A. Yes.

6 Q. And hedges are used to mitigate a risk
7 that one may anticipate to occur in the future,
8 correct?

9 A. Yes.

10 Q. And you also understand the company's
11 proposal with respect to rider PSR, correct?

12 A. Yes.

13 Q. You understand that the company is
14 proposing to take the energy and capacity associated
15 with its 9-percent contractual entitlement and
16 transact in the wholesale markets, correct?

17 A. Yes.

18 Q. In other words, to bid the energy and
19 capacity from that entitlement into the PJM markets,
20 correct?

21 A. Yes.

22 Q. And then the net revenues would be flowed
23 back to customers through rider PSR, correct?

24 A. Yes.

25 Q. And the rider as proposed is

1 countercyclical in nature so that when wholesale
2 market prices increase, that's when rider PSR has the
3 most benefit, correct?

4 MR. OLIKER: Objection. Assumes facts
5 not in evidence.

6 EXAMINER PIRIK: Overruled.

7 A. Assuming that the wholesale market prices
8 come back at a high enough amount to cover all of the
9 costs and create a credit, then it could be a
10 benefit.

11 Q. And you would certainly agree with me,
12 Ms. Ringenbach, that wholesale prices for energy and
13 capacity have been volatile, correct?

14 A. Yes.

15 Q. And you certainly expect that volatility
16 to continue, correct?

17 A. Not being a soothsayer, but reading just
18 general market information, yes, we expect it to
19 continue to be volatile.

20 Q. Well, Direct Energy has participated in
21 proceedings at the FERC level with respect to, I
22 guess what I would call the various activity afloat
23 with PJM and PJM's market design, correct?

24 A. Yes.

25 Q. And, in fact, Direct Energy believes that

1 generators should be paid an additional cost for
2 winter reliability, correct?

3 A. Yes.

4 Q. And if generators are, in fact, paid
5 additional sums for winter reliability, you would
6 expect that to have an increase in wholesale market
7 prices, correct?

8 A. All other things being the same as they
9 are today and then adding an additional cost would
10 increase the cost to the wholesale market prices.

11 Q. And you would agree with me, as we sit
12 here today, we don't know what revisions, if any,
13 could be made by PJM to its capacity auction
14 structure, correct?

15 A. Correct.

16 Q. There's certainly the potential for
17 demand response to be removed from the PJM capacity
18 auction as the capacity resource, correct?

19 A. Yes.

20 Q. And uncertainty in the wholesale markets
21 is one that all suppliers have to take into account
22 when fashioning their offers for supply, correct?

23 A. Yes.

24 Q. Ms. Ringenbach, on page 6 of your
25 testimony, and you talked about this a little bit

1 already with some other counsel here at the table,
2 you believe that rider -- the bottom of page 6 you
3 discuss these fixed price contracts. So, in your
4 opinion, you believe that rider PSR will eliminate
5 the protection from market volatility that
6 fixed-priced CRES customers have sought, correct?

7 A. Yes.

8 Q. And you base this conclusion on your
9 interaction or understanding of Direct Energy's
10 customers, correct?

11 A. Yes.

12 Q. And I believe we've established that in
13 your position as Senior Manager for Direct Energy,
14 you're aware of the Apples to Apples chart available
15 on the Commission's website, correct?

16 A. Yes.

17 Q. And you're also familiar with the off --
18 the offers that Direct Energy Services extends to
19 residential customers in the Duke Energy Ohio service
20 territory, correct?

21 A. Yes.

22 Q. And with respect to the residential
23 customer offerings, the terms and conditions
24 associated with those offers are publicly available
25 on the Apples to Apples chart, correct?

1 A. Yes, they are.

2 Q. So I would like to talk for a moment, if
3 we may, about these fixed price contracts that you
4 refer to in your testimony.

5 MS. SPILLER: Your Honor, may we
6 approach, please?

7 EXAMINER PIRIK: Yes.

8 MS. SPILLER: Your Honor, we would ask
9 that the following be marked as Duke Energy Ohio
10 Exhibit No. 24, please.

11 EXAMINER PIRIK: The document is so
12 marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 Q. Ms. Ringenbach, do you have before you
15 what has been marked as Duke Energy Ohio Exhibit
16 No. 24?

17 A. Yes.

18 Q. And these are the terms and conditions
19 that pertain to the residential offers that Direct
20 Energy Services has extended in the Duke Energy Ohio
21 service territory, correct?

22 A. Correct.

23 Q. And would you agree with me that Duke
24 Energy -- strike that.

25 Would you agree with me that Direct

1 Energy is currently offering 6-month and 12-month
2 fixed residential offerings in the Duke Energy Ohio
3 service territory?

4 MR. OLIKER: Your Honor, at this time I
5 would like to interpose an objection to this line of
6 questioning. I think what counsel is trying to do is
7 discuss terms of contracts of one CRES provider in
8 Duke Energy Ohio's territory. That discussion in
9 itself provides very little value and only confuses
10 the record.

11 Unless there is a discussion of all CRES
12 providers and all contracts into the record at the
13 same time, which I don't think is really possible,
14 all we are going to be left with is a skewed vision
15 of what the duration of contracts are in Duke's
16 service territory.

17 EXAMINER PIRIK: I'll see where the
18 questions are going. Go ahead.

19 A. I would have to check the most recent
20 offerings that are out there because I know that we
21 have multiple offers that go, you know, 6 months, 12
22 months, 24 months all the way up to 36 months, so I
23 am going to assume you pulled this from the ones that
24 are 6- and 12-months, because they are generally the
25 same, but assuming that, yes.

1 Q. Okay. Thank you.

2 And under the 6-month offer, a
3 residential customer will receive the offer for
4 established fixed price for only six months, correct?

5 A. If the offer is for a fixed price for six
6 months, then that's what they would receive it for.

7 Q. Okay. And if we look at Duke Energy Ohio
8 Exhibit No. 24, page 2 under section 7., "Renewal,"
9 the terms and conditions associated with this
10 residential fixed price offer generally indicate that
11 unless the customer takes affirmative action, the
12 contract will automatically renew with Direct Energy
13 Services and it will renew at a variable price,
14 correct?

15 MR. CLARK: Your Honor, can I pose an
16 objection here? I mean the contract speaks for
17 itself. I don't really know -- I just don't
18 understand how the question can provide any value.
19 It is what it is.

20 MR. OLKER: I would just add, your
21 Honor, this one Direct Energy contract offer that's
22 out there, and I don't know if this is necessarily a
23 good representation of what's going on in Duke's
24 service territory.

25 MS. SPILLER: Well, your Honor, this is a

1 witness who is testifying on behalf of Direct Energy,
2 making comments with regard to fixed price contracts,
3 and certainly I believe I have the right to inquire
4 of her with respect to what these contracts mean and
5 what they do, and we're more --

6 EXAMINER PIRIK: The objections are noted
7 for the record.

8 MS. SPILLER: Oh, thank you, your Honor.

9 EXAMINER PIRIK: You may go forward.

10 MS. SPILLER: Thank you.

11 THE WITNESS: May we have the question?

12 MS. SPILLER: Karen, can you read that
13 back, please.

14 (Record read.)

15 A. If the customer makes no other choices,
16 then they will continue on a variable price subject
17 to this formula.

18 Q. And that formula is one through which the
19 customer would be exposed to the then-current
20 wholesale prices for energy and capacity plus an
21 adder, correct?

22 A. That's correct.

23 Q. And when you talk about an affirmative
24 action that the residential customer would need to
25 take, that could include entering into a different

1 contract with a CRES provider, correct?

2 A. Yes.

3 Q. And that subsequent contract would
4 necessarily include changes in the wholesale and
5 capacity prices, correct?

6 A. Depending on the contract they chose at
7 that time, it could.

8 Q. Well, you would agree with me that
9 competitive suppliers include, as a basis for their
10 offerings, the wholesale prices that they are going
11 to pay for energy and capacity, correct?

12 A. Yes. However, that supplier could have
13 excess generation they have locked in from another
14 customer that left them, so they might be holding an
15 older offer that doesn't reflect current market
16 prices because they have that power locked down.

17 Q. But there certainly is the potential for
18 subsequent contracts to include changes in the prices
19 for wholesale energy and capacity, correct?

20 A. New contract offers will likely reflect
21 the market at that period.

22 Q. Okay. And under the variable contract,
23 residential customers are exposed to whatever the
24 market may be and that could include price spikes for
25 commodities, correct?

1 A. Under our variable renewal terms?

2 Q. Yes.

3 A. They are subject to the PJM market,
4 regardless of where it goes, plus an adder.

5 Q. Okay. And Direct Energy is not currently
6 offering residential customers in Duke Energy Ohio
7 service territory a fixed price contract having a
8 term of longer than two years, is it?

9 A. I would have to look. I think there's a
10 three-year plus Nest contract out there, but I would
11 have to go back and double-check that.

12 Q. And if the Bench in this proceeding has
13 already taken administrative notice of the Apples to
14 Apples chart, you would agree with me that we could
15 consult the information on the Apples to Apples
16 website to ascertain the nature of the offers,
17 correct?

18 A. Well, I don't -- we don't post all of our
19 residential offers on the apples chart, so that's why
20 I would have to go and check. It's your
21 generally-available residential offers that are on
22 the apples chart.

23 MS. BOJKO: And, your Honor, I would also
24 object to -- to assuming facts not in evidence. I
25 don't know if the Bench took Apples to Apples on a

1 continuous basis or a point in time, but I do know
2 that the Apples to Apples changes. So I'm not sure
3 what Ms. Spiller's reference to is a continual
4 administrative notice or just the day that that was
5 requested.

6 EXAMINER PIRIK: Well, we took
7 administrative notice of the Apples to Apples chart
8 that's on the web and it was not date specific as far
9 as that's concerned, but.

10 MS. BOJKO: Okay. Thank you.

11 Q. And, Ms. Ringenbach, you contend that
12 rider PSR does not provide benefits to customers,
13 correct?

14 A. Yes.

15 Q. But you've not reviewed the financial
16 projections for Duke Energy Ohio's contractual
17 entitlement in OVEC for purposes of forming that
18 opinion, correct?

19 A. Correct.

20 Q. And you have not reviewed the historical
21 information with regard to OVEC, correct?

22 A. Yes.

23 Q. That's correct?

24 A. That's correct.

25 Q. And you've not reviewed OVEC's financial

1 statements, have you?

2 A. No, I have not.

3 Q. And you've not reviewed OVEC's future
4 financial forecasts or projections, have you?

5 A. No.

6 Q. And you do understand that Duke Energy
7 Ohio's proposal is to include all of the net benefits
8 associated with its contractual entitlement in rider
9 PSR and to -- and to allocate all of those net
10 benefits to all -- to all retail customers, correct?

11 A. If benefits occur, then they would be
12 passed through to the customers.

13 Q. And for purposes of forming your opinions
14 in this case, you've not reviewed the reports related
15 to the environmental controls in place at the two
16 OVEC-owned generating stations, have you?

17 A. No.

18 Q. And so you cannot dispute that those
19 stations are positioned now to comply with MATS
20 regulation, can you?

21 A. No.

22 Q. Ms. Ringenbach, if rider PSR is approved,
23 the amounts received by OVEC under the Intercompany
24 Power Agreement will not change, will they?

25 A. It's my understanding that they won't.

1 Q. And, again, if I may borrow your words,
2 when you talk about the potential of dumping other
3 assets into rider PSR, that's predicated upon your
4 belief that Duke Energy Ohio has an incentive today
5 to keep capacity prices in PJM as high as possible,
6 correct?

7 A. Yes.

8 Q. And in making this statement, you assume
9 that Duke Energy Ohio is not responsible for the
10 day-to-day operation of the OVEC-owned assets,
11 correct?

12 A. Yes.

13 Q. So your belief with respect to Duke
14 Energy's motivations is predicated upon the fact that
15 its affiliates own generation that is in PJM,
16 correct?

17 A. Affiliate-owned generation in PJM that
18 could potentially be put into this rider, yes.

19 Q. And when we say "affiliate-owned
20 generation," these would be affiliates of Duke Energy
21 Ohio, correct?

22 A. Yes.

23 Q. And you understand that an affiliate of
24 Duke Energy Ohio is Duke Energy Kentucky, correct?

25 A. Yes.

1 Q. And Duke Energy Kentucky is situated in a
2 vertically-integrated state, correct?

3 MR. CLARK: Objection, your Honor. I
4 think we are outside the witness's testimony.
5 There's nothing in here about Duke Energy Kentucky or
6 vertically-integrated utilities.

7 EXAMINER PIRIK: Ms. Spiller.

8 MS. SPILLER: Your Honor, she was the one
9 who talked about, in her direct testimony, Duke
10 Energy Ohio, through rider PSR, having the ability to
11 dump additional assets into that rider. I believe
12 I'm certainly inquired -- or, allowed to inquire into
13 the basis for that testimony.

14 EXAMINER PIRIK: I'll allow limited
15 questioning.

16 MS. SPILLER: Thank you, your Honor.

17 A. Did I answer your question?

18 MR. CLARK: Can we have the question
19 reread, please?

20 EXAMINER PIRIK: Yes.

21 (Record read.)

22 A. It's my understanding that Kentucky is
23 not open to competition, so it is vertically
24 integrated. However, I don't know if any generation
25 there is owned by Kentucky utilities or by another

1 affiliate of Duke.

2 Q. Do you believe that through its
3 affiliates that currently own generation, Duke Energy
4 Ohio can manipulate or influence PJM capacity prices?

5 A. I think that if you have enough
6 generation within a zone and you have no concerns
7 about costs recovery, you could bid in prices that
8 could be used to manipulate the market in different
9 ways.

10 Q. And certainly you're familiar with the
11 PJM auction structure, correct?

12 A. Yes.

13 Q. And you know PJM has an independent
14 market monitor, correct?

15 A. Yes.

16 Q. And the PJM market monitor is charged,
17 among other things, with investigating whether there
18 are any improper actions that could result in market
19 manipulation, correct?

20 A. Yes.

21 Q. And you've not included any facts in your
22 testimony from which it can be deduced that Duke
23 Energy Ohio has been or is taking efforts to keep PJM
24 wholesale prices as high as possible, have you?

25 A. No.

1 Q. And you know that PJM determines the
2 wholesale price for capacity based upon what capacity
3 resources clear the annual base residual auctions and
4 then the following incremental auctions, correct?

5 A. Yes.

6 Q. And although you believe that Duke Energy
7 Ohio is currently incentivized to keep PJM capacity
8 prices as high as possible, Direct Energy is
9 supporting provisions at the PJM level that could
10 actually result in increases to wholesale capacity,
11 correct?

12 MR. CLARK: Objection, your Honor. Your
13 Honor, again, we are outside the scope of her
14 testimony. There is nothing about wholesale prices
15 or filings at FERC or whatnot.

16 EXAMINER PIRIK: Ms. Spiller.

17 MS. SPILLER: Your Honor, again, she's
18 suggesting that Duke Energy Ohio potentially has some
19 improper motives here and would dump, to use her
20 words, assets into this rider. I believe that I'm
21 inquiring -- I'm allowed to inquire into the basis
22 for that. She's already acknowledged the activity
23 that Direct Energy -- Direct Energy has undertaken at
24 the PJM level.

25 MR. OLIKER: Your Honor, I would also

1 object. There hasn't been a sufficient foundation
2 that this witness is familiar with Direct Energy's
3 activities at FERC, whether she was involved in those
4 filings. So I have concerns about the accuracy of
5 her statements; although, Ms. Ringenbach is very
6 credible.

7 MS. SPILLER: Your Honor, she
8 acknowledged that the filings were made.

9 EXAMINER PIRIK: I think the foundation
10 and acknowledging things were filed are probably two
11 different things as far as how deep this witness's
12 knowledge goes. I think you need to lay a little bit
13 more foundation before going down further the road
14 with FERC filings.

15 MS. SPILLER: Okay.

16 MR. CLARK: Your Honor, if I may.

17 EXAMINER PIRIK: Pardon me?

18 MR. CLARK: If I may, are you -- are you
19 denying the objection based upon outside the scope
20 then, so we are going to have more questions about
21 that?

22 EXAMINER PIRIK: I am going see where the
23 questioning goes; but, first, she needs to lay a
24 little bit more foundation with regard to the filings
25 that Ms. Ringenbach referred to.

1 MR. CLARK: Thank you, your Honor.

2 Q. (By Ms. Spiller) Ms. Ringenbach, your
3 title is that of Senior Manager for Government and
4 Regulatory Affairs for the Midwest for Direct Energy,
5 correct?

6 A. Yes.

7 Q. And the Direct Energy affiliates
8 participate in both the state and federal levels,
9 correct?

10 A. Yes.

11 Q. Direct Energy Business, as you indicated,
12 is an entity that provides wholesale -- strike
13 that -- that engages in wholesale transactions,
14 correct?

15 A. Yes.

16 Q. And those wholesale transactions would
17 occur in PJM, correct?

18 A. Yes.

19 Q. So certainly as Senior Manager for
20 Government and Regulatory Affairs, in your line of
21 work for Direct Energy, you're aware of activities
22 that are occurring at the state level, correct?

23 A. Yes.

24 Q. And you're also aware of activities
25 occurring at the federal level, correct?

1 A. We have -- I have a PJM counterpart, and
2 she sends out reports.

3 Q. And you read those reports for purposes
4 of doing -- performing your job functions as the
5 senior manager, correct?

6 A. Yes.

7 Q. Okay. And you do know that Direct Energy
8 has made filings at the FERC, correct?

9 A. Yes.

10 Q. And you do know that Direct Energy
11 supports the payment to generators of additional
12 payments for winter reliability, correct?

13 A. Yes.

14 Q. And I believe, Ms. Ringenbach, you've
15 indicated to me already that those winter reliability
16 payments, if made to generators, could, all else
17 being equal, increase wholesale capacity prices,
18 correct?

19 A. If all other things remain equal, yes.

20 Q. Okay. In addition to the activities of
21 Direct Energy, am I fair to assume, Ms. Ringenbach,
22 that you keep informed of the activities of other --
23 of the utilities in Ohio, correct?

24 A. Yes.

25 Q. And you keep aware of the activities of

1 the affiliates of those Ohio utilities, correct?

2 A. To the extent they are competitors, yes.

3 Q. And there would be affiliates of Duke
4 Energy Ohio that are competitors of Direct Energy
5 Business and Direct Energy Services, correct?

6 A. Yes.

7 Q. And you are aware, Ms. Ringenbach, that
8 Duke Energy Corporation has announced the sale of
9 generation held by a Duke Energy affiliate or entity
10 to Dynegy, correct?

11 A. Yes.

12 Q. And you are also aware that transaction
13 is expected to close potentially as early as first
14 quarter 2015, correct?

15 A. What I've heard, yes.

16 MR. CLARK: Your Honor, if I could object
17 again. I don't understand how this is laying the
18 foundation for the supposed filings at FERC regarding
19 PJM.

20 EXAMINER PIRIK: Ms. Spiller.

21 MS. SPILLER: Your Honor, again,
22 Ms. Ringenbach has indicated that Duke Energy Ohio is
23 motivated in connection with generating assets that
24 its affiliates would own in connection with its
25 proposed rider PSR when this ESP takes effect. I'm

1 not aware of what generators that may be.

2 EXAMINER PIRIK: Okay. You may continue.

3 Q. So, Ms. Ringenbach, when Duke Energy
4 Ohio's ESP takes effect on June 1 of 2015, are you
5 aware of any Duke Energy affiliates that will own
6 competitive generation in PJM?

7 A. It's my understanding there is still
8 utility affiliates that own generation out of North
9 Carolina, but do I know the entire list off of the
10 top of my head? No.

11 Q. And do you know if those utility
12 affiliates are in an RTO, a regional transmission
13 organization?

14 A. I believe North Carolina is part of PJM.
15 No. Does it stop at Virginia? I would have to go
16 look at a map.

17 Q. But, as we sit here today and for
18 purposes of your testimony, you don't know whether
19 any Duke Energy utility affiliates in the Carolinas
20 are in an RTO or a member of PJM, correct?

21 A. I believe Kentucky is part of PJM. North
22 Carolina, I would have to go back and check.

23 Q. And given your familiarity with Kentucky,
24 you know that Duke Energy Kentucky is a fixed
25 resource requirement entity, correct?

1 A. I actually did not know if they were an
2 FRR or not.

3 Q. You would agree that an FRR entity does
4 not participate in the base residual auctions,
5 correct?

6 A. I agree.

7 Q. And, Ms. Ringenbach, it is the position
8 of Direct Energy that a generator does not receive a
9 subsidy when it gets paid to do what it's supposed to
10 do, correct?

11 A. That's correct.

12 Q. So if OVEC's receipt of payments under
13 the ICPA is unchanged by the approval of rider PSR,
14 it cannot be subsidized via rider PSR, can it?

15 A. If OVEC is receiving cost recovery
16 through the rider PSR for all of its costs and it's
17 not subject to any sort of check on whether those
18 costs are reasonable or prudent, then it could be
19 considered some sort of subsidy.

20 Q. OVEC will not receive any dollars
21 directly as a result of rider PSR, will it?

22 A. It's my understanding they would get paid
23 just as they are today.

24 Q. And the cost formula under the ICPA is a
25 FERC-approved formula, correct?

1 A. Yes, it is.

2 Q. And you would agree with me,
3 Ms. Ringenbach, that if the OVEC plants run
4 regardless of whether PSR is approved, Duke Energy
5 Ohio's customers will not be paying to keep those
6 plants open, correct?

7 A. Based on discussions since my deposition,
8 it's my understanding that OVEC will not shut down
9 simply because rider PSR is not approved.

10 Q. So rider PSR is not determinative of
11 OVEC's future operation, correct?

12 A. Yes.

13 Q. On page 7 of your testimony, please, the
14 sentence that begins partially through 19, you're
15 indicating that under rider PSR, OVEC's generation
16 would theoretically tend to increase supply and lower
17 prices in PJM, correct?

18 A. Yes.

19 Q. And am I fair to assume, Ms. Ringenbach,
20 for purposes of this portion of your testimony that
21 if supply is increased in PJM, that market prices
22 would correspondingly decrease?

23 A. It potentially could. So if OVEC was
24 being sold in without any concern for their costs
25 because they are going to get recovery regardless,

1 then they could now be selling that power into the
2 market, which you're now putting power into the
3 market that wasn't there before, at a lower price.

4 Q. So let's talk a little bit about that
5 market. With respect to capacity, PJM determines
6 capacity prices through the base residual auction and
7 associated incremental auctions, correct?

8 A. Yes.

9 Q. And the generating resources or capacity
10 resources that actually clear the auction are paid
11 the auction clearing price, correct?

12 A. Yes.

13 Q. Okay. And you also are a -- well, strike
14 that.

15 Are you aware that approximately 27,000
16 megawatts of generation are expected to retire by
17 2019?

18 A. I think there's different numbers. I
19 think there's a 75 gigawatt number that's out there
20 now with 18 percent replaced with gas is, like, the
21 latest thing I read. It changes daily.

22 Q. Okay. Are you aware that of the
23 generation that is expected to retire by
24 approximately 2019, that about 76 percent of that is
25 expected to be coal?

1 MR. CLARK: Objection, your Honor. At
2 this point in time we are asking questions that are
3 speculative, that also are not -- I don't know where
4 these facts are coming from, but they are not in the
5 application. They are not -- I interjected before
6 and at this point in time there is nothing to support
7 the questions themselves that the witness has seen.

8 EXAMINER PIRIK: I agree.

9 MS. SPILLER: I'm happy to show her the
10 exhibits, your Honor. But I believe that, again,
11 Ms. Ringenbach is talking about the effects of the
12 PJM wholesale market as a result of rider PSR. And
13 certainly I should be allowed to inquire of the bases
14 for her opinions in that regard.

15 EXAMINER PIRIK: Well, you certainly can
16 inquire as to the bases, but as far as putting facts
17 into the record without showing her an exhibit that
18 perhaps she's familiar with, then I don't think
19 that's appropriate. I think you certainly can
20 inquire as to what the basis of her opinion is.

21 MS. SPILLER: Okay. Happy to do that.

22 Q. Ms. Ringenbach, you've indicated that you
23 see a lot of information that seems to change daily
24 with respect to what capacity resources -- or, what
25 generation in PJM may be retiring, correct?

1 A. Yes.

2 Q. Okay. And in connection with the
3 material that you review for purposes of your
4 position, do those include the state of the market
5 report for PJM?

6 A. That has been one of them.

7 MS. SPILLER: Your Honor, may I approach,
8 please?

9 EXAMINER PIRIK: Yes.

10 MS. SPILLER: Thank you.

11 Q. Ms. Ringenbach, I would like to show you
12 IEU Exhibit 3. It's a document that's already been
13 admitted into the record in this case. And this is a
14 particular document concerning the market report for
15 PJM for planning. And if you look on what is page
16 347 at the bottom of IEU Exhibit 3.

17 MR. CLARK: I'm sorry, Counsel, excuse
18 me, could I have a copy of the exhibit?

19 MS. SPILLER: Oh, yeah, sorry, Joe.

20 Q. And 3 -- page 347, Ms. Ringenbach, shows
21 planned generation and retirements, correct?

22 A. Yes.

23 MR. CLARK: Your Honor, if I could object
24 before we get too far down this rabbit hole. So she
25 hands the witness a document that I'm assuming has

1 already been admitted, but, ultimately, I don't know
2 that -- there has been no foundation laid whether
3 she's seen it. I mean, I guess kind of one of my
4 similar previous objections, she could read the
5 document. It kind of speaks for itself, and it is
6 what it is. And I guess I am having a hard time
7 understanding what we might deduce from testimony
8 based on this document.

9 EXAMINER PIRIK: I agree, Ms. Spiller. I
10 don't see where the foundation is with this document.

11 MS. SPILLER: Okay. I am happy to
12 approach it another way, your Honor. No problem.

13 Q. Ms. Ringenbach, you say that the OVEC
14 generation will tend to increase supply in the PJM
15 capacity and energy markets, correct?

16 A. Yes.

17 Q. And that would be an increase in supply
18 over today?

19 A. If the supply was not being sold into the
20 market, then, yes.

21 Q. And do you have any reason to believe
22 that supply is -- from the OVEC-owned generating
23 assets is not currently sold into the market?

24 A. I do not know.

25 MR. CLARK: Your Honor, may I object

1 again? I don't see how these questions are getting
2 the foundation of this witness's knowledge of this
3 document.

4 MS. SPILLER: Oh, I've moved off the
5 document.

6 MR. CLARK: Oh, I'm sorry.

7 MS. SPILLER: No worries.

8 Q. And for purposes of your testimony and
9 your conclusion that rider PSR would theoretically
10 tend to increase supply, have you taken into account
11 the expected retirements in PJM?

12 A. I have not taken into account expected
13 retirements because those are not really known.

14 Q. And you indicate on page 7 of your
15 testimony, Ms. Ringenbach, that lower prices in PJM
16 for capacity and energy would include prices that are
17 paid by customers in neighboring states, correct?

18 A. Yes.

19 Q. And in this regard you're referring to
20 the mid-Atlantic states, correct?

21 A. Yes.

22 Q. But you don't know what those customers
23 currently pay for their generation supply, do you?

24 A. No.

25 Q. And although you don't know what

1 customers in mid-Atlantic states pay for their
2 generation supply, you believe that Duke Energy
3 Ohio's retail customers would be paying more for
4 energy and capacity as compared to those individuals,
5 correct?

6 A. I believe that if the Duke customers are
7 participating in the same market and the prices are
8 lower, for someone buying that output from OVEC in
9 the PJM market, while Duke customers might be subject
10 to that same wholesale market price, they are also
11 subject to an additional line item on their bill that
12 could be a charge or a credit, but also a charge, so
13 they would potentially be paying to lower the prices
14 for the rest of the market.

15 Q. And, again, Ms. Ringenbach, that outcome
16 only works if the supply is increased -- the supply
17 in PJM is increased vis-a-vis what happens today,
18 correct?

19 A. That only works if the OVEC supply that's
20 bid in results in lower prices to the market.

21 Q. And you don't know whether that will
22 happen, do you?

23 A. No.

24 Q. And you would agree with me the Ohio
25 Commission does not set the retail rates of customers

1 in the mid-Atlantic states, correct?

2 A. Yes.

3 Q. And so, while you're suggesting on page 7
4 that the OVEC generation will have an impact on
5 supply and prices in PJM, you've offered the
6 Commission no analysis to support that conclusion,
7 correct?

8 A. Yes.

9 Q. Is that correct?

10 A. Yes, that's correct.

11 Q. Thank you.

12 And you make a reference to Duke Energy
13 Ohio customers and what they may pay vis-a-vis
14 customers in other states, and just as you've
15 identified no analysis with respect to those
16 statements, you've not compared Duke Energy Ohio's
17 rates under its proposed ESP to those of the other
18 EDUs in Ohio, correct?

19 A. That's correct.

20 Q. Now, your statement that rider PSR would
21 cause customers to pay twice for generation service
22 is based upon Direct Energy's belief that if Duke
23 Energy Ohio has a contractual entitlement in the OVEC
24 assets, it must provide the power associated with
25 that entitlement to customers who are paying for it,

1 correct?

2 A. Yes.

3 Q. But there's no requirement under Ohio law
4 on which you rely for this statement, is there?

5 A. No.

6 Q. You state on -- if we could turn to
7 page 8 of your testimony. You indicate that Duke
8 Energy Ohio has -- line 9, I'm sorry, you indicated
9 that Duke Energy Ohio has provided no analysis
10 demonstrating any benefit to customers from the OVEC
11 generation, correct?

12 A. At the time of this, no, there was
13 nothing out there that showed a guarantee of a
14 benefit to the customers.

15 Q. Well, you understand that Duke Energy
16 Ohio's proposal with regard to its contractual
17 entitlement in OVEC is one that is intended to
18 include future years, correct?

19 A. Yes.

20 Q. In fact, it pertains to only future
21 years, correct?

22 A. Yes.

23 Q. And so, any forecast of the net benefits
24 under rider PSR is one that, today, we know will
25 change, correct?

1 A. Yes.

2 Q. Now, on this same page and this same
3 question and answer, Ms. Ringenbach, you believe that
4 Duke Energy Ohio has a fiduciary obligation to keep
5 profitable plants and dispose of uneconomic plants,
6 correct?

7 A. I don't believe I said it exactly that
8 way. I said that they have an obligation to their
9 shareholders for the company to make money, to
10 summarize it that way.

11 Q. Okay. And so, your testimony on page 8,
12 lines 5 through 1 regarding retention of contractual
13 obligations is based solely on what you believe Duke
14 Energy Ohio's fiduciary obligation to its shareholder
15 to be, correct?

16 A. Yes.

17 Q. So do you believe a regulated utility
18 must make decisions solely with regard to maximizing
19 its profits?

20 A. I think at the end of the day that's the
21 ultimate root cause of most decisions.

22 Q. You do agree with me that the Ohio
23 Commission sets Duke Energy Ohio's rates that it may
24 collect from its customers, correct?

25 MR. CLARK: Objection, your Honor. It

1 calls for a legal conclusion.

2 MS. SPILLER: Your Honor, I believe --

3 EXAMINER PIRIK: I'll overrule.

4 MS. SPILLER: Thank you.

5 A. Yes.

6 Q. Are you suggesting, Ms. Ringenbach, in
7 your testimony that the OVEC generating assets are
8 uneconomic?

9 A. No.

10 Q. If the rider PSR is approved, you believe
11 and indicate as much in your testimony, that it
12 should be limited to Duke Energy Ohio's contractual
13 entitlement in OVEC, correct?

14 A. Yeah.

15 Q. Would you agree with me that the
16 Commission should first be presented with information
17 on other arrangements before rejecting such a
18 proposal out of hand?

19 A. No.

20 Q. You would agree with me there is no such
21 information before the Commission today with respect
22 to other arrangements that could be included in rider
23 PSR, correct?

24 A. Yes.

25 Q. So we have no basis on which to state

1 free money would be flowing from customers, do we?

2 A. Without knowing what those other plants
3 are and whether or not they would be credits, no.
4 But there's nothing in OVEC either that offers a
5 guaranteed credit.

6 Q. You discussed this briefly with
7 Mr. Stinson, and just a few questions, if I may,
8 Ms. Ringenbach. An alternate suggestion you have to
9 rider PSR is that the company -- Duke Energy Ohio's
10 energy and capacity associated with its 9 percent
11 contractual entitlement in OVEC be used to serve
12 Direct -- Duke Energy's PIPP customers, correct?

13 A. Yes.

14 Q. And that would be a direct provision of
15 generation service, correct?

16 A. Yes.

17 Q. And you're certainly aware,
18 Ms. Ringenbach, given your familiarity with Ohio
19 regulation, that the ODSA has the statutory authority
20 to aggregate the PIPP load, correct?

21 A. They do.

22 MR. CLARK: Objection, your Honor, calls
23 for a legal conclusion. Statutory authority
24 questions regarding -- it's a legal conclusion.

25 EXAMINER PIRIK: Correct. I understand

1 what you're saying, but if she understands and knows,
2 then I'll allow the question.

3 A. They have -- they may aggregate an
4 auction of the PIPP load.

5 Q. And if your alternate recommendation is
6 accepted by the Commission, the ODSA would lose that
7 right, correct?

8 A. No.

9 Q. With respect to the PIPP load?

10 A. No. They wouldn't -- the Commission
11 isn't taking that right way from them. The ODSA may
12 choose to aggregate and auction that off, but they
13 have, in the past, accepted the authority of the
14 Commission to set a price from the utility through an
15 ESP, so they would not lose their authority. They're
16 just accepting that price and that contractual
17 situation that's been approved by the Commission, but
18 that doesn't mean that they can't reject it outright
19 and say, no, we don't want to do that.

20 Q. Has Direct Energy had conversations with
21 ODSA with regard to its PIPP proposal?

22 A. No.

23 Q. And if we could for a moment, please,
24 focus on the element of your PIPP proposal that would
25 have the capacity from the OVEC units being used to

1 serve PIPP customers under the proposed ESP the
2 proposed ESP is for a three-year term, correct?

3 A. Yes.

4 Q. The net term runs June, 2015, through
5 May 31, 2018, correct?

6 A. Yes.

7 Q. And that term is consistent with PJM's
8 planning years, correct?

9 A. Yes.

10 Q. And PJM, you would agree with me,
11 conducts capacity auctions on a three-year forward
12 basis, correct?

13 A. Yes.

14 Q. So in May of this year and May of 2014,
15 PJM conducts its base residual auction for capacity
16 for the 2017-2018 planning year, correct?

17 A. Yes.

18 Q. So to the extent any of the capacity
19 associated with Duke Energy Ohio's contractual
20 entitlement in OVEC has been bid into PJM's base
21 residual auctions, those auctions have occurred and
22 any clearing capacity is committed to the auctions,
23 correct?

24 A. For that period, yes.

25 Q. And if capacity is committed to the PJM

1 base residual auction for a period through the
2 2017-2018 planning year, that capacity can't also be
3 used to provide capacity service to retail end-use
4 customers in Ohio, correct?

5 A. Correct.

6 Q. Can only use the capacity once, right?

7 A. Right. I was thinking more in terms of
8 the fact that that capacity is out there and
9 available in other forms. The PIPP proposal is not
10 specific for the term of the ESP. It's actually
11 intended -- the proposal we are proposing is intended
12 to match up with the timeline that Duke is proposing
13 for the PSR.

14 Q. And that would be a timeline that is
15 consistent with for however long Duke Energy Ohio
16 receives energy and capacity from OVEC consistent
17 with its contractual entitlement, correct?

18 A. Yes.

19 Q. And I want to talk a little bit about the
20 PIPP proposal with regard to what I would just say
21 allocation of dollars. So you know that PIPP
22 customers don't pay the full amount of their utility
23 bill, correct?

24 A. Yes.

25 Q. So to the extent PIPP customers have a

1 balance on their bill, that balance is collected
2 through the Universal Service Fund rider, correct?

3 A. Yeah, yes.

4 Q. So under your proposal, if there are
5 revenues or credits under rider PSR that flow back to
6 PIPP customers, would you expect customers paying the
7 Universal Service Fund to receive those revenues or
8 credits?

9 A. To the extent that they flow through to
10 PIPP customers and they impact that arrearage amount
11 that is paid by the USF, yes.

12 Q. So then, isn't the net of your proposal
13 really no different than what Duke Energy Ohio is
14 proposing with all retail customers entitled to the
15 net benefits associated with the company's
16 contractual entitlement in OVEC?

17 A. If the Commission took the PSR approach,
18 but there were other options that were put out there,
19 one being set a fixed price for the OVEC power so you
20 actually have a longer term fixed price option for
21 the PIPP customers which would allow for budget
22 certainty over a longer period of time than what the
23 ODSR -- OD --

24 Q. SA.

25 A. -- SA, thank you, has even today. So,

1 today, they are pretty much almost on a variable rate
2 because it's a percentage off. When you -- if the
3 Commission took the approach of saying we are going
4 to enter -- we are going to set the price of this PPA
5 contract as X per kilowatt-hour for the next however
6 many years and ODSA then entered into that contract,
7 they would have a set price to relate to, which makes
8 their budgeting much easier going forward, which
9 would also help with budgeting the Universal Service
10 Fund.

11 Q. But, again, one outcome, under your PIPP
12 proposal, would be that the net revenues or credits
13 associated with rider PSR would flow through to all
14 distribution customers responsible for the Universal
15 Service Fund, correct?

16 A. Only for that portion. There would still
17 be a portion paid by the PIPP customers, yes.

18 Q. And the PIPP customers would be entitled
19 to their share of any revenues or credits that may
20 exist under rider PSR, correct?

21 A. Yes.

22 MS. SPILLER: And, your Honor, I will --
23 may we go off the record?

24 EXAMINER PIRIK: Yes.

25 (Discussion off the record.)

1 EXAMINER PIRIK: Okay. We will go back
2 on the record.

3 Q. (By Ms. Spiller) Ms. Ringenbach, you're
4 aware with respect to rider PSR that Duke Energy Ohio
5 has committed to selling the energy and capacity
6 associated with its contractual entitlement into the
7 PJM wholesale markets, correct?

8 A. Correct.

9 Q. Ms. Ringenbach, if we could go back
10 briefly to the fixed price contracts that we were
11 discussing. Would you agree with me -- and if this
12 is divulging confidential information we can
13 certainly hold it in abeyance, but would you agree
14 with me the vast majority of Direct Energy Services'
15 residential customer contracts have a duration of
16 less than two years?

17 MR. OLIKER: Your Honor, this is where
18 earlier I talked about my objection would be coming,
19 that Direct Energy's customer base and the contracts
20 that they may have is not necessarily representative
21 of the CRES community, and you can't look at one CRES
22 provider or even two CRES providers unless you have
23 all the contracts and all the duration. You are just
24 going to have misleading evidence in the record.

25 EXAMINER PIRIK: Mr. Clark.

1 MR. CLARK: If I could, your Honor, I
2 think also in terms of the confidentiality issues,
3 might want to nip them in the bud as well, and that
4 sort of objection as well. I mean, is it relevancy?
5 You know, with that objection I'm not sure how that
6 matters, candidly. But, additionally, when you look
7 at the probative value of one supplier's contracts or
8 information, you know, the contractor sells that
9 information, I think any sort of prejudicial value
10 outweighs that when you consider that it's just one
11 supplier in the market, you would leave the record
12 with basically what one supplier has or doesn't have
13 or does, and I just don't know --

14 EXAMINER PIRIK: Well, I think at this
15 point you'll have the opportunity to redirect and
16 clarify anything you want to with regard to that
17 issue. I think it's good to have that noted on the
18 record, and it will be given whatever the appropriate
19 weight that piece of information should be accorded.
20 So it's good to have the objection noted on the
21 record, and we will have an opportunity for redirect
22 on the issue.

23 MR. CLARK: Thank you, your Honor.

24 EXAMINER PIRIK: Ms. Spiller.

25 MR. CLARK: I would note if we are going

1 to talk about duration or numbers, I would like to go
2 into the confidential section for that.

3 MS. SPILLER: Sure, sure.

4 MR. CLARK: I don't know if she has other
5 nonconfidential questions, I didn't want to cut that
6 off.

7 EXAMINER PIRIK: That sounds like a plan.

8 MS. SPILLER: Just briefly, your Honor.

9 Q. (By Ms. Spiller) Ms. Ringenbach, you are
10 also associated with RESA, the Retail Energy Supply
11 Association, correct?

12 A. Yes.

13 Q. And I believe in your other testimony
14 docketed in this case you identify about 21 CRES
15 providers that are members of RESA, correct?

16 A. Yes.

17 Q. And I believe you've indicated in the
18 record in this proceeding that very many of those 21
19 are active in the Duke Energy Ohio service territory,
20 correct?

21 MS. BOJKO: Objection.

22 MR. CLARK: Objection. We are going down
23 another -- that was her RESA testimony. This is not
24 RESA testimony; it's Direct Energy testimony.

25 EXAMINER PIRIK: That's true.

1 MS. BOJKO: Right.

2 MS. SPILLER: I am willing to go about it
3 another way then, your Honor. Thank you.

4 Q. Ms. Ringenbach, you have not provided any
5 information in this case on behalf of any supplier
6 other than Direct Energy concerning their fixed price
7 offers, correct?

8 A. Yes.

9 Q. But you would agree with me that we can
10 obtain the terms and conditions of those fixed price
11 offers including their duration from the Apples to
12 Apples chart, right?

13 MS. BOJKO: Object.

14 MR. OLIKER: Object.

15 EXAMINER PIRIK: Ms. Bojko.

16 MS. BOJKO: Same as Mr. Olikier, I'm sure.
17 That assumes facts not in evidence. We've already
18 heard testimony today that not every contract or
19 offer is on the Apples to Apples, and I think that
20 that is misleading and assumes facts not in evidence.

21 MR. OLIKER: I would agree, your Honor.

22 EXAMINER PIRIK: Thank you. That's a
23 good clarification for the record. I think that she
24 has stated that on the record as far as what is
25 contained in the Apples to Apples chart.

1 Do you have anything else, Ms. Spiller?

2 MS. SPILLER: Not for the public portion,
3 your Honor.

4 EXAMINER PIRIK: Okay. Mr. Beeler?

5 MR. BEELEER: Nothing. Thank you.

6 EXAMINER PIRIK: Mr. Clark?

7 MR. CLARK: May we have just a moment,
8 your Honor, to discuss redirect on the
9 nonconfidential portion?

10 EXAMINER PIRIK: Yeah. We will just stay
11 here. You can step out if you want to.

12 MS. BOJKO: Your Honor, are we supposed
13 to be marking a document you are going to use on the
14 confidential on the public record? Because I don't
15 believe that was done.

16 MS. SPILLER: I am not intending to offer
17 it as an exhibit, just to refresh her recollection.

18 EXAMINER PIRIK: Okay.

19 MR. CLARK: Thank you, your Honor.

20 (Discussion off the record.)

21 EXAMINER PIRIK: Mr. Clark, we'll go back
22 on the record.

23 MR. CLARK: Thank you, your Honor. We
24 have no redirect on the public version of the
25 testimony for cross.

1 EXAMINER PIRIK: Okay.

2 Anybody who does not have a
3 confidentiality agreement will have to leave.

4 MR. STINSON: Your Honor, am I correct to
5 understand after this confidential version of the
6 testimony concludes, the proceeding will be concluded
7 for the day?

8 EXAMINER PIRIK: Yes.

9 MR. STINSON: We won't come back and do
10 anything else?

11 EXAMINER PIRIK: Except move exhibits.

12 MR. STINSON: So then I can leave. Thank
13 you.

14 (Discussion off the record.)

15 EXAMINER PIRIK: Let's go on the record
16 then. With regard to confidential information, I'll
17 just around the room. I know Ms. Spiller has
18 something.

19 Ms. Bojko?

20 MS. BOJKO: Oh, I do not. Thank you.

21 EXAMINER PIRIK: Ms. Kyler?

22 MS. KYLER COHN: No questions.

23

24 EXAMINER PIRIK: Ms. Spiller.

25 MS. SPILLER: Thank you, your Honor.

1 CROSS-EXAMINATION (Continued)

2 By Ms. Spiller:

3 Q. Ms. Ringenbach, would you agree with me
4 that approximately (Confidential) of (Confidential)
5 (Confidential) customers are taking service
6 pursuant to contracts having an (Confidential) with the
7 (Confidential) of (Confidential)?

8 A. I would have to see the discovery request
9 again, but I would agree with the (Confidential) are on
10 (Confidential) that are (Confidential).

11 MS. SPILLER: And, your Honor, may I
12 approach, please?

13 EXAMINER PIRIK: Yes.

14 MS. SPILLER: Thank you.

15 A. Yes.

16 MS. SPILLER: Thank you, your Honor.
17 Nothing further, your Honor.

18 EXAMINER PIRIK: Staff?

19 MR. BEELER: Nothing.

20 MR. CLARK: No redirect, your Honor.

21 I'm sorry, may I have a moment to confer
22 with my witness real quickly on redirect?

23 EXAMINER PIRIK: Wait a second,
24 Mr. Wathen. We're not sure.

25 (Discussion off the record.)

1 MR. CLARK: We have no redirect on the
2 confidential portion either.

3 EXAMINER PIRIK: Okay.

4 MR. CLARK: Your Honor, with that, I
5 would like to move --

6 EXAMINER PIRIK: We are back in the open
7 record.

8
9 EXAMINER PIRIK: That's fine. Go ahead,
10 Mr. Clark.

11 MR. CLARK: May I move Direct Energy
12 Exhibit 1 into the record, please?

13 EXAMINER PIRIK: Are there any
14 objections?

15 MS. SPILLER: No, your Honor.

16 EXAMINER PIRIK: It shall be admitted
17 into the record.

18 (EXHIBIT ADMITTED INTO EVIDENCE.)

19 EXAMINER PIRIK: Mr. Clark, do you want
20 to move the RESA Direct Energy exhibit?

21 MR. CLARK: Yes, I think Mr. Petricoff
22 has that marked as RESA Exhibit 1? Yes, I would like
23 to move that into the record as well.

24 EXAMINER PIRIK: Are there any
25 objections?

1 Hearing none, it will be admitted into
2 the record.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 MR. CLARK: For clarity sake, I didn't
5 hear you admit the Direct Energy one into the record
6 as well.

7 EXAMINER PIRIK: Oh, it's admitted into
8 the record.

9 MR. CLARK: Thank you, your Honor.

10 MS. SPILLER: And, your Honor, Duke
11 Energy Ohio would move for introduction -- I'm sorry,
12 admission into the record of Duke Energy Exhibit 24,
13 please.

14 EXAMINER PIRIK: Any objections?

15 MR. CLARK: Objection. We object. There
16 was really no foundation laid with the witness.

17 EXAMINER PIRIK: Anything else?

18 MR. OLIKER: Your Honor, I would also add
19 I don't believe this document is necessarily
20 reflective of the CRES community in Duke
21 Energy's service territory, and without all the terms
22 and conditions of every single CRES provider and
23 every single offer, it's hard to know exactly the
24 probative value of this exhibit, which is perhaps
25 unduly prejudicial.

1 EXAMINER PIRIK: The objections are noted
2 for the record. The document and the testimony with
3 it will be given its appropriate weight in light of
4 the comments and the objections. But, however, we
5 will admitted it into the record.

6 (EXHIBIT ADMITTED INTO EVIDENCE.)

7 MS. SPILLER: Thank you, your Honor.

8 EXAMINER PIRIK: Is there anything else
9 before we recess the hearing?

10 Hearing none, we will see you in the
11 morning, 9 o'clock.

12 (Thereupon, at 6:34 p.m., the hearing was
13 adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Monday, November 3,
2014, and carefully compared with my original
stenographic notes.

Karen Sue Gibson,
Registered Merit Reporter.

(KSG-5953)

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- Public electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and
Gibson, Karen Sue Mrs.