

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Application Seeking :
Approval of Ohio Power :
Company's Proposal to : Case No. 14-1693-EL-RDR
Enter into an Affiliate :
Power Purchase Agreement :
for Inclusion in the Power:
Purchase Agreement Rider. :

In the Matter of the :
Application of Ohio Power :
Company for Approval of : Case No. 14-1694-EL-AAM
Certain Accounting :
Authority. :

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PROCEEDINGS

before Ms. Greta See and Ms. Sarah Parrot, Attorney
Examiners, at the Public Utilities Commission of
Ohio, 180 East Broad Street, Room 11-D, Columbus,
Ohio, called at 9:00 a.m. on Tuesday, October 20,
2015.

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Tuesday Morning Session,
October 20, 2015.

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EXAMINER PARROT: Let's go on the record.

This is the continuation of the hearing
in Case No. 14-1693-EL-RDR, et al.

Let's get started this morning with brief
appearances, and we will begin with the company.

MR. NOURSE: Thank you, your Honor. On
behalf of Ohio Power Company, Steven T. Nourse,
Matthew J. Satterwhite, Matthew S. McKenzie, Daniel
R. Conway, and Christopher L. Miller.

MR. K. BOEHM: Good morning, your Honor.
On behalf of the Ohio Energy Group, Kurt Boehm, Mike
Kurtz, and Jody Cohn.

MR. YURICK: Mark Yurick on behalf of
Kroger.

MR. PETRICOFF: Your Honor, on behalf of
PJM Power Providers, the Electric Power Supply
Association, Exelon Generation, and Constellation
NewEnergy, Howard Petricoff, Mike Settineri, and
Gretchen Petrucci.

MR. PRITCHARD: On behalf of IEU-Ohio,
Matt Pritchard and Frank Darr.

MR. BEELER: On behalf of the staff of

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1 the Public Utilities Commission of Ohio, Steve Beeler
2 and Werner Margard.

3 MS. BAIR: On behalf of the OCC, Jodi
4 Bair, Kevin Moore, Bill Michael, and Dane Stinson.

5 MS. BOJKO: Good morning. On behalf of
6 the Ohio Manufacturers' Association Energy Group, Kim
7 Bojko and Danielle Ghiloni.

8 EXAMINER PARROT: Thank you, everyone.
9 Mr. Petricoff.

10 MR. PETRICOFF: Thank you, your Honor.
11 On behalf of PJM Power Providers and the Electric
12 Power Supply Association, I'd like to call Joseph
13 Cavicchi to the stand.

14 EXAMINER PARROT: Please raise your right
15 hand.

16 (Witness sworn.)

17 EXAMINER PARROT: Please have a seat.

18 - - -

19 A. JOSEPH CAVICCHI

20 being first duly sworn, as prescribed by law, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Petricoff:

24 Q. Would you please state your name and
25 business address for the record.

1 A. It's A. Joseph Cavicchi, 200 State
2 Street, Boston, Mass.

3 Q. and, Mr. Cavicchi, on whose behalf do you
4 appear today?

5 A. On behalf of the PJM Power Providers
6 Group and the Electric Power Supply Association.

7 MR. PETRICOFF: Your Honor, at this time
8 I would like to have marked as PJM/EPSA, and I think
9 we're up to No. 8, and that would be the direct --
10 the public version of the direct testimony of Joseph
11 Cavicchi.

12 EXAMINER PARROT: Mr. Petricoff, I think
13 we've been using P3 for some of your exhibits, so can
14 we just do it P3/EPSA Exhibit 1, if that's okay with
15 you?

16 MR. PETRICOFF: That would be fine.

17 EXAMINER PARROT: Or, actually, let's
18 see. Do you want to do this? Since it's a joint
19 exhibit, I think we can make it Exhibit No. 1, then.
20 Is that all right with you, or is it your preference
21 to continue because you did have some earlier, but
22 it's my understanding -- were those just P3 exhibits
23 or were they --

24 MR. PETRICOFF: They were joint all the
25 way through. There will be one brief, one

1 appearance, one position.

2 EXAMINER PARROT: All right. Thank you
3 for that clarification. So we are at, I believe, No.
4 8, you said?

5 MR. PETRICOFF: No. 8, yes, that will be
6 the public. and then we'd like to have marked as
7 P3/EP SA 9 the confidential.

8 EXAMINER PARROT: Very good. Thank
9 you.

10 (EXHIBITS MARKED FOR IDENTIFICATION.)

11 Q. Mr. Cavicchi, do you have with you a copy
12 of what has just been marked as P3/EP SA 8 and P3/EP SA
13 9?

14 A. Yes, I do.

15 Q. Is that your direct prepared testimony?

16 A. Yes.

17 Q. Was that prepared by you or under your
18 supervision?

19 A. Yes, it was.

20 Q. Are there any changes or corrections
21 you'd like to make?

22 A. Yes, please, a few minor corrections.

23 MR. PETRICOFF: Before you do, let me
24 state for the record that both in Exhibit 8 and
25 Exhibit 9, the pagination and the line numbers are

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1 the same, so no matter what version you're looking
2 at, these changes will be the same on either version.

3 Q. Please continue.

4 A. So on page 5, line 16, I'd like to insert
5 "all-in" between "move" and "rates."

6 On page 8 at line 10, I would like to
7 change "23" to "36."

8 On page 9 at line 11, I'd also like to
9 change "23" to "36."

10 On page 12 at line 17, I'd like to add
11 again "all-in" in front of "retail" in that sentence
12 or between "residential" and "retail." and then
13 similar to before at line 19, change "23" to "36."

14 Page 15, line 17, and these are all the
15 same, add "all-in" between "customer" and "rate."

16 Page 16, line 2, again add "all-in" between "on" and
17 "retail." Page 16, again, line 18, replace the word
18 "two" with the word "three."

19 Then, finally, on page 20 at line 3
20 replace "23" with "36," and at line 15 replace "23"
21 with "36."

22 EXAMINER SEE: Mr. Cavicchi, repeat that
23 last revision, please.

24 THE WITNESS: That was page 20, the very
25 last one was line 15, replace "23" with "36."

1 Q. With those changes, if I were going to
2 ask you those questions today that appear in the
3 direct testimony that you have just reviewed, would
4 your answers be the same?

5 A. Yes, they would.

6 MR. PETRICOFF: Your Honor, the witness
7 is available for cross-examination.

8 EXAMINER PARROT: Thank you,
9 Mr. Petricoff.

10 Ms. Bojko?

11 MS. BOJKO: No questions, thank you.

12 EXAMINER PARROT: Ms. Bair?

13 MS. BAIR: No questions.

14 EXAMINER PARROT: Mr. Pritchard?

15 MR. PRITCHARD: No questions, your Honor.

16 EXAMINER PARROT: Mr. Yurick?

17 MR. YURICK: Nothing, thank you.

18 EXAMINER PARROT: Mr. Boehm?

19 MR. K. BOEHM: No questions, your
20 Honor.

21 EXAMINER PARROT: Mr. Satterwhite, you're
22 up.

23 MR. SATTERWHITE: Thank you, your Honor.

24 - - -

CROSS-EXAMINATION

By Mr. Satterwhite:

Q. Good morning, Mr. Cavicchi. How are you this morning?

A. I'm fine, thank you.

Q. It's Cavicchi, right?

A. Yes, thank you.

Q. My name is Matt Satterwhite. I'm an attorney for AEP Ohio. I have a couple of questions for you this morning.

I'd like to discuss your argument about rate base regulation and the incentive to operate units as long as possible and make uneconomic decisions. Do you recall testifying to that?

A. Yes, I do.

Q. Your assumption in this argument is that AEPGR, which is the current -- you know what AEPGR is?

A. That would be short for AEP Generation Resources or American Electric Power Generation Resources, yes.

Q. I guess we'll start there, just to make sure we're all on the same page. AEP Ohio is the distribution company seeking the PPA rider in this case, correct?

1 A. Yes.

2 Q. AEPGR is the party in the proposed
3 contract that AEP Ohio is seeking to enter into,
4 correct?

5 A. Yes.

6 Q. So is it your assumption that AEPGR has
7 unilateral control of investments it would make in
8 the PPA units?

9 A. My assumption has been that the power
10 purchase agreement that's proposed will govern the
11 capital investments, and my understanding is that
12 it's not a unilateral decision by AEPGR, except maybe
13 in the case of operations and maintenance costs.

14 Q. So have you reviewed the proposed
15 agreement between AEP Ohio and AEPGR?

16 A. Are you referring to the power purchase
17 agreement, the draft power purchase agreement, that
18 was turned over as part of discovery?

19 Q. Yes.

20 A. Yes, I have.

21 Q. So it's your understanding that within
22 that document AEP Ohio has certain rights to veto
23 capital investments, correct?

24 A. I don't think the agreement's very clear
25 on what rights AEP Ohio has. If I recall correctly,

1 they are asked to provide a written approval in
2 relation to a capital investment; however, if they
3 were to veto it, they may still be obligated under
4 the agreement to pay the costs associated with the
5 particular unit that would have had that capital
6 investment.

7 Q. So just to make sure I understand your
8 statement, it's your understanding of -- I'll call it
9 the proposed agreement; is that all right so we know
10 what we're talking about?

11 A. Yes.

12 Q. Or the proposed PPA. It's your
13 understanding that AEP does not have the ability to
14 unilaterally stop a major capital investment by
15 itself, correct?

16 A. AEP, which AEP are you referring to?

17 Q. AEP Ohio.

18 A. So I'll say again, I don't think it's a
19 hundred percent clear how the capital investment will
20 be evaluated because the terms and conditions that
21 are provided with Mr. Pearce's testimony discuss a
22 committee being formed where there would be a
23 decision-making process under the committee with
24 respect to approving capital investment, however, the
25 PPA, in my interpretation -- and I should be clear,

1 I'm not a lawyer. It doesn't contain the same
2 language, so in all honesty, it's a little bit
3 confusing about how the capital investment decisions
4 will work, and it's even one step more confusing
5 because of the joint ownership of some of the units.

6 Q. Okay. I'm not referring to the terms
7 that was a separate exhibit in Mr. Pearce's
8 testimony. I'd like to keep what we're talking about
9 here confined to the proposed PPA, which was
10 something that came after the term sheet, correct?
11 Is that your understanding?

12 A. In my experience, that's usually the
13 case.

14 Q. Fair enough.

15 A. I don't know how it happened in this
16 case.

17 Q. Fair enough. I think you've answered
18 this, but I want to make sure we're at the same
19 point. So it's your reading of that proposed PPA
20 that it's unclear if AEP Ohio has a right to stop
21 large capital investments, correct?

22 A. I'm not going to say it's unclear that
23 they have a right. It's unclear how they will
24 participate in the capital-investment decision except
25 that there is provision, from what I understand, for

1 them to provide a written approval on a major capital
2 investment and that written approval is required.

3 Q. and that's the extent of your
4 understanding of AEP Ohio's rights with capital
5 investments in that agreement, correct?

6 A. What I would think, subject to check,
7 major capital investments, are we on the same page on
8 that, that's what you were discussing?

9 Q. I am assuming you were saying "yes"
10 there, so if you weren't saying "yes," tell me.

11 A. I want to make sure because there's
12 operation and maintenance costs and there is capital
13 expenditures.

14 Q. Fair enough. I am talking about capital
15 expenditures.

16 A. So let me say I'm assuming major capital,
17 not minor capital.

18 Q. Right. So to sum it up, our discussion
19 all along focused on major capital expenditures.
20 Your understanding of the proposed PPA agreement is
21 what you've stated, and you do not know if AEP Ohio
22 has a unilateral right --

23 MS. BAIR: Objection.

24 Q. -- to stop major capital improvements,
25 correct?

1 MS. BAIR: Objection.

2 EXAMINER PARROT: Grounds?

3 MS. BAIR: Asked and answered.

4 MR. PETRICOFF: We will join.

5 MR. SATTERWHITE: If I may, your Honor, I
6 think we've explained other things rather than get to
7 the answer, and then he asked me to correct again
8 capital, so I was trying to sum everything up in
9 final questions so that we can leave this point.

10 EXAMINER PARROT: All right. Overruled.

11 MS. BOJKO: Your Honor, while we're
12 interrupting, could I ask the witness to speak up,
13 please? It's difficult to hear sometimes.

14 EXAMINER PARROT: Sorry, the acoustics in
15 this room are not the best, so if you can try to
16 project, we'd appreciate it.

17 MS. BOJKO: Thank you.

18 THE WITNESS: I will.

19 MS. BOJKO: Thank you.

20 A. So in answer to your question, which was
21 I think similar, we're just clarifying that it's
22 major capital investments, my answer remains the
23 same. My understanding is there's a written approval
24 required from AEP Ohio when a major capital
25 investment is evaluated.

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1 Q. Okay. and the last question that got us
2 back on that is so that's the full extent of your
3 understanding in this area, correct?

4 A. Yes.

5 Q. Okay. We can move on now. Thank you.
6 See, it's easier when you just say yes.

7 A. Or I can just say no.

8 Q. I can change the questions to answer
9 "no," that's fine.

10 Is it your argument that rate-of-return
11 regulation is devoid of protections to keep costs
12 down and are not good for customers?

13 A. No.

14 Q. So there are benefits to governmental
15 involvement regulating energy, correct?

16 A. When there exists a situation like a
17 natural monopoly, yes, there are benefits to
18 government stepping in and regulating.

19 Q. But in this case you're arguing that
20 there's incentives for abuse if it's a rate-of-return
21 mechanism, correct?

22 A. I don't think I'd use the term "abuse."
23 I would -- I think a better term to use is there can
24 be an incentive to make investments that may be
25 inefficient when compared to what would occur in a

1 competitive market.

2 Q. and you understand there's a difference
3 between the PPA in this case and the PPA rider,
4 correct?

5 A. Yes.

6 Q. and it's your understanding that the
7 Commission has jurisdiction over the PPA rider,
8 correct?

9 A. Yes.

10 Q. and the Commission is able to do a
11 prudence review on costs that are sought to be flowed
12 through the PPA rider, correct?

13 A. I understand that the Commission can have
14 a role in reviewing the costs. It's not clear to me
15 at all whether that role constitutes a prudence
16 review in, you know, the way I would characterize a
17 prudence review.

18 Q. But it is your understanding that the
19 Commission is able to review AEP Ohio's decisions
20 that it partakes as part of the PPA, correct?

21 A. It's not clear to me that all of the
22 decisions that come under the PPA can be reviewed by
23 the Commission.

24 Q. I'm asking about the decisions of
25 AEP Ohio; is that the same answer you would give?

1 A. I actually -- for the purposes of my
2 testimony, the exact process that would be used to
3 establish the costs that would be passed through
4 under the PPA was not reviewed, so I'm uncomfortable
5 judging exactly how it would work without seeing some
6 additional information.

7 Q. Fair enough. So if I had questions about
8 the scope of the Commission's review of AEP Ohio
9 decisions, you do not have information that you're
10 comfortable testifying about, correct?

11 A. Correct.

12 Q. Did you review the ESP III order in Case
13 13-2385 in preparing for your testimony? If it
14 helps, that's the order that set up the PPA rider
15 mechanism that we're seeking -- AEP Ohio is seeking
16 to populate the units in this case.

17 A. May I ask, is that the opinion and order
18 dated February 25th, 2015?

19 Q. Yes.

20 A. Yes.

21 Q. In case 13-2385?

22 A. Yes.

23 Q. and are you familiar with the
24 Commission's discussion of the authority to establish
25 the PPA rider?

1 A. I have read it, but not intimately, not
2 intimately familiar as I sit here today.

3 Q. That's fine. I'd like to ask you a
4 couple questions. Would it be helpful for me to
5 provide the relevant sections of that order as I ask
6 the questions?

7 A. I think so, yes, if you're going to ask
8 substantive questions.

9 MR. SATTERWHITE: Your Honor, may we
10 approach?

11 EXAMINER PARROT: You may.

12 MR. SATTERWHITE: Your Honor, I believe
13 the Bench -- I'm assuming the Bench still has a copy,
14 as we discussed this yesterday, correct?

15 EXAMINER PARROT: I pretty much always
16 have a copy of that, Mr. Satterwhite.

17 MR. SATTERWHITE: Wallpapered in your
18 office?

19 EXAMINER PARROT: Yes, we do.

20 MR. SATTERWHITE: I've explained to
21 counsel for P3/EPSC that what I provided the witness
22 is the cover page, table of contents, and then the
23 relevant section on the Commission's conclusion
24 dealing with the PPA, rather than print the entire
25 order.

1 Q. (By Mr. Satterwhite) So, Mr. Cavicchi,
2 is this cover page the 13-2385 ESP III order we were
3 just discussing?

4 A. Yes. I think so.

5 Q. Okay. You believe it is, correct?

6 A. Subject to your representation, yeah.

7 Q. Okay.

8 A. Yes.

9 Q. and on page 2 I have included the table
10 of contents, and under Roman numeral II it says
11 "Discussion," B is "Analysis of the Application," 1
12 is the "Purchased Power Agreement Rider," and C is
13 "Conclusion," correct?

14 A. Yes.

15 Q. and then a couple pages back it starts on
16 18, so that we can get to the conclusion on 19 on the
17 back of the page, and what I've included is 19
18 through 27, which is the discussion on the conclusion
19 of the PPA rider. I just want you to confirm this
20 just so we make sure we're all talking about the same
21 thing. Is that correct?

22 MR. PETRICOFF: Your Honor, at this time
23 I'm going to object. This document may serve to help
24 refresh his recollection, but it shouldn't be used as
25 an examining tool. We should have a question first

1 that's based on it, and then we can -- this document
2 can be used then to refresh his recollection if it's
3 necessary.

4 MR. SATTERWHITE: Your Honor, I'm not
5 going to mark this. I just want to make sure it's
6 clear what the witness has so there's no accusation
7 I've not included something that's relevant so the
8 witness has everything he needs to refer to for the
9 Commission's conclusion.

10 EXAMINER PARROT: and I think the witness
11 stated that it would be helpful for him to have it,
12 so let's proceed, please.

13 Q. (By Mr. Satterwhite) Let me go ahead and
14 take you to page 22 of this Commission order. Do you
15 see the first full paragraph that starts "The
16 Commission"?

17 A. Yes.

18 Q. and the statement says "The Commission
19 finds that R.C. 4928.143(B)(2)(d) authorizes electric
20 utilities to include in an ESP, terms related to
21 'bypassability' of charges to the extent such charges
22 have the extent of stabilizing or providing certainty
23 regarding retail electric service." Do you see that?

24 A. Yes, those words are there.

25 Q. and in your professional opinion do you

1 disagree with the Commission's finding here?

2 A. I mean, in all honesty, I'm not a lawyer,
3 so I don't know what 4928.143(B)(2)(d) actually says.

4 Q. So you have no opinion on that statement?

5 A. I do not.

6 Q. Okay.

7 A. Without reading -- obviously, if I was a
8 lawyer and maybe I read it, I might have an opinion
9 about it.

10 Q. You're not aware of what that statute is,
11 though?

12 A. I have a vague recollection of how the
13 regulations are actually coded here for some of the
14 ones I've read, but I don't know this particular
15 paragraph citation.

16 Q. That's fine. So the next sentence
17 discusses that "...both shopping and SSO customers
18 may benefit from a PPA rider because it would have a
19 stabilizing effect on price..."

20 MR. PETRICOFF: Your Honor, I am going to
21 pose the same objection before. We are now examining
22 him on a statutory provision. He is not a lawyer.
23 He can certainly be asked, What is your understanding
24 of how this affects the regulatory system? But he
25 shouldn't be grilled on what specific provisions of

1 the statute have to say or what specific provisions
2 of the legal interpretation of a specific provisions
3 of the Commission opinion.

4 MR. SATTERWHITE: Your Honor, the first
5 question was really just background, an ESP statute
6 which he says he has some familiarity with. I moved
7 on when he said he wasn't aware of the intricacies of
8 the statute.

9 The next statement is just a Commission
10 finding on a PPA rider. and if this witness -- if
11 Mr. Petricoff wants to testify that this witness
12 cannot testify to anything dealing with the PPA
13 rider, then we can move to strike all of his
14 testimony, but I believe that's why we're here today,
15 so really testing the opinion of this witness and who
16 he represents with what the Commission's found in the
17 past.

18 MR. PETRICOFF: I don't object to
19 testing, asking for his opinion. I guess I do object
20 to being examined as to what the Commission's intent
21 was or view from its document. He should be just
22 asked a general question.

23 MR. SATTERWHITE: and I believe my
24 question was: "In your professional opinion do you
25 agree with this?" So I wasn't asking what the

1 Commission meant.

2 EXAMINER PARROT: So let's try it again.
3 Rephrase it.

4 MR. SATTERWHITE: Start with that?

5 EXAMINER PARROT: Yes, start with that,
6 and I think at this point he probably needs to hear
7 the substance of the question again anyways. Put it
8 all together, please.

9 Q. (By Mr. Satterwhite) Mr. Cavicchi, in
10 your professional opinion do you agree with the
11 Commission's statement on 22, page 22 of the document
12 I handed you, that discusses that "...both shopping
13 and SSO customers may benefit from the PPA rider
14 because it would have a stabilizing effect on the
15 price of retail electric service..."?

16 A. I think I would refer you to my testimony
17 where I've discussed the PPA rider and its impact on
18 the costs that consumers will bear, and I believe --
19 if you give me a moment to find it -- starting at
20 page 12, line 7, through page 17, line 2, I discuss
21 my analysis of the rider, and I think in answer to
22 your question I would just direct you to page 15,
23 line 14, through 16, line 7.

24 Q. So does that mean you disagree with the
25 Commission's statement?

1 A. I just directed you to the testimony.
2 Would you like me to read it?

3 Q. No, I don't want you to read your
4 testimony. I want you to answer my question. My
5 question -- you directed me to some analysis that you
6 did, and I'm asking a step up from that. The basis
7 of the PPA rider, whether you agree with some of the
8 findings the Commission made, and the Commission
9 found that shopping and SSO customers may benefit
10 because of the stabilizing effect to prices, and so,
11 from a conceptual point of view, I want to know if
12 you agree with that?

13 MS. BAIR: I have an objection.

14 MR. PETRICOFF: Your Honor, I object.
15 This is a different rider that's covered in -- this
16 is a different PPA rider that's covered in this
17 opinion than the subject matter of the PPA rider in
18 the case at bar today.

19 MR. PRITCHARD: I would also add an
20 objection that the Commission's findings in a prior
21 case are based on a record in a prior case, and
22 there's no evidence that this witness, there's no
23 foundation for his knowledge of the evidence in the
24 prior case for him to be able to testify about
25 findings in another case.

1 MS. BAIR: and I have an objection that
2 he's mischaracterizing the order because it says "may
3 benefit."

4 MR. SATTERWHITE: Your Honor, this is the
5 language that set up the PPA rider that is at issue
6 in this case, and the PPA units are what we're
7 discussing about populating in that rider. Just as
8 we've done with other witnesses, I'm trying to
9 discern the position of this party and this witness
10 about whether they agree with the overall concept.

11 We're going to get into his other
12 viewpoints, but I would like as a baseline to
13 understand what this witness feels about the
14 justification for the rider to begin with.

15 EXAMINER PARROT: Your point is fair. He
16 did say -- he did quote from the order. He did say
17 "may benefit."

18 and I'm otherwise going to overrule the
19 objections and instruct you to answer the question,
20 Mr. Cavicchi. Do you agree or not? "Yes" or "no."

21 THE WITNESS: Yes, I agree.

22 Q. (By Mr. Satterwhite) You agree with the
23 Commission?

24 A. I agree that a rider, depending upon the
25 level of the rider and how it's implemented, could,

1 over a long period of time, have a stabilizing effect
2 on the costs incurred by customers subject to that
3 rider.

4 Q. and the Commission was referring to the
5 nonbypassable rider. Do you agree with that, with
6 the same statement?

7 A. I agree, the Commission was referring to
8 a nonbypassable rider.

9 Q. and would you also agree that rate
10 stability is an essential component of an ESP in
11 Ohio?

12 A. I would have to review the precise
13 language of the ESP order because there is an MRO,
14 market rate option, that also is acceptable. I'm not
15 recalling as I sit here the precise descriptions of
16 what that order was focusing on.

17 Q. So you have -- just to be fair, you have
18 no opinion then about whether rate stability is
19 important or not for an ESP in Ohio, correct?

20 A. I would just offer that my understanding
21 is that rate stability is something the Commission
22 considers in Ohio when reviewing the plans that the
23 utilities put forth.

24 Q. and they consider it as an important
25 factor, correct?

1 A. I'd have to see how they describe it to
2 answer that conclusively.

3 Q. Why don't you look on page 25 of the
4 document I've provided you, at the very last sentence
5 of the first paragraph. Let me ask you, in your
6 professional opinion, do you agree with the
7 Commission where it states that "rate stability is an
8 essential component of the ESP"?

9 A. I agree that the Commission says that
10 here, yes. and, in all honesty, I've cited this
11 point in my testimony.

12 Q. and that's what I'm asking you. You
13 agree with the Commission, correct?

14 A. I believe the Commission says it
15 basically is an important factor in AEP Ohio's prior
16 ESP proceedings.

17 Q. Great. Well, then my question is, now,
18 let's take that one step further, do you agree with
19 that?

20 A. Do I agree with that as an economist?

21 Q. Whatever caveat you want to put on it.
22 As a witness here today in front of the PUCO, do you
23 agree with that statement?

24 A. I think that the degree to which rate
25 stability is an important element of power pricing is

1 typically determined through legislative policy and
2 regulations that are put forth by utility commissions
3 such that what rate stability may be for one state or
4 one commission may vary considerably such that, you
5 know, here I can't put myself into the exact minds of
6 the Ohio Commissioners and know whether they're
7 thinking plus or minus a cent per kilowatt-hour is
8 stability versus, you know, another state which
9 allows plus or minus three cents.

10 As an economist, if you were to ask me if
11 rates go up and down by a hundred percent every
12 couple months, that's not stable enough and I would
13 suggest that that's not what consumers desire,
14 however, I think it's much more gray without a real
15 description of the actual meaning of we want to have
16 rate stability means to say how relevant it is for
17 the Commission here.

18 Q. So I think you just told us what rate
19 stability was not. So what is your definition of
20 rate stability?

21 A. I've said it's whatever a state
22 policymaker determines is acceptable.

23 Q. So you defer to the Commission to
24 determine what rate stability is, you have no
25 opinion; is that correct?

1 A. Well, I wouldn't say I don't have an
2 opinion. I just gave you an opinion. I said if
3 rates change a hundred percent from month to month, I
4 think that would be unstable.

5 Q. That's unstable. So what is rate
6 stability, is my question?

7 A. I just said, it's a -- in my opinion,
8 it's something that states and utility regulators
9 decide upon.

10 Q. The last question or area or, hopefully,
11 just a question on the ESP III opinion, are you aware
12 of the four factors that the Commission determined
13 utilities should use in the future when considering
14 entering units into a PPA rider?

15 A. I think so, but is that something you
16 provided me?

17 Q. It's in the next paragraph. I'm just
18 asking generally, though, if you're familiar with the
19 four factors the Commission established.

20 A. Yes, I am.

21 Q. And do you agree with the Commission that
22 those are the appropriate factors to consider in a
23 PPA rider?

24 A. I haven't actually provided -- I have not
25 analyzed what the appropriate factors might be.

1 Q. So you have not analyzed these, and you
2 have no opinion whether or not they are the correct
3 factors or not, correct?

4 A. Yes, correct.

5 Q. Okay. So on pages 9 to 11 of your
6 testimony, we'll go through there now, you discuss
7 customer choice between SSO offers and CRES offers
8 resulting in shopping. Just let me know when you're
9 to that area.

10 A. Yes.

11 Q. On page -- I'm sorry --

12 A. I just want to be 100 percent clear. So
13 I discuss SSO rates, I discuss CRES rates, and I
14 observe there has been shopping, but I do not analyze
15 the interaction of those.

16 Q. Well, on page 10, starting on line 8, you
17 talk about the Apples to Apples chart and the number
18 of power suppliers that are in the AEP market,
19 correct?

20 A. Yes.

21 Q. You rely on a number of PUCO reports in
22 the footnotes there for your documentation, correct?

23 A. Yes.

24 Q. And the PUCO also lists the level of
25 switching for each EDU on its website, correct?

1 A. Yes.

2 MR. SATTERWHITE: Your Honor, at this
3 point I'd like to mark AEP Ohio Exhibit 38, which is
4 a summary of the switch rates from EDUs to CRES
5 providers for the month ending June 30th, 2015.

6 EXAMINER PARROT: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. Mr. Cavicchi, is this the document we
9 were just talking about on the Commission website
10 that summarizes the switch rates for EDUs to CRES
11 providers?

12 A. It's one example of those documents,
13 although I think what I cited is a compilation of
14 multiple reports put out by the Commission.

15 Q. Right. and this is just another one of
16 the reports the Commission puts out, correct?

17 A. Yes.

18 Q. and you're familiar with these type of
19 reports from looking at them when you were doing your
20 research for your testimony, correct?

21 A. I've seen these reports, yes.

22 Q. and there's a section here, it's divided
23 by EDU under Provider Name, correct?

24 A. Yes.

25 Q. and there's a section for AEP Ohio

1 towards the bottom, correct?

2 A. Yes, although, you know, this is not what
3 I was referencing in my --

4 Q. I understand it wasn't in your testimony.
5 I'm asking you questions now based on this document.
6 Do you see the section entitled "AEP-Ohio"?

7 A. Yeah, I do.

8 Q. and this states that -- do you see the
9 line that says "EDU Share," and it has percentage
10 numbers on the side?

11 A. Yes, I do.

12 Q. and this reflects that the EDU's share of
13 residential customers is 67.65 percent, right?

14 A. In terms of numbers of customer, yes.

15 Q. Correct. If we go to the line
16 "Commercial Customers," it's 49.26 and "Industrial,"
17 48.21 percent of the customers, correct?

18 A. Yes.

19 Q. and in order to determine what that total
20 number is, it's just simple math to multiply. We'll
21 take the residential, the 67.65 percent, times the
22 line above it, which is the total customers, correct?

23 A. I'll accept that that's what you're
24 doing, yeah.

25 Q. Or as I learned yesterday, it's

1 arithmetic, not math, correct? That's okay, you
2 don't have to answer that.

3 So would you accept, subject to check,
4 that if we take 67.65 percent under "Residential
5 Customers" and multiply that times the 1,285,769
6 million that we would get 869,822.7 customers?

7 A. I guess. I actually don't know. I don't
8 have a calculator, but I think you're saying if you
9 multiply 67.65 percent by 1.285 million, you get
10 869,000 that's shown up above?

11 Q. Correct. Oh, it is above, okay.

12 A. I mean, these are -- this is in terms of
13 customers. I'm much more used to looking at this in
14 terms of sales.

15 Q. Okay. But this would represent the
16 number of customers that are active in the AEP Ohio
17 region, correct?

18 A. What do you mean?

19 Q. This represents the number of customers
20 that are in existence in the AEP Ohio certified
21 territory, correct?

22 A. I believe so, yes.

23 Q. and this shows the difference between
24 those that are shopping and those that are not
25 shopping through a competitive supplier, correct?

3510

1 A. It shows the number of customers served
2 by competitive suppliers, yes.

3 Q. When I say "shopping," that's what I
4 mean. When I say "shopping," I mean those who have
5 gone away from the SSO to a competitive supplier; is
6 that right?

7 A. Yes.

8 Q. Is that your understanding?

9 A. Yes.

10 Q. and so would you agree that 67.27 is a
11 significant number of customers not shopping at this
12 time?

13 A. Again, I don't think about it that way.
14 I think that the better way to think about it is that
15 most commercial and industrial loads have shopped, so
16 the actual consumption measure that's not shown here
17 indicates that for commercial and industrial
18 customers, most of them are obtaining their power
19 from CRES providers. The residential customers,
20 though, are different. A large number of them and
21 megawatt-hour sales of residential customers are
22 still served under the SSO.

23 Q. But if there's volatility in the market,
24 these numbers are important because it shows the
25 number of customers that it affects versus the load,

1 correct?

2 A. I'm not sure I understand what you mean.

3 Q. Sure. You talked about -- you
4 differentiated the difference between the number of
5 customers shopping and not shopping, and you talked
6 about the industrial and commercial customers and
7 that a majority of the load is shopping, correct?

8 A. I said that, yes.

9 Q. But this just establishes the number of
10 customers that are shopping or are not shopping in
11 AEP Ohio's certified territory, correct?

12 A. Yes.

13 Q. and load is different than actual, I'll
14 call it, headcount, number of customers, correct?

15 A. Very much so.

16 Q. Now, for the residential customers,
17 you're aware that a majority of those customers are
18 served under an aggregation agreement, correct?

19 A. I recall that there are aggregation
20 agreements, but I don't know the details.

21 MR. SATTERWHITE: Okay. Let me go ahead
22 and mark AEP Ohio Exhibit 39.

23 Your Honor, may we approach?

24 EXAMINER PARROT: You may.

25 MR. SATTERWHITE: And AEP Ohio Exhibit 39

1 is "Aggregation Activity in Ohio," again, from the
2 PUCO Ohio website.

3 EXAMINER PARROT: So marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 Q. Do you have a copy of that, Mr. Cavicchi?

6 A. Yes, I do.

7 Q. and this is another PUCO report that
8 deals with the aggregation activity in Ohio, correct?

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

10 Q. Okay. and you see the web address at the
11 bottom indicating it's from the PUCO, correct?

12 A. Yes.

13 Q. Do you have any doubt that this is an
14 official PUCO document?

15 MR. PETRICOFF: Your Honor, I object. He
16 first has to be asked the foundation question, "Are
17 you familiar with this? Have you seen this before?"
18 If he hasn't, we need to stop.

19 MR. SATTERWHITE: Your Honor, I'm asking
20 the question -- he said he reviewed a bunch of
21 reports, and I'm asking if he can represent this is a
22 report of the Commission.

23 MR. PETRICOFF: Whether it's a website at
24 the bottom or not, that will not get you there.

25 MR. SATTERWHITE: I'm not asking counsel,

3513

1 your Honor; I'm asking the witness.

2 EXAMINER PARROT: I'll allow the question
3 that you've asked, Mr. Satterwhite, but I do agree
4 you should at least ask if he has seen this document
5 or this type of document before.

6 MR. SATTERWHITE: Fair enough.

7 EXAMINER PARROT: Let's start with the
8 question that's on the table, and then we'll take
9 that next. Do you need us to --

10 THE WITNESS: No, I have not seen this
11 document before, if that's the question.

12 EXAMINER PARROT: Well, that was going to
13 your next one.

14 THE WITNESS: Okay.

15 EXAMINER PARROT: The first one I think
16 is whether you have any -- I'll let Mr. Satterwhite
17 put it to you.

18 Q. (By Mr. Satterwhite) Do you have any
19 reason to doubt that this is a PUCO report from the
20 PUCO website?

21 A. No, I do not.

22 Q. and this is the type of information you
23 reviewed when you were preparing your testimony,
24 correct?

25 A. No, it is not.

1 Q. Because you didn't review aggregation?

2 A. No, because it wasn't relevant for my
3 testimony.

4 Q. But you did say you have no reason to
5 doubt this is a report from the PUCO website,
6 correct?

7 A. Yes.

8 Q. and is the link at the bottom of this the
9 same link that you used in your footnotes on page 10
10 to gather documents for your testimony? The
11 beginning part, the www.puco.ohio.gov?

12 A. Yes.

13 Q. and this document represents that --

14 A. It's not the same website, though. We
15 should be very clear here. One is statistical
16 information, and this is something else.

17 Q. Well, the website in footnote 10 is
18 www.puco.ohio.gov, correct?

19 A. It has several more words after it making
20 very clear that it is the statistical reports,
21 electric customer choice, switch rates, and
22 aggregation activity.

23 Q. Yes, I understand it's not the same page.
24 I'm asking if it's the same source. Those typically
25 connote further pages within a website, correct?

1 A. Yes, I would agree. Yes, I agree, the
2 source is the PUCO, according to the website.

3 Q. and according to this document,
4 residential customers -- a majority of the
5 residential customers on the top are switching
6 through aggregation, correct?

7 MR. PETRICOFF: Your Honor, I'm going to
8 object. He has not seen this document. We've not
9 established what this document is. He certainly
10 can't comment on it. and he doesn't know how -- if
11 he hasn't seen it before, he can't comment on what it
12 means. He's just being examined with a cold
13 document.

14 MR. SATTERWHITE: Your Honor, he
15 testified that he has no doubt to question this is an
16 official PUCO document, which allows me to then ask
17 him questions about this document. and it's from the
18 same website that he's gathered documents from.

19 MR. PETRICOFF: There may be --

20 MR. SATTERWHITE: I believe there are a
21 lot of other documents in this record. I know
22 Mr. McManus hadn't seen documents before for the EPA
23 website, that isn't even this Commission's website,
24 and had to ask questions about it, so I think it fits
25 with the way it's been in this case.

1 MR. PETRICOFF: Your Honor, I would like
2 to add one more argument, if I may, in objection, and
3 that is, while this may be one of what could be
4 thousands of documents accessible through the PUCO
5 website, it has clearly not been identified as a
6 document referring to AEP Ohio as opposed to the last
7 document in which the information was segregated by
8 company.

9 So at this point this is all companies,
10 or more, and for that reason it's outside the scope.

11 MR. SATTERWHITE: Not at all, your Honor.
12 I think we're talking about markets overall as part
13 of this case, and I did not change this document.
14 This is aggregation activity in Ohio. It's a report
15 of the Commission, and I'd like to use it to test the
16 witness's testimony on page 10 where he talks about
17 the Apples to Apples chart, what's available for
18 customers, and how that relates to customers that are
19 in aggregation.

20 EXAMINER PARROT: I'm going to sustain
21 the objection.

22 MR. SATTERWHITE: Thank you.

23 Q. (By Mr. Satterwhite) Mr. Cavicchi, what's
24 your definition of a long-term offering?

25 A. Three years.

1 Q. Three years?and do you have a definition
2 of short-term?

3 A. Monthly.

4 Q. Let's talk about your exhibit --

5 A. I should be clear, residential customers,
6 I'm referring to residential customers.

7 Q. Fair enough, thank you.

8 I'd like to refer to your AJC-1,
9 volatility on the PJM Dayton Hub. and for that
10 you -- let me know when you're there.

11 A. I am there.

12 Q. and for that it's gathering data from
13 October 2010 through October 2014, correct?

14 A. Yes.

15 Q. and you state that you're comparing the
16 274 percent swing from dailies compared to an 18
17 percent swing from yearlies; is that fair?

18 A. Well, I wouldn't refer to it as a swing,
19 first. So what this is showing you is the -- I'll
20 try to describe it, how much daily prices move up and
21 down over time, and the daily price here being, say,
22 an energy price on just any particular day that's
23 reported by, like, brokers against an energy product
24 that's traded with a term of a year.

25 So each day there's a daily price

1 reported and then there's a yearly price reported,
2 which represents how much it would cost you to buy
3 power for a whole year on that particular day for,
4 say, the next 12 months. So what it's looking at is
5 how much -- basically what the magnitude of the price
6 changes are for those two different products each day
7 over a multiyear period.

8 Q. So does that mean that the volatility
9 fluctuates 274 percent if you look at it on a daily
10 basis but only 18 percent if you look at it from year
11 to year? Is that what this represents?

12 A. Well, I wouldn't -- volatility isn't
13 measured. Volatility represents the degree of
14 fluctuation, basically price changes day to day.

15 Q. Fair enough.

16 A. It measures statistically.

17 Q. Maybe I should rephrase it then. It's
18 not measuring volatility. Are you saying that that
19 means that the energy price fluctuates 274 percent
20 daily but only 18 percent if you judge it from year
21 to year?

22 A. No. Again, that's not what volatility is
23 measuring.

24 Q. I'm not asking what you're measuring with
25 this exhibit. I'm trying to understand the

3519

1 difference between what the 274 and the 18 percent
2 is, if you could explain that.

3 A. What it -- so let's take a step back. So
4 volatility is measured by looking at price today and
5 looking at the next day's price and calculating the
6 difference between the two prices, all right? So
7 we've got each day you can see different prices
8 covering different terms of delivery in the future,
9 and you get a price each day.

10 The difference between those prices each
11 day is what volatility is analyzing, and, I mean, it
12 analyzes them in a moderately complex way, but it's
13 not that hard to understand. Basically, if I get a
14 price of 50 today for a year-long product and
15 tomorrow the price is 51, what you're measuring is
16 the difference between 51 and 50, which in my example
17 is a dollar. We'll be talking in dollars per
18 megawatt-hour.

19 Daily, you might, if you think of the way
20 daily prices work, the price might be 50 bucks a day
21 per megawatt-hour but a hundred per megawatt-hour
22 tomorrow, so the difference between those two prices
23 are 50. You can see 50 is much greater than a
24 dollar.

25 What volatility measures is over time you

1 keep calculating the difference between prices, so
2 you have daily ones, and daily ones, if you look at
3 like my Exhibit AJC -- Attachment AJC-2a where the
4 red line is, daily prices, they actually go up and
5 down a lot because they're responding to, you know,
6 weather. They're responding to outages of plants in
7 the marketplace, whereas, year-long prices, their
8 changes are much smaller day to day because they're
9 not concerned about the fact that it might have been
10 hot one day in the summer which caused prices to be
11 much higher.

12 So what AJC-1 is showing is the levels of
13 the price changes daily are much, much greater over a
14 long period of time than the level of the price
15 changes yearly.

16 Q. That helps. So it's a daily view, and
17 what you're saying is the annual product only
18 fluctuates 18 percent on the volatility meter, but
19 the daily view fluctuates 274 percent, correct?

20 A. Yes, that's what -- price changes.

21 Q. Fair enough. and the --

22 A. That's important because it's not the
23 level, it's the change that volatility looks at. It
24 basically looks at how much it goes up and down as
25 opposed to whether it's going up over time or down

1 over time.

2 Q. That's the volatility of it, that it
3 could go back and forth, correct?

4 A. Correct.

5 Q. The time period 2010 through 2014, it's
6 your understanding this data is from a time period
7 where AEP Ohio was not -- customers' SSO was not
8 fully achieved through an auction, correct?

9 A. This exhibit has nothing to do with that.

10 Q. I'm just asking the time period, the
11 relationship of the time period to how power was
12 procured for the SSO in AEP Ohio's territory.

13 A. Yes. AEP just has been procuring power
14 under its wholesale competitive procurement.

15 Q. As of January 1st of 2015, correct?

16 A. Subject to check.

17 Q. That's fair.

18 and this exhibit is focused on energy
19 only, correct?

20 A. That's correct. Energy is the main
21 component of the price of the SSO service.

22 Q. But the capacity markets have also been
23 significantly volatile, correct?

24 A. Capacity market price volatility is kind
25 of difficult to measure because they only put out,

1 like, you know, one price a year and a couple true-up
2 prices, so it's actually an insufficient amount of
3 data. But because it's a much smaller part of the
4 actual standard service offer rate, and even if it
5 goes up and down a lot, it has a much lower impact
6 on, you know, consumer prices.

7 Q. But if that would go from \$27 a megawatt
8 to \$160 a megawatt, that would be a volatile change,
9 correct?

10 A. In the price itself, so if you were to
11 say for the price itself, yes, that would be a
12 volatile change.

13 Q. Let's go to, I believe you mentioned
14 AJC-2, your other attachment already. The
15 residential retail price that's represented on this
16 exhibit includes generation, transmission, and
17 distribution charges, correct?

18 A. Yes, that's correct. It's the standard
19 service offer price reported by the utility rate
20 survey.

21 Q. and the daily wholesale price is just an
22 energy price, correct?

23 A. Yes.

24 Q. In footnote 21 on page 14 of your
25 testimony -- I'll let you get there real quick.

1 A. I'm there.

2 Q. -- you discuss how you use this data from
3 the FirstEnergy territory because they've been
4 securing wholesale power for customers via an auction
5 since 2009, correct?

6 A. Yes.

7 Q. and you're arguing that the structure and
8 the presence of the auction since 2009 supports using
9 this data as a comparable source for what's expected
10 in the future in AEP Ohio's territory, correct?

11 A. I think it represents a reasonable
12 measure of the -- actually, let me rephrase that.

13 It appeared to me that the company
14 witnesses, or at least one of them, Mr. Allen, was
15 looking at the FirstEnergy auctions as an important
16 harbinger of how prices might move around in a world
17 where you're procuring from a wholesale market, so
18 based on that, you know, I agreed, actually, with him
19 and sort of looked at FirstEnergy's experience, but,
20 importantly, there are similar product mixes.

21 So AEP Ohio has one-, two-, and
22 three-year products right now. FirstEnergy has had
23 similar product mixtures, so I thought that was a
24 reasonable approach.

25 Q. and that was due -- when you were taking

1 the historical look, that was because the FirstEnergy
2 territory was already receiving SSO power from
3 auctions and AEP Ohio's territory had not, correct?

4 A. Yes.

5 Q. Now, you provide some testimony about the
6 true-up here, the difference between the annual and
7 the potential quarterly true-up period. Do you
8 recall that?

9 A. Yes.

10 Q. and if you had to choose between one of
11 the two options, it appears you would think the
12 quarterly is more appropriate; is that fair?

13 A. No.

14 Q. But a lot of your testimony deals with
15 the potential impact of only updating the rider
16 annually, correct?

17 A. Yes.

18 Q. But you don't really provide any
19 testimony in depth dealing with the impact of a
20 quarterly update, correct?

21 A. That's correct. I did not analyze the
22 quarterly update with the same degree of vigor with
23 which I put towards the potential annual.

24 Q. Good word, vigor. and on page 18 you say
25 a quarterly could actually be more stable, correct?

1 A. Actually, what I say is that if the
2 argument is that the rate will be -- the rider's
3 movement will be countercyclical to market changes, I
4 think a quarterly adjustment may actually represent
5 that more accurately because there's a much closer
6 linkage. However, I also testify and show in my
7 exhibit -- or, Attachment AJC-4, that in spite of my
8 observation that there could be an impact like what I
9 think is being suggested in the company's
10 testimonies, it's really quite difficult to know
11 exactly what will happen.

12 Q. On page 19, line 6, you talk about
13 captive ratepayers. Let me know when you get there.

14 A. I'm there.

15 Q. Are you intending to use a FERC term when
16 you use the word "captive" here?

17 A. No.

18 Q. So this is just your term, "captive
19 ratepayers," correct?

20 A. Yes.

21 Q. Now, on the next few pages you talk about
22 the Clean Power Plan, and you address concerns with
23 the PPA unit viability due to the Clean Power Plan,
24 correct?

25 A. I'm not sure I discuss the viability of

1 the units, just more what the likely impact of the
2 Clean Power Plan will be on coal-fired generating
3 units.

4 Q. and would you agree that large baseload
5 coal plants that are well-maintained may receive
6 bonuses for running in the capacity market?

7 A. Can you explain exactly what you mean?

8 Q. Sure. You're aware of the capacity
9 product from PJM, correct?

10 A. Yes.

11 Q. and that --

12 A. Let's, you mean the capacity performance
13 product?

14 Q. Correct.

15 A. Yes.

16 Q. and you're aware that -- what's your
17 understanding of that?

18 A. It is a -- how shall I describe it? So
19 it's PJM's recent capacity product redefinition that
20 was put in place this past year that creates,
21 probably the best way to describe it, more refined
22 terms and conditions under which capacity suppliers
23 to PJM will sell their capacity.

24 Q. and there's a cost, some people have
25 called them penalties, which I don't like, but costs

1 that a generating unit might have to pay if it's
2 unavailable when it says it will be available,
3 correct?

4 A. So since we're talking about something
5 with a lot of rules, yes, if they're selected to
6 operate on a particular day and then that date comes
7 and they don't operate, they would be subject to a
8 penalty.

9 Q. and there's a flip side to that as well,
10 correct?

11 A. So let me see if I understand what you're
12 saying. That if they're not selected to operate on a
13 particular day and they do, they could potentially
14 get a payment?

15 Q. I'm asking you. Are there bonuses
16 available?

17 A. Is that what you're asking about?

18 Q. I'm asking if you're aware if there are
19 bonuses available.

20 A. I don't think about them as -- they've
21 described them as bonuses, but let's be -- do you
22 mind if we're a hundred percent clear about --

23 Q. Is "incentive payments" a better term to
24 use?

25 MR. PETRICOFF: Your Honor, he has not

1 finished his answer.

2 MR. SATTERWHITE: I was just trying to
3 help, your Honor. I'm happy to let him finish.

4 A. I'm very particular about the
5 terminology.

6 EXAMINER PARROT: As was Mr. Satterwhite
7 with the flip side, so call it what you will.

8 A. Let's be clear just so we all understand.
9 If you take on a capacity obligation under the
10 capacity performance system, and they tell you to
11 generate and you don't, you're going to have to pay
12 some money for not generating. So that's a cost in
13 Mr. Satterwhite's terms.

14 Anyone who doesn't have a capacity
15 obligation in those hours when the units don't
16 perform but is actually generating, but the key thing
17 here is they don't have a capacity obligation, they
18 get to share in the bonuses. So if you already have
19 a capacity obligation, you don't share in the
20 bonuses. You have to -- it's amounts that aren't
21 there that, measured by PJM's very complicated
22 calculation, that share in the bonuses.

23 Q. and if you produce more than your
24 capacity requirement, you could also share in the
25 bonuses, correct?

1 A. That is my understanding, yes.

2 Q. In your testimony -- and the reason I'm
3 asking this is in 20 to 21 you talk about reduced
4 production in the PPA generating units due to the
5 Clean Power Plan, correct?

6 A. I indicate that the Clean Power Plan
7 implies reduced production of coal-generating units.

8 Q. But did you review the testimony of
9 Mr. McManus or Mr. Thomas by the company in this
10 case?

11 A. Yeah. Yes.

12 Q. and you're aware that there are
13 provisions for compliance with the Clean Power Plan,
14 correct?

15 A. Well, there may have been provisions for
16 compliance with the Clean Power Plan when they put
17 their testimony in, but the new Clean Power Plan that
18 came out in August is completely different than the
19 first one.

20 Q. So you disagree with the provisions that
21 the company has put in their testimony; is that your
22 testimony?

23 A. All I'm saying is that the plan changed
24 materially, materially changed, and I actually don't
25 know if the provisions match up well with the new

1 plan.

2 Q. So you don't have an opinion on that,
3 then.

4 A. I do not.

5 Q. and you've not done your own independent
6 analysis of the PPA unit plants to determine if
7 they're prepared to comply with environmental
8 regulations, correct?

9 A. Correct.

10 Q. and you're not testifying on the
11 conditions of any of the plants; you're just speaking
12 to the Clean Power Plan in general, correct?

13 A. Yes.

14 MR. SATTERWHITE: Thank you, your Honor.
15 That's all I have.

16 Thank you, Mr. Cavicchi.

17 EXAMINER PARROT: Mr. Beeler?

18 MR. BEELER: No questions, thank you.

19 EXAMINER PARROT: Any redirect?

20 MR. PETRICOFF: Your Honor, could we have
21 a minute?

22 EXAMINER PARROT: You sure may.

23 (Discussion off the record.)

24 EXAMINER PARROT: Let's go back on the
25 record. Mr. Petricoff.

1 MR. PETRICOFF: Thank you, your Honor.

2 - - -

3 REDIRECT EXAMINATION

4 By Mr. Petricoff:

5 Q. Mr. Cavicchi, earlier this morning
6 Mr. Satterwhite asked you a question about whether
7 the PPA rider adjustment should be made quarterly or
8 annually. Do you recall that discussion?

9 A. Yes.

10 Q. What kind of problems would there be with
11 a quarterly adjustment?

12 A. In my experience with one utility I
13 worked with, we implemented a quarterly adjustment
14 and when there was big swings in the market prices,
15 the rate would go up and down significantly, and
16 whenever the swing went against the customer, meaning
17 the rate went up, it created a lot of difficulty, and
18 subsequently the reconciliation process had to be
19 modified.

20 Q. Are you in a position to name the
21 utility?

22 A. Yeah. It was PPL Electric.

23 Q. Okay. and then later on Mr. Satterwhite
24 asked you a question concerning the change in
25 capacity prices under the base residual auction going

1 from 27 percent -- I'm sorry, \$27 a megawatt-day to
2 \$160 a megawatt-day. Do you recall that series of
3 questions and answers?

4 A. Yes.

5 Q. Would the change in capacity prices by
6 that much, \$27 to \$160, necessarily have a large
7 impact on the total retail cost to the end-user?

8 A. No. It probably would not. The capacity
9 price is on the order of 15 percent of the consumer
10 price each month, so its movement up and down has
11 less of an impact than the energy price movements up
12 and down.

13 Q. What percentage are energy prices?

14 A. I think in Ohio, like in FirstEnergy's
15 experience, the energy prices are probably 40 percent
16 of what the consumers are paying, and I don't know
17 for AEP Ohio. When it implements the results of its
18 auctions, I would expect it's going to be similar. I
19 think it was around 4-1/2 cents in the most recent so
20 that puts it at about 40 percent of the rate, I
21 think.

22 Q. and then, finally, you testified in
23 response to Mr. Satterwhite's questions about the
24 Clean Power Plan about the August amendments that the
25 EPA had. In your view, how did the August amendments

1 affect Ohio and coal power plants in Ohio?

2 A. I think that the -- what the August
3 amendments did that would probably most impact Ohio
4 is they've made it more difficult for new natural
5 gas-fired generation to replace existing coal-fired
6 generation. As a result of that change, it implies a
7 larger reduction in coal-fired generation is going to
8 be necessary.

9 MR. PETRICOFF: Thank you, your Honor. I
10 have no further questions.

11 EXAMINER PARROT: Mr. Mendoza?

12 MR. MENDOZA: No questions, your Honor.

13 EXAMINER PARROT: Ms. Fleisher?

14 MS. FLEISHER: No questions, your Honor.

15 EXAMINER PARROT: Ms. Bair?

16 MS. BAIR: No questions.

17 EXAMINER PARROT: Mr. Pritchard?

18 MR. PRITCHARD: No questions.

19 EXAMINER PARROT: Mr. Yurick?

20 MR. YURICK: Nothing.

21 EXAMINER PARROT: Mr. Boehm?

22 MR. K. BOEHM: Nothing.

23 EXAMINER PARROT: Mr. Satterwhite?

24 MR. SATTERWHITE: Just a couple, your
25 Honor.

1 gas-fired generation resources in the total emissions
2 rate -- standard, let's say. So previously when they
3 issued the first plan, you could actually build new
4 power plants that were regulated under another
5 portion of the EPA's rules, and they wouldn't get
6 caught in the CPP because the CPP is for existing
7 power plants.

8 Now when they came back -- and that was
9 considered a loophole by many environmental groups
10 and others, consumer advocates. So the EPA came
11 back, they said, you know what, we're going to make
12 you a little allowance for some new plants, but
13 everybody's in. and what that does is just makes it
14 more difficult to substitute between gas-fired and
15 coal-fired plants and achieve reductions.

16 Q. It's your understanding, though,
17 ultimately it's going to have to be a state or
18 regional plan for how to comply with the Clean Power
19 Plan, correct?

20 A. Yes.

21 Q. On the first item you talked about, which
22 was the rider that I believe you described for PPL
23 Electric, what was that rider for?

24 A. That is not a -- it wasn't a rider. It
25 was the energy -- how shall I describe it? It was

1 their energy, capacity, and ancillary services
2 portion of the rate, so the portion of the rate
3 that's procured from the wholesale market.

4 Q. So they have a clause that they're
5 allowed to flow through what the costs are for
6 energy, capacity, and ancillary services --

7 A. Correct.

8 Q. -- is that what you're saying? and they
9 were flowing through that on a quarterly basis?

10 A. They were. So let's be precise so we're
11 clear.

12 Q. Please.

13 A. They had some power that they went out
14 and bought on a forward basis, like we're talking
15 about here, you know, year-long, two years long.
16 Then they had a portion of power they were getting
17 off the spot market as well, which is kind of what
18 they call a portfolio, right? and what was happening
19 was they had to estimate each quarter what -- how
20 much the power would cost that they were getting from
21 the spot market, right?

22 That's because the way you do this, you
23 estimate how much it's going to cost, and what
24 happened unexpectedly was there was a big swing in
25 the market prices and then the number of consumers --

1 actually, the amount of load on the rate was actually
2 kind of low because there was a lot of shopping, and
3 so what happened is it made the rate go up and down
4 quite a bit.

5 Q. So in that approach they were doing a
6 portfolio approach where they had different products
7 offered at different times; is that what you're --

8 A. Yes.

9 Q. Would you agree that that is a good
10 approach for a utility?

11 A. Again, it's a -- it was a policymaker
12 decision through legislation there. It is an
13 approach that is reasonable.

14 Q. You don't disagree with it.

15 A. I do not disagree with the approach, no.

16 MR. SATTERWHITE: Thank you. That's all
17 I have.

18 EXAMINER PARROT: Mr. Beeler?

19 MR. BEELER: Nothing, thank you.

20 MR. PETRICOFF: Thank you, your Honor.

21 At this time we move for admission into evidence
22 P3/EPSCA Exhibits 8 and 9.

23 EXAMINER PARROT: Are there any
24 objections to the admission of P3/EPSCA Exhibits 8 or
25 9?

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1 MR. SATTERWHITE: No objection.

2 EXAMINER PARROT: Very good. P3/EPSA

3 Exhibits 8 and 9 are admitted into the record.

4 (EXHIBITS ADMITTED INTO EVIDENCE.)

5 EXAMINER PARROT: Thank you very much,

6 Mr. Cavicchi.

7 THE WITNESS: Thank you.

8 EXAMINER PARROT: Mr. Satterwhite.

9 MR. SATTERWHITE: Yes, your Honor. I
10 move for the admission of AEP Ohio 38 and 39.

11 EXAMINER PARROT: Are there any
12 objections to the admission of AEP Ohio Exhibits 38
13 or 39?

14 MR. PETRICOFF: No objection to 38, but
15 we object to 39. The witness didn't identify it.

16 MR. SATTERWHITE: It's a PUCO document,
17 your Honor. We've been allowing those into the
18 record in the past.

19 EXAMINER PARROT: I will take
20 administrative notice of AEP Ohio Exhibit 39, and as
21 I've said with other exhibits that we have decided to
22 take notice of, the parties may argue in their briefs
23 about the weight the Commission should give to the
24 information contained in those exhibits.

25 Company Exhibit No. 38 we will admit into

1 the record.

2 (EXHIBIT ADMITTED INTO EVIDENCE.)

3 EXAMINER SEE: Mr. Yurick, your next
4 witness.

5 MR. YURICK: Yes. Thank you, your Honor.
6 Kroger calls Kevin Higgins.

7 EXAMINER SEE: Mr. Higgins, if you could
8 please raise your right hand.

9 (Witness sworn.)

10 EXAMINER SEE: Thank you.

11 - - -

12 KEVIN C. HIGGINS

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

15 DIRECT EXAMINATION

16 By Mr. Yurick:

17 Q. Mr. Higgins, please state your name and
18 spell your last name for the record.

19 A. Kevin C. Higgins, H-i-g-g-i-n-s.

20 Q. and how are you employed, sir?

21 A. I'm a principal in the consulting firm
22 Energy Strategies.

23 Q. and would you please state your business
24 address for the record.

25 A. 215 South State Street, Suite 200, Salt

1 Lake City, Utah, 84111.

2 Q. and on whose behalf are you offering
3 testimony in this proceeding?

4 A. I'm here on behalf of the Kroger Company.

5 MR. YURICK: Your Honor, at this point I
6 would ask to have the testimony, the prefiled direct
7 testimony of Mr. Higgins, marked as Kroger Exhibit
8 No. 2.

9 EXAMINER SEE: So marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 Q. Mr. Higgins, drawing your attention to
12 what's been marked as Kroger's Exhibit No. 2, is this
13 a true and accurate copy of your direct prefiled
14 testimony in this case filed on or about September
15 11th, 2015?

16 A. Yes, it is.

17 Q. and do you have any additions,
18 corrections, or modifications to your testimony?

19 A. Yes, I have one correction. That
20 correction is on page 8, line 14. Starting on line
21 14, I would delete the words "Although the outcome of
22 the capacity performance filing is unknown."

23 Q. Including that correction, was this
24 testimony prepared by you or at your direction?

25 A. Yes.

1 Q. and if I were to ask you the questions
2 set forth in Kroger's Exhibit No. 2, your direct
3 testimony, would your answers to those questions be
4 the same today?

5 A. Yes.

6 MR. YURICK: Your Honor, at this point I
7 proffer the witness for cross-examination and move
8 the admission of Kroger's Exhibit No. 2.

9 EXAMINER SEE: Mr. Mendoza?

10 MR. MENDOZA: No questions, your Honor.

11 EXAMINER SEE: Ms. Bojko?

12 MS. BOJKO: No questions, your Honor.

13 EXAMINER SEE: Ms. Bair?

14 MS. BAIR: No questions.

15 EXAMINER SEE: Mr. Pritchard?

16 MR. PRITCHARD: No questions, your Honor.

17 EXAMINER SEE: Mr. Petricoff?

18 MR. PETRICOFF: No questions, your Honor.

19 EXAMINER SEE: Mr. Boehm?

20 MR. K. BOEHM: Nothing, your Honor.

21 EXAMINER SEE: Ms. Fleisher?

22 MS. FLEISHER: No questions, your Honor.

23 EXAMINER SEE: Now Mr. Nourse.

24 MR. NOURSE: Thank you, your Honor.

25 - - -

CROSS-EXAMINATION

By Mr. Nourse:

Q. Good morning, Mr. Higgins.

A. Good morning, Mr. Nourse.

Q. Just a few questions about your testimony this morning. Did you perform any independent analysis of the economic benefit or cost of the PPA proposal?

A. I did not. I reviewed primarily the company's analysis that it presented.

Q. Okay. and you talk on page 5 of your testimony about, I guess, your criticism that the company's proposal does not offer a plan to allocate the financial risk, lines 6 and 7; do you see that?

A. Yes, I do.

Q. and is it your opinion that AEP Ohio has no financial risk in the PPA proposal as filed?

A. I would say that AEP Ohio may have some financial risk if the Commission were to disallow certain cost recovery going forward, but in my mind, that is distinct from allocating financial risks in the sense that I interpreted the Commission's order directing that a plan should have that as a feature.

EXAMINER SEE: Mr. Higgins, I'm going to need you to speak up a little louder.

1 THE WITNESS: Certainly. Should I repeat
2 that answer?

3 EXAMINER SEE: No.

4 THE WITNESS: Thank you.

5 Q. (By Mr. Nourse) Well, when you say
6 AEP Ohio may have financial risks based on the
7 disallowance, potential disallowance, I want to
8 understand that. I mean, under the PPA proposal, as
9 you understand it, would you agree that AEP Ohio as
10 the buyer of the wholesale contract would be paying
11 AEPGR for the power and then would separately go try
12 to get retail rate recovery through the Commission
13 process? Is that correct?

14 A. Yes.

15 Q. and so would you agree that AEP Ohio
16 would have financial risk under that process?

17 A. Yes, I agree they would be subject to
18 some risk under that process.

19 Q. and when it comes to AEPGR -- I think you
20 understand when I refer to that, I'm referring to AEP
21 Generation Resources, correct?

22 A. Correct.

23 Q. So when it comes to AEPGR under the PPA
24 proposal, would you agree that AEPGR has given up
25 some rights that it would otherwise have without the

1 PPA regarding future profits they would otherwise
2 retain based on market revenues?

3 A. Yes. I believe that the proposal or the
4 contract, as I understand it, would involve AEPGR
5 giving up some potential upside in exchange for, you
6 know, greater revenue security for the enterprise.

7 Q. Okay. and specifically what you're
8 referencing there is if during a future period of
9 time there is a particular period or it could be
10 short or long, during the PPA term when the costs
11 that are charged under the contract would be less
12 than the market revenues otherwise received?

13 A. Yes.

14 Q. and those are the same periods when,
15 under the PPA proposal and the retail mechanism,
16 customers would receive credits, correct?

17 A. No. I don't believe so, unless I
18 misheard your prior statement. I believe you were
19 talking about situations in which market prices were
20 above the -- you know, I would agree with you.

21 Q. Okay.

22 A. I'm sorry. I'll correct myself. Yes, I
23 would agree with you, yes.

24 Q. Okay. and in that sense those profits
25 that would have otherwise been retained by AEPGR

1 during those periods or relating to those periods
2 would be conveyed to retail customers under the PPA;
3 is that correct?

4 A. Correct. I mean, after customers
5 essentially made AEPGR whole, so to speak, at,
6 essentially, a cost-of-service recovery, I agree that
7 the difference between the cost-of-service price and
8 the market price would be credited to customers.

9 Q. Okay. and in your experience have you
10 dealt with wholesale purchased power agreements
11 frequently or periodically?

12 A. Periodically.

13 Q. and would you recognize or acknowledge
14 that the PPA proposal here -- and now I'm talking
15 about the specific terms of the proposed contract.
16 First of all, you've reviewed the proposed contract,
17 is that --

18 A. I've reviewed the terms of the proposed
19 contract that was in Dr. Pearce's testimony.

20 Q. and would you acknowledge that there are
21 unique terms in your experience that are included in
22 the PPA that give the buyer, AEP Ohio, unique
23 responsibilities and rights relative to operating and
24 directing the operation of the units involved?

25 A. Well, as I understood the summary of the

1 terms attached to Dr. Pearce's testimony, AEP Ohio
2 would have a vote on a committee that would consider
3 those kinds of matters.

4 Q. Let me make it a little more specific.
5 So based on your experience with PPAs, is it -- I
6 guess I want to ask you a couple questions and you
7 can tell me whether, if you know, if you have
8 experience to render this opinion, whether it's
9 common or uncommon for those contracts to include
10 provisions such as the following: Is it common for
11 PPA contracts to include a provision where the buyer
12 can veto major capital investments involving the
13 units that are related to the PPA?

14 A. I would say generally uncommon.

15 Q. Okay. and is it common or uncommon for a
16 buyer to be able to approve or veto a new fuel
17 contract the plant operator would enter into in
18 connection with a PPA?

19 A. I would say it is uncommon. But can I
20 clarify a point with you?

21 Q. Go ahead.

22 A. In reading the summary of the agreement
23 that Dr. Pearce included in his testimony, it wasn't
24 clear to me that AEP Ohio had veto ability. It has a
25 vote, as I understand it, and there were three

1 parties who could vote, and there was a tie-breaker
2 provision as part of that with a third affiliate,
3 essentially.

4 So I --

5 Q. That's fine.

6 A. I want to cooperate in answering your
7 questions. I do agree these are uncommon features,
8 although it wasn't clear to me that AEP Ohio had a
9 veto, per se. It seemed to have a vote and say.

10 Q. Okay. and my question when I mentioned
11 the word "veto" in two questions relating to a fuel
12 contract, meaning if there's a new fuel contract, the
13 buyer, AEP Ohio, would have to approve that before it
14 becomes executed; is that your recollection of the
15 PPA?

16 A. Yes.

17 Q. and then the other time I mentioned that
18 I think it was with approving major capital
19 investments. Is that your understanding, that the
20 PPA gives the buyer, AEP Ohio, that right?

21 A. My understanding and my recollection is
22 that AEP Ohio has a vote on that matter as part of a
23 committee.

24 Q. Okay. We can let the document speak for
25 itself.

1 A. Sure.

2 Q. It's already in the record. But if it
3 included that provision for AEP Ohio to veto
4 capital -- major capital investments, that would be
5 an uncommon provision --

6 A. Yes.

7 Q. -- correct? Okay.

8 and is it common or uncommon for a buyer
9 to be able to vote on the O&M spending and on the
10 budget overall for a unit involved with a PPA?

11 A. That would be unusual, yes.

12 Q. Okay. and is it your understanding that
13 AEP Ohio's actions and decisions under those
14 contractual provisions would be subject to PUCO
15 review for prudence when it comes time for the costs
16 to be recovered in retail rates?

17 A. That is my understanding, yes.

18 Q. Let me shift gears. I want to ask you
19 your opinion on whether you believe there could be a
20 benefit for a rate stability mechanism even if
21 there's a cost that ratepayers or customers would
22 pay, as a general matter?

23 A. As a general matter, I would agree that
24 that possibility exists.

25 Q. Okay. and do you also agree that if

1 there is a cost from a strictly, you know, ratepayer
2 viewpoint, the Commission may also find that that
3 cost is either offset or exceeded by other
4 considerations, such as reliability benefits,
5 economic development benefits, or other factors?

6 MR. YURICK: Your Honor, objection as to
7 what the Commission could find. If the counsel would
8 like to ask Mr. Higgins his opinion, I think that
9 would be fine, but I object to the portion of the
10 question that asks Mr. Higgins to opine on what the
11 Commission might do.

12 MR. NOURSE: Thank you, Mr. Yurick.
13 That's actually what I intended to ask.

14 Q. (By Mr. Nourse) So do you want me to
15 rephrase --

16 A. Yes, please. I would appreciate that.

17 Q. Okay. So if, in your opinion, based on
18 your experience, even if there is a cost for a rate
19 stability mechanism, would you also agree that other
20 considerations, such as economic development impacts
21 or reliability benefits, could be considered in
22 making a final decision of whether a particular
23 proposal has merit?

24 A. I believe these other factors can be
25 considered, but it is also a matter of weight and how

1 much weight should be given to these other factors
2 and how much weight should be given to other factors
3 that you did not list. and so while I don't disagree
4 that those factors could be considered, I think that
5 they would have to be considered, you know, among a
6 number of other factors as well.

7 Q. Okay. and the weight that one would give
8 a particular factor would relate to how much value or
9 benefit that you perceive in that particular factor,
10 right?

11 A. Yes.

12 Q. Another question in your testimony, page
13 11, in lines 17 through 20 you kind of make an
14 observation about the affiliate PPA units separate
15 and apart from the OVEC entitlement. Do you see
16 that?

17 A. Yes, I do.

18 Q. and are you essentially saying here that
19 the OVEC, if you carved out the OVEC piece
20 separately, that that provides benefits and makes the
21 other part, the affiliate PPA, less quantitatively
22 beneficial?

23 A. I would say something similar to that, in
24 that in looking at the constituent parts of the PPA,
25 in looking at the OVEC part separately from the other

1 components, it did appear that the non-OVEC
2 components, in the company's own analysis, were on
3 the whole less -- were projected to be less
4 cost-effective for customers as part of its package
5 than the OVEC piece of it.

6 Q. Okay. and, first of all, it's your
7 understanding that the proposal pending here in this
8 case is that the total package of units, 20 units
9 that Mr. Vegas described in his testimony, are what's
10 being offered under the PPA, correct?

11 A. Correct.

12 Q. and whether or not one would take
13 particular slices or components of combinations of
14 units and view them in different ways, that doesn't
15 necessarily change the value or cost of the proposal
16 that's being put forth by the company, correct?

17 A. It doesn't necessarily change it. I
18 think, though, that the context is still useful to
19 understand and that, you know, as I recall, the
20 company's original proposal was simply the OVEC
21 units, and that was not accepted by the Commission as
22 proposed.

23 and so I do think it's a useful context
24 that the larger bundling appears to be, you know,
25 less attractive than the OVEC units in isolation, at

1 least according to the analysis the company provided.

2 Q. Okay. To be fair to the company, which I
3 like to do, the initial proposal, is it your
4 understanding, in the ESP III was to start with OVEC
5 and then while it was pending, we also filed this
6 case to add in the affiliate PPA?

7 A. Yes. and I want to be fair to the
8 company as well.

9 Q. Thank you. I appreciate that.
10 and would you agree that one of the
11 concerns or criticisms in that same regard with OVEC
12 alone or OVEC only is that it wasn't large enough to
13 provide a meaningful hedge for retail customers?

14 A. That was one of the criticisms, yes.

15 MR. NOURSE: Okay.

16 Thank you, your Honor, that's all that I
17 have.

18 Thank you, Mr. Higgins.

19 THE WITNESS: Thank you, Mr. Nourse.

20 MR. YURICK: Could I have a few moments
21 with my witness?

22 EXAMINER SEE: Just a moment.

23 Mr. Beeler?

24 MR. BEELEER: No questions. Thank you.

25 MR. YURICK: I apologize. Could I have a

1 few moments with my witness?

2 EXAMINER SEE: Yes, you may.

3 (Discussion off the record.)

4 EXAMINER SEE: Let's go back on the
5 record. Are you ready, Mr. Yurick?

6 MR. YURICK: I am.

7 EXAMINER SEE: Okay. Go ahead with your
8 redirect.

9 MR. YURICK: At this point I have no
10 redirect. I would renew my motion for admission of
11 the testimony of Mr. Higgins, which was previously
12 marked Kroger Exhibit 2.

13 EXAMINER SEE: Are there any objections
14 to the admission of Kroger Exhibit 2?

15 MR. NOURSE: No, your Honor.

16 EXAMINER SEE: Kroger Exhibit 2 is
17 admitted into the record.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 EXAMINER PARROT: All right, Ms. Bair.

20 MS. BAIR: Thank you, your Honor. OCC
21 would like to call Sarah Jackson as a witness.

22 EXAMINER PARROT: Please raise your right
23 hand.

24 (Witness sworn.)

25 EXAMINER PARROT: Please have a seat.

1 EXAMINER SEE: Mr. Higgins, Mr. Yurick,
2 he left, is this your material?

3 MR. HIGGINS: That is not mine.

4 MR. NOURSE: Is that the ESP order?

5 MR. MENDOZA: Confidential settlement
6 documents, I assume.

7 MR. MICHAEL: Actually, I thought they
8 were withdrawals.

9 MS. BAIR: May I proceed now?

10 EXAMINER PARROT: Yes, you may.

11 MS. BAIR: Thank you.

12 - - -

13 SARAH E. JACKSON

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

16 DIRECT EXAMINATION

17 By Ms. Bair:

18 Q. By whom are you employed and what is your
19 business address?

20 A. I'm employed by Synapse Energy Economics,
21 and my business address is 485 Massachusetts Avenue
22 in Cambridge, Massachusetts.

23 Q. And on whose behalf are you testifying
24 today?

25 A. On behalf of the Ohio Consumers' Counsel.

1 Q. Do you have what has been marked before
2 you as OCC Exhibit 13 and OCC Exhibit 14?

3 A. Yes, I do.

4 Q. Could you please identify both of those
5 for the record?

6 A. OCC Exhibit No. 13 is my public
7 testimony, the direct testimony in this proceeding;
8 and OCC Exhibit No. 14 is the confidential version of
9 my direct testimony.

10 EXAMINER PARROT: The exhibits are so
11 marked.

12 (EXHIBITS MARKED FOR IDENTIFICATION.)

13 Q. And were those prepared by you or under
14 your direction?

15 A. Yes, they were.

16 Q. Do you have any changes, additions, or
17 corrections to make to those?

18 A. I do. I have three corrections.

19 Q. Go ahead.

20 A. The first is on page 2.

21 Q. I'm sorry. What page?

22 A. Page 2.

23 Q. Thanks.

24 A. It's line 1, would just be to strike the
25 word "and"; and in line 2, add a comma after "group."

1 The next correction -- is everybody
2 following?

3 Q. Yeah.

4 A. The next correction is on page 14. It's
5 in lines 1 through 3. I noticed that I had
6 calculated the proxy costs for the cooling towers and
7 had also inadvertently included the cost of screens
8 so I corrected these numbers. Line 1 should read
9 instead of "365," it should be "348."

10 In line 2, "108" should be stricken and
11 replaced with "103." Also in line 2, "229" should be
12 stricken and replaced with "218." and in line 3,
13 "191" should be replaced with "182."

14 Finally, on page 19, on page 19 in line
15 10, the words "fourth highest" should be stricken and
16 replaced with "99th percentile of the."

17 Q. Those all the changes you have?

18 A. Yes, they are.

19 Q. and these changes would be both in
20 Exhibit 13 and 14, correct?

21 A. Yes.

22 Q. If I were to ask you the questions
23 contained herein and taking into consideration the
24 modifications, would your answers be the same?

25 A. Yes, they would.

1 MS. BAIR: Thank you, your Honor. I move
2 those two exhibits, 13 and 14, into evidence, subject
3 to cross-examination.

4 EXAMINER PARROT: Thank you.

5 Mr. Mendoza?

6 MR. MENDOZA: No questions, your Honor.

7 EXAMINER PARROT: Ms. Fleisher?

8 MS. FLEISHER: No questions.

9 EXAMINER PARROT: Ms. Bojko?

10 MS. BOJKO: No questions. Thank you.

11 EXAMINER PARROT: Mr. Pritchard?

12 MR. PRITCHARD: No questions, your Honor.

13 EXAMINER PARROT: Mr. Petricoff?

14 MR. PETRICOFF: No questions, your Honor.

15 EXAMINER PARROT: Mr. Yurick?

16 MR. YURICK: No questions.

17 EXAMINER PARROT: Mr. Boehm?

18 MR. K. BOEHM: No questions.

19 EXAMINER PARROT: Mr. Satterwhite?

20 MR. SATTERWHITE: Thank you, your Honor.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Satterwhite:

24 Q. Good morning, Ms. Jackson. How are you
25 doing?

1 A. Good morning. I am well. How are you?

2 Q. Good. My name is Matthew Satterwhite,
3 and I'm counsel for AEP Ohio. I have a couple
4 questions for you this morning, all right?

5 Let's start with some background,
6 background questions because we haven't spoken
7 before. You're not an attorney, correct?

8 A. I'm not.

9 Q. and you're not an engineer, correct?

10 A. I am not an engineer.

11 Q. Neither am I. You did review the
12 testimony of AEP Ohio Witnesses McManus and Thomas in
13 preparation for your testimony, though, in this case,
14 correct?

15 A. Yes, I did.

16 Q. and you were provided the opportunity to
17 develop discovery questions to send to the company to
18 help clarify anything you needed for your testimony,
19 correct?

20 A. Yes.

21 Q. Now, did you review the discovery
22 responses provided by the company to OCC?

23 A. I did review many of them.

24 Q. and the responses to other parties as
25 well dealing with issues in your area?

1 A. Some of them, yes.

2 Q. and your testimony is focused on what you
3 describe as the environmental cost risks of the PPA
4 proposal, correct?

5 A. Yes.

6 Q. and your testimony you present it sort of
7 as the high-end or worst-case scenario of
8 environmental compliance versus the company's,
9 correct?

10 A. I think I provided estimates of costs
11 that I think were reasonably -- would be reasonable
12 to consider as a high end of risk, yes.

13 Q. and we'll get into the sections later,
14 but you sort of have an adder onto each section when
15 you talk about rule compliance, and correct me if I'm
16 wrong, I'll just characterize it as "and things could
17 get worse as well or more stringent as well,"
18 correct?

19 A. Yes. I think what I said is that the
20 life of these, this rider is expected to last through
21 the life of the plants, which I think in at least one
22 case is 36 years or more. and so my conclusion for a
23 number of these regulations is that we can -- I would
24 anticipate that these rules may get more stringent
25 over time, especially with regard to coal-fired

1 generation.

2 Q. and you refer to the Zimmer plant, which
3 has the later retirement date for the back end,
4 correct?

5 A. Yes, I do. 2051, I think is the number.

6 Q. and for those last, I don't know if it's
7 nine or ten years, it's just the Zimmer plant
8 currently, correct?

9 A. I believe so.

10 Q. Now, you've never worked at a generation
11 plant, correct?

12 A. I have not.

13 Q. and you have no firsthand work experience
14 with maintaining a generation plant, correct?

15 A. Correct.

16 Q. In fact, you've never worked for a power
17 generator before, correct?

18 A. That's correct.

19 Q. and you've never visited any of the PPA
20 units at issue in this proceeding, correct?

21 A. No, I have not.

22 Q. and, therefore, you probably have not
23 reviewed any of the maintenance records of any of the
24 units at issue in this proceeding, correct?

25 A. No, I don't believe I have.

1 Q. and you would expect that AEP would have
2 personnel familiar with the plant history of
3 maintenance, correct?

4 A. I would expect that, yes.

5 Q. Let's talk about your discussion on
6 316(b) compliance.

7 A. Point me to a page.

8 Q. Sure. It's around page 14.

9 You express a belief that the units would
10 require advanced cooling systems or towers, correct?

11 A. I don't believe they will. I believe
12 that there is a risk that was also identified by
13 Mr. McManus in his testimony that this is a potential
14 outcome of the 316(b) rule.

15 Q. and so this is an example of your
16 representation of the high band of risk that could
17 result from the 316(b) regulations, correct?

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

19 Q. and your testimony is not based on any
20 specific knowledge of the plants in the PPA, it's
21 just a general sort of academic view, correct?

22 A. That is essentially correct. The
23 calculations I made are using plant-specific data
24 that is publicly available.

25 Q. Is it plant-specific data of the PPA

1 units or just --

2 A. Of the PPA units.

3 Q. and you are aware of the 42-month process
4 to determine if an advanced cooling system is needed
5 for a plant, correct?

6 A. The 42-month process? Could you explain
7 what you mean by that?

8 Q. Are you aware of the process to determine
9 if an advanced cooling system is needed?

10 A. The study period? Is that -- I mean, I
11 know there is a study period in which I believe the
12 company is currently participating.

13 Q. What's your understanding of what the
14 study period is?

15 A. In terms of length of time?

16 Q. All together.

17 A. I couldn't tell you the length of time,
18 so I would have to take your word for it on the 42
19 months, but I know that each plant has to do --
20 perform studies to determine whether, as you said,
21 the cooling tower may be needed or whether other
22 kinds of controls may be needed based on the
23 specifics of the plant.

24 Q. Do you know the studies that are needed
25 to be performed?

1 A. It has -- I don't know specifically. I
2 think it has to do with studying impingement and
3 entrainment that's occurring at the plant.

4 Q. Would nonwater impacts, engineering and
5 economic studies, also be required as part of the
6 process? Does that sound correct?

7 A. That is probably reasonable, yeah.

8 Q. and you're not aware of the status of
9 these steps for the PPA units, correct?

10 A. I think that in the testimony it was just
11 stated that they were ongoing.

12 Q. and you're not aware of a historical fish
13 count data for the units, correct?

14 A. No.

15 Q. and you're not aware if the installation
16 of wedge wire screens or fish friendly return screens
17 can be used to meet the impingement standard,
18 correct?

19 A. I'm aware that those are technologies
20 that can be used.

21 Q. But for the specific PPA units you're not
22 aware if the --

23 A. Of the results.

24 Q. -- they can be used?

25 A. I'm not aware that that determination has

1 been made.

2 Q. But you are aware that there are 316(b)
3 costs already projected in the paperwork filed in
4 this case, correct?

5 A. Yes.

6 Q. On page 15, lines 8 through 11, this is
7 dealing with CCR compliance, you discuss the
8 potential added costs for potential closure and
9 remediation of surface impoundments not accounted
10 for. Do you see that?

11 A. Yes.

12 Q. Are you familiar with the term "asset
13 retirement obligation"?

14 A. I'm not.

15 Q. So you don't know if there's an asset
16 retirement obligation already accounted for with
17 respect to this issue, correct?

18 A. I am not aware.

19 Q. Now, page 21, lines 7 through 9, you
20 discuss the Zimmer plant. I'll let you get there.

21 A. Say the page again.

22 Q. Twenty-one.

23 A. Twenty-one.

24 Q. Lines 7 through 9.

25 A. Yes.

1 Q. and you say how Zimmer appears to be an
2 older wet FGD, does not appear to be performing well
3 to what is achievable, correct?

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

5 Q. That's your testimony, correct?

6 A. Yes.

7 Q. and Zimmer can change the operation of
8 the plant to perform better for SO2 compliance,
9 correct?

10 A. I don't know how -- I don't have
11 information regarding how the FGD is operated so I
12 couldn't answer that for sure.

13 Q. Typically, the company could put
14 additives in to decrease the SO2 impact, correct?

15 A. I think that depends on a lot of factors.
16 I don't know in this case.

17 Q. and a utility or unit like Zimmer could
18 also change its fuel, correct?

19 A. Yeah, sure.

20 Q. and use a different type of coal
21 potentially to lower its SO2.

22 A. I don't know what type of coal they're
23 currently using, so if that's a potential option for
24 them, then they could do that.

25 Q. So when you testify that it appears --

1 does not appear to be performing well to what is
2 achievable, you really have no specifics on what's
3 being used there currently at Zimmer, correct?

4 A. I think this statement is referring to
5 looking at the emission rates of sulfur dioxide that
6 are reported in the clean air management database --
7 Clean Air Markets database that is maintained by the
8 EPA, and seeing that the SO2 rates at Zimmer are
9 actually quite a bit higher than most units,
10 including the other PPA units that are equipped with
11 wet FGD technology.

12 Q. But you have no idea how it's operating
13 the technology it has there currently, you're looking
14 at the effect, correct?

15 A. That is correct.

16 Q. So you don't know if Zimmer could change
17 its operations and lower its --

18 MS. BAIR: Objection. He's asked
19 Ms. Jackson, and it's been answered.

20 MR. SATTERWHITE: I was just finishing
21 out that thought.

22 EXAMINER PARROT: Did you finish your
23 question, Mr. Satterwhite?

24 Q. (By Mr. Satterwhite) and lower its SO2
25 emissions, correct?

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1 EXAMINER PARROT: Hang on just a minute.

2 Overruled.

3 Q. Do you want it reread?

4 A. Yes, please.

5 MR. SATTERWHITE: No problem.

6 (Record read.)

7 A. That's correct.

8 Q. You also contend or discuss that the
9 Conesville units, the FGD systems on the Conesville
10 units are older, correct?

11 A. Could you just point me to the reference?

12 Q. I was afraid you were going to ask that.
13 Yes, the bottom of page 21.

14 A. Oh, I see it.

15 Yes, I believe that I state that they
16 appear to be 39 and 37 years old, respectively.

17 Q. and did you review any discovery
18 describing upgrades done to those FGD systems in 2008
19 and 2009?

20 A. I did not.

21 Q. and did you seek any discovery asking for
22 any details on any upgrades of any of the FGD systems
23 on the PPA units?

24 A. I did not.

25 Q. and I believe you already stated you're

1 not familiar with the ongoing maintenance schedules
2 for these units, correct?

3 A. I think I stated that I hadn't reviewed
4 the maintenance logs, but right.

5 Q. Same answer.

6 A. You're right, I am not familiar with the
7 ongoing maintenance schedules.

8 Q. Turn to page 27 of your testimony for me,
9 please, specifically lines 10 through 15 where you
10 discuss Clifty Creek Unit 6. Let me know when you're
11 there.

12 A. Ten through 15?

13 Q. Correct.

14 A. Yes.

15 Q. and you assert that "It seems very likely
16 that additional NOx controls will be required at
17 Clifty Creek Unit 6," correct?

18 A. Correct. Based on what I have read from
19 OVEC itself stating that they feel it's likely, and
20 yes.

21 Q. The only basis -- I'm sorry. I didn't
22 mean to cut you off. Go ahead.

23 A. I said "and yes."

24 Q. and the only basis you have is the
25 sentence that you include in your testimony on lines

1 11 through 12 that says "it may be necessary,"
2 correct?

3 A. I would not say that's the only basis. I
4 would say that makes it fairly obvious that even the
5 operators at the plants think it's necessary. I
6 reviewed the emissions data from Unit 6 and also what
7 may be required based on current and upcoming
8 regulatory obligations and feel that I agree that an
9 SCR may be required on Unit 6.

10 Q. But earlier you said that the statement
11 said it was likely, correct?

12 A. Yes; very likely.

13 Q. I'm not talking about your statement of
14 "very likely."

15 A. Oh, their statement?

16 Q. What you based it upon. What you said
17 was in the annual report they said it was likely.

18 A. Yes.

19 Q. But here it just says "it may be
20 necessary," correct?

21 A. Yes.

22 Q. Have you reviewed a lot of annual reports
23 before?

24 A. I've reviewed a few of OVEC's annual
25 reports.

1 Q. Have you reviewed other company's annual
2 reports?

3 A. Probably. I couldn't remember off the
4 top of my head.

5 Q. Do you know if it's typical on an annual
6 report to outline some potential risks for the
7 future?

8 A. Yes, I think that's common.

9 Q. and potential risks are different than
10 something that's very likely, correct?

11 A. Yes. Yes, there's a difference.

12 Q. Now, let's go to the ozone NOx discussion
13 on pages 23 to 26 of your testimony. You would agree
14 that if any of the counties mentioned in your
15 testimony are found to be nonattainment, that finding
16 is only the beginning of a process in which the USEPA
17 will work with state agencies to develop clean air
18 plans, correct?

19 A. I would agree with that, yes.

20 Q. and there's flexibility in that process
21 that allow for states to work with the EPA to find
22 reasonable remediation efforts, correct?

23 A. Yes.

24 Q. and that process includes air modeling
25 steps and data from other sources as well, correct?

1 A. Yes.

2 Q. and there are numerous other source
3 categories that impact ozone NOx aside from electric
4 generating units, correct?

5 A. Yes. In each county I'm not sure what
6 the inventory of sources of NOx is, so it would
7 depend. I would say that coal-fired generation is a
8 very large source of these emissions.

9 Q. But you performed no study in the
10 counties that you mentioned or where these PPA units
11 are to determine what other sources are there,
12 correct?

13 A. Correct.

14 Q. and you raise a concern on page 23, lines
15 12 through 15, that several counties were not meeting
16 the 75 ppb. What's ppb stand for?

17 A. Parts per billion.

18 Q. That additional areas in Ohio and Indiana
19 could be designated nonattainment areas when the new
20 standard is set, correct?

21 A. That is -- yes, that is what I testified.

22 Q. and the new standard was set, actually,
23 on October 1st, 2015, correct?

24 A. Yes, it was.

25 Q. and are you familiar what the EPA's

1 discussion of that?

2 A. I have not been able to read the entire
3 rule, but I do know that the standard was set at 70
4 parts per billion and that now the process has begun
5 to start to implement that rule.

6 Q. and what does the EPA do to start to
7 implement a rule?

8 A. So when the standard is finalized, the
9 EPA will work with states to make designations, and
10 they'll identify the areas in each state that are
11 expected to be -- that are exceeding the standard, so
12 the new 70 part per billion standard.

13 Those designations will be made and
14 states will have three years from that point to
15 develop a state implementation plan which is
16 essentially the road map for getting your state --
17 your area to comply with the new standard.

18 Q. and who is Janet G. McCabe?

19 A. Janet McCabe is the deputy director of
20 air and radiation for EPA, I believe.

21 Q. and on October 1st, Janet McCabe issued
22 a memorandum and posted on the EPA website on a
23 subject "Implementing the 2015 Ozone National Ambient
24 Air Quality Standards," correct?

25 A. I'm not familiar with her memo, actually.

1 Q. You've not read that memo?

2 A. I have not.

3 Q. The discussion you had earlier about
4 implementation of the new standard over the next few
5 years, that requires a determination of what a
6 nonattainment area is, correct?

7 A. Correct.

8 Q. and is it your understanding -- I
9 believe -- strike that.

10 and in footnote 27 on page 23 of your
11 testimony you provide a cite to the EPA website
12 dealing with counties violating the primary
13 ground-level ozone standard, correct?

14 A. Correct.

15 Q. and was it your understanding that this
16 is the data that will be used to determine
17 nonattainment areas?

18 A. No. This was a document that accompanied
19 the proposal and the new -- the final rule will use
20 more recent data. I'm not sure of the years exactly.

21 Q. In fact, the EPA came out and said that
22 relying on old data from these years was
23 inappropriate, correct?

24 A. I don't know, but I would -- the common
25 practice is for EPA to use a set of data that is the

1 most complete and most recent data.

2 MR. SATTERWHITE: Your Honor, at this
3 point I'd like to mark AEP Exhibit No. 40, which is
4 an October 1st memorandum from Janet McCabe of the
5 EPA.

6 EXAMINER PARROT: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. Take a second to review this document for
9 me, please, to yourself.

10 A. Will you ask me specific questions?

11 MS. BAIR: Objection, your Honor.

12 MR. SATTERWHITE: I didn't ask any
13 questions. I just asked her to review it.

14 MS. BAIR: I'm objecting to the fact that
15 she already said she knows nothing about it. There
16 are no grounds, no basis.

17 EXAMINER PARROT: Wait till we have a
18 question, and we'll go from there.

19 Q. (By Mr. Satterwhite) If it would help
20 for me to give you some context, I can. I just don't
21 want to cut you off if you are reviewing the
22 document.

23 A. I prefer to read the entire thing, but if
24 you're going to ask me a certain thing, you could
25 direct me, I suppose.

1 Q. Well, you stated earlier that you weren't
2 sure of the years that the EPA wanted to use to
3 determine nonattainment areas, correct?

4 A. That's right.

5 MR. MENDOZA: Objection. Misstates
6 testimony. The witness said that she said the EPA
7 tends to use the most complete and most recent data,
8 not that she was unsure of it.

9 MR. SATTERWHITE: She already answered.

10 EXAMINER PARROT: Well, she just agreed
11 with him, so let's move on, please.

12 MR. MENDOZA: That's too bad.

13 Q. (By Mr. Satterwhite) So let me start by,
14 I guess, turning you to page 4 of the document, see
15 if this refreshes your recollection, and we'll just
16 start there. Under C, take a look at that and read
17 that to yourself and see if that helps refresh your
18 recollection of the data the EPA --

19 MS. BAIR: I'm sorry, what page are you
20 on, Matt, Mr. Satterwhite?

21 MR. SATTERWHITE: Page 4.

22 MS. BAIR: What page? Four?

23 Q. Does that help refresh your recollection
24 of what the EPA intends to use?

25 A. I mean, I think I said I didn't know what

1 they intended to use, so this now tells me what they
2 intend to use.

3 Q. So you never had any knowledge or
4 understanding of what the EPA was intending to use,
5 is that what you're saying?

6 A. I didn't know the specific dates they
7 were intending to use for this final standard.

8 Q. Does the EPA typically issue a memorandum
9 after a rule comes out discussing how the rule may be
10 applied?

11 A. I think it's a fairly common practice.

12 Q. and someone like Janet McCabe is the type
13 of person that would issue that on behalf of the EPA?

14 A. I think that's usually the level of
15 person who would do that.

16 Q. So I know you stated you had not seen it.
17 I didn't ask that question. Have you ever seen this
18 memorandum before?

19 A. I have not.

20 Q. But is this the type of memorandum you
21 would expect that would come out after the issuance
22 of a rule?

23 A. Yeah.

24 Q. and you don't have any reason to doubt
25 the authenticity of this document, correct?

1 A. Correct.

2 Q. and this came from the EPA's website. It
3 typically would come from the EPA website, correct?

4 A. Yes.

5 Q. and I believe on the front page it
6 identifies the 70, it says, parts per million, not
7 parts per billion, but it identifies what the new
8 standard is, correct?

9 A. Yes, it does. It say 70 parts per
10 billion in parentheses.

11 Q. Thank you. Under Subsection C it's
12 describing the implementation and the data to be used
13 to determine nonattainment areas, correct?

14 A. Yes.

15 Q. and it discusses how the final
16 designations will be based, in part, on future air
17 quality, it says "i.e., '14 to 16'" --

18 MS. BAIR: Objection. She hasn't seen
19 the document. Mr. Satterwhite is testifying. He's
20 reading the document into the record.

21 MR. SATTERWHITE: Your Honor, she
22 testified this is the type of document the EPA
23 normally would release.

24 MS. BAIR: and she has never seen the
25 document before and has no knowledge of it.

1 MR. SATTERWHITE: If I can finish, that
2 the document would typically be on the EPA's website,
3 that that is an accurate web address for the EPA, and
4 I believe we've given latitude in the past, including
5 with Mr. McManus, of putting a document from the EPA
6 website and asking him questions based on what's in
7 that document.

8 She was unaware of what the facts were of
9 implementing this. This document comes from a known
10 source that she has identified that would typically
11 release this type of information, so I think it's
12 appropriate for the benefit of the record to provide
13 that.

14 MS. FLEISHER: Your Honors, if he's going
15 to be asking her questions about, it's a 4-page
16 document, she should at least be given a chance to
17 review it. I believe Mr. McManus, he testified that
18 he was familiar with the circumstances surrounding
19 the document that he had been presented with -- and
20 he also wasn't asked to interpret it, so if he is
21 going to ask her substantive questions about it, then
22 she needs to have a chance to look at it.

23 MR. SATTERWHITE: Your Honor, I provided
24 her time to read it and then asked if she wanted me
25 to focus her on one certain area. There are other

1 issues in here dealing with traffic patterns and
2 other areas, but I'm really trying to deal with the
3 data and what's the proper data to be used, which is
4 a central issue brought up previously in this case,
5 and now we have updated data with the new rule that
6 came out that speaks directly to that that would
7 benefit the Commission to have in the record.

8 MS. BAIR: Your Honor, may I comment?

9 EXAMINER PARROT: I'm sorry?

10 MS. BAIR: It's a 12-page document,
11 single spaced. If she's going to be asked questions
12 on it, even though she has acknowledged she knows
13 nothing about it, she should certainly be entitled to
14 take plenty of time to read the document.

15 MR. SATTERWHITE: and I have no problem
16 with her reading the document, your Honor. I believe
17 she will even tell you this is the one area that
18 pertains to this one limited issue.

19 EXAMINER PARROT: Mr. Satterwhite, I
20 think you were cut off mid question again. Can I me
21 the rest of your question, please?

22 MR. SATTERWHITE: Can I have it read back
23 so I know where I was, please?

24 EXAMINER PARROT: You started to say it
25 says "i.e. '14 to '16." I'm not even sure. Are you

1 on page 4 again?

2 MR. SATTERWHITE: Yes. and the question
3 was the guidance provided in this memorandum has
4 designated that nonattainment will be figured based
5 on the calendar years 2014 through 2016. I have one
6 follow-up question. Then I'm done with this
7 document, your Honor.

8 EXAMINER PARROT: and I'm willing to take
9 administrative notice of the document, so for that, I
10 will allow this question.

11 Ms. Jackson, if you're not able to
12 answer, though, the question he's asked you based on
13 the document that we acknowledge you have not seen
14 before now, let us know that, please.

15 THE WITNESS: I need you to repeat the
16 question one last time.

17 EXAMINER PARROT: We'll do it again.

18 Q. The nonattainment determination will be
19 figured based on data from years 2014 through 2016
20 correct?

21 MS. BOJKO: Objection. It
22 mischaracterizes the paragraph. It says, "In early
23 2016, the EPA will issue new guidance... We expect
24 this guidance will be similar in concept...", and
25 then it says, "i.e." It doesn't say that it's for

1 sure going to be that.

2 MR. SATTERWHITE: Your Honor, I'm married
3 to a grammarian, so I know "i.e." means "exact."
4 "E.g." is an example. So I believe that's
5 appropriate.

6 EXAMINER PARROT: Overruled.

7 Ms. Jackson, again, if you're not able
8 to, just say you don't know.

9 THE WITNESS: Well, I can read --

10 EXAMINER PARROT: You know, take some
11 time to look at it. If you're not comfortable
12 answering, say that, and we'll move on.

13 THE WITNESS: I was actually going to say
14 something similar to what was --

15 EXAMINER PARROT: Then go ahead.

16 A. I think that it suggests that -- it says
17 "future air quality data will be used, i.e., 2014 to
18 2016 data." It sounds like that may be the data that
19 EPA wants to use. But, again, it does say that new
20 guidance will be issued in the future laying out,
21 probably more precisely, what exactly will be
22 required. But this gives an indication of what kind
23 of data they're looking for that they'll use to base
24 their nonattainment designations on.

25 Q. and current air quality data may not be

1 reliable, correct?

2 A. It does say that here, yes.

3 Though it also says that previously that
4 areas have been designated based on being above the
5 2012 to 2014 data, so it's -- you know, it says a lot
6 of different things about ozone.

7 Q. Fair enough.and since you went on to
8 describe that, it also says that there might be
9 widespread experience with nonattainment planning
10 already, correct?

11 A. Yes. I believe in areas where ozone has
12 been a problem for a while, there will be experience,
13 widespread experience, in dealing with that.

14 Q. Which might be another of the reasons,
15 and I'm just asking you, based on your experience, of
16 why old data might not be reliable because there is
17 experience to date with nonattainment areas in the
18 planning processes, correct?

19 A. Yes. I would agree with that. and I
20 think that, just to clarify, that this data was
21 released with the ozone standard as I reviewed it at
22 the time of my testimony, and I don't think I ever
23 intended to say that that was the only data that
24 would ever be used to designate.

25 Q. That's fair. But this is the type of

1 data that -- or, the type of guidance that you would
2 expect the EPA to release to help guide parties in
3 applying the rule going forward in the future,
4 correct?

5 A. Correct.

6 Q. Now, on page 25, lines 9 through 11, you
7 discuss the Conesville 5 and 6 and Clifty Creek 6 and
8 express an opinion that they may need to be
9 retrofitted as well, correct?

10 A. I'm sorry. Can you tell me the lines one
11 more time?

12 Q. Sure. Lines 9 through 11 on page 25.

13 A. Yes.

14 Q. and that testimony was based on your
15 understanding of those units being a nonattainment
16 area based on old data, correct?

17 A. Actually, that was part of it. The other
18 part was that these units don't currently have these
19 controls.

20 Q. But the EPA now, you were tying it to
21 nonattainment and the fact that the controls just
22 don't exist on the unit; is that your testimony?

23 A. Yes.

24 Q. and if it's not determined a
25 nonattainment area, the controls may not need to be

1 added, correct?

2 A. It's a possibility, but I believe the
3 area in nonattainment, you know, they'll look for
4 sources that are contributing to the problem, and
5 if -- for instance, I think I pointed out that a
6 number of the areas where these plants are located
7 don't even have air quality monitors next to them, so
8 there are counties around those areas that are
9 violating the standard, and so you would have the
10 state looking at the effects that the sources have on
11 the different nonattainment areas.

12 Q. That's really the crux of my question.
13 When you say you look at the counties around there,
14 that's all based on older data, not 2014 through 2016
15 data, correct?

16 A. My conclusions. Yes.

17 MR. SATTERWHITE: That's all I have, your
18 Honor.

19 EXAMINER PARROT: Thank you. Mr. Beeler?

20 MR. BEELER: Nothing, your Honor. Thank
21 you.

22 EXAMINER PARROT: Would you like a
23 moment?

24 MS. BAIR: Yes, please.

25 EXAMINER PARROT: You may.

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1 MS. BAIR: Thank you.

2 (Discussion off the record.)

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

5 Any redirect?

6 MS. BAIR: Thank you. No redirect, your
7 Honor. and I renew moving 13 and 14 into the record,
8 OCC exhibits.

9 EXAMINER PARROT: All right. Are there
10 any objections to the admission of OCC Exhibits 13 or
11 14?

12 MR. SATTERWHITE: None.

13 EXAMINER PARROT: Hearing none, OCC
14 Exhibits 13 and 14 are admitted into the record.

15 (EXHIBITS ADMITTED INTO EVIDENCE.)

16 EXAMINER PARROT: Thank you very much.

17 MR. SATTERWHITE: I think you already
18 took administrative notice.

19 EXAMINER PARROT: Yes, I'm taking
20 administrative notice of the USEPA memorandum, as I
21 already stated.

22 Let's go off the record. We are going to
23 take a short recess.

24 EXAMINER SEE: Ten minutes.

25 (Recess taken.)

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1 EXAMINER SEE: Let's go on the record.

2 Mr. Oliker, your next witness.

3 MR. OLIKER: IGS Energy would call
4 Matthew White to the stand.

5 EXAMINER SEE: Mr. White, if you could
6 raise your right hand.

7 (Witness sworn.)

8 EXAMINER SEE: Thank you. Have a seat.

9 Mr. Oliker.

10 MR. OLIKER: Thank you.

11 - - -

12 MATTHEW WHITE

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

15 DIRECT EXAMINATION

16 By Mr. Oliker:

17 Q. Could you please state your full name for
18 the record, Mr. White?

19 A. Matthew White.

20 Q. and who are you employed by?

21 A. IGS Energy.

22 Q. and did you --

23 A. Actually, I'm sorry, Interstate Gas
24 Supply, Inc., dba, IGS Energy.

25 Q. Thank you. and what is your title?

1 A. General counsel of legislative and
2 regulatory affairs.

3 Q. and did you file testimony in this
4 proceeding?

5 A. Yes, I did.

6 Q. And is that testimony in front of you
7 currently?

8 A. Yes, it is.

9 MR. OLIKER: Your Honor, I would mark the
10 testimony of Matthew White as IGS Exhibit 8.

11 EXAMINER SEE: The exhibit is so marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 Q. Was this testimony prepared by you or
14 under your direction?

15 A. Yes, it was.

16 Q. Are there any differences to the
17 testimony that is currently in front of you from the
18 testimony that was prefiled on the E-docketing
19 service?

20 A. Yes. There are line numbers added to the
21 testimony that's currently in front of me. The line
22 numbers were inadvertently left off the testimony
23 filed in the docket in this case, but all other
24 content is the same as the testimony that's currently
25 in front of me.

1 Q. and if asked these same questions today
2 that are contained in your testimony, would your
3 answers be the same?

4 A. Yes.

5 MR. OLIKER: With that, your Honor, I
6 would move for the admission of IGS Exhibit 8 and
7 tender the witness for cross-examination.

8 EXAMINER SEE: Ms. Mooney, any questions?

9 MS. MOONEY: No questions, your Honor.

10 EXAMINER SEE: Mr. Mendoza?

11 MR. MENDOZA: No questions, your Honor.

12 EXAMINER SEE: Ms. Bojko?

13 MS. BOJKO: No questions, thank you.

14 EXAMINER SEE: Ms. Bair?

15 MS. BAIR: No questions.

16 EXAMINER SEE: Mr. Pritchard?

17 MR. PRITCHARD: No questions, your Honor.

18 EXAMINER SEE: Mr. Yurick?

19 MR. YURICK: No questions.

20 EXAMINER SEE: Mr. Boehm?

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

22 EXAMINER SEE: Mr. Conway?

23 MR. CONWAY: Thank you, your Honor.

24 - - -

CROSS-EXAMINATION

By Mr. Conway:

Q. Good afternoon, Mr. White.

A. Good afternoon.

Q. I'm Dan Conway. I'm one of the lawyers for AEP Ohio in this case. Let me know if you don't understand a question, and I'll try to rephrase, okay?

A. Okay.

Q. Mr. White, a little background. You said you're general counsel, regulatory and legislative affairs?

A. Yes.

Q. Okay. Are you involved in decision-making at IGS concerning competitive retail electric services, decisions regarding the pricing, terms, and conditions, availability of IGS's CRES offerings?

A. Generally no, that's not my day-to-day responsibility.

Q. Sometimes you do get involved in those decisions?

A. Not -- not on the pricing we offer customers, I don't get involved in those decisions.

EXAMINER SEE: Mr. White, you're going to

1 need to speak up much louder than that.

2 A. Not on the pricing that IGS offers
3 customers. I don't generally get -- I don't get
4 involved in those decisions.

5 Q. Are you involved in discussions and/or
6 decisions regarding other terms and conditions,
7 including the length of the offerings, the contract
8 length of the offerings, and the availability of the
9 offerings that IGS develops?

10 MR. OLIKER: Objection. Compound
11 question and vague.

12 MR. CONWAY: Your Honor, if he doesn't
13 understand it, I told him let me know and I'll
14 rephrase.

15 EXAMINER SEE: Why don't you try another
16 shot at it, Mr. Conway.

17 MR. CONWAY: Okay.

18 Q. (By Mr. Conway) Are you involved in the
19 terms and decisions and discussions regarding the
20 terms and conditions and availability of IGS's
21 competitive offerings?

22 MR. OLIKER: Objection. Same objection,
23 continuing a compound question.

24 MR. CONWAY: It's not a compound
25 question, your Honor. It's asking about whether he

1 was involved. He said he wasn't involved or wasn't
2 generally involved with regard to pricing decisions.
3 I'm now asking him about nonpricing aspects of
4 competitive service offerings, whether he's involved
5 in discussions and decisions regarding what are
6 included in the contract with regard to those
7 elements of the contract.

8 EXAMINER SEE: The objection is
9 overruled.

10 Mr. White, you can answer the question.

11 A. There are some terms and conditions in
12 the contract I'm involved with discussions.

13 Q. and so you're in the decision-making
14 group regarding those matters, right?

15 A. Yes.

16 Q. Okay. and are you involved with
17 decision-making by IGS concerning the procurement of
18 wholesale electric energy supply that it then resells
19 at retail?

20 A. No, generally I do not.

21 Q. You keep using the word "generally." The
22 question is are you involved in that area at any
23 time? I mean in any instances.

24 A. I can't say never, in no instance. I
25 do a lot at IGS. You know, there's a lot of

1 information that goes back and forth so I can't say
2 completely never, I've ever -- that I know of, but
3 that's not something that I do day to day where I
4 would be involved with the wholesale purchases or,
5 you know.

6 Q. and the purchase of wholesale power,
7 that's a competitive endeavor, correct? Wholesale
8 power supplies are purchased and sold on a
9 competitive basis, right?

10 A. Can you give me more context? I mean, it
11 depends on where you're purchasing it, what state
12 you're purchasing it in.

13 Q. Well, when you negotiate with someone for
14 the procurement of a wholesale energy supply, there's
15 a negotiation, that's an aspect of the transaction
16 that makes it a competitive one. It's you versus the
17 seller, right?

18 A. Again, it depends on where the power is
19 being purchased. I mean, if it's -- is it a
20 regulated state? Is it a deregulated state? It just
21 depends.

22 Q. Well, I'm talking about the procurement
23 of wholesale power supplies at this point. I'm not
24 talking about retail services at this point.

25 A. I would say in PJM, yes --

1 Q. Okay.

2 A. -- it is.

3 Q. Now, you're not legal counsel of record
4 for IGS in this proceeding, correct?

5 A. Correct.

6 Q. All right. Are you involved in decisions
7 at IGS regarding markets that IGS might decide to
8 enter as a supplier, an offeror of its services and
9 products?

10 A. I'm included in those conversations, yes.

11 Q. Now, Mr. White, you signed a
12 confidentiality agreement for this case, right?

13 A. I believe I'm -- I will take your word
14 for it if I did, yes.

15 Q. Have you seen, have you had access to and
16 received from AEP Ohio documents containing
17 competitively sensitive information from AEP?

18 A. Not that I'm aware of at this time.

19 Q. and are you aware that only IGS's counsel
20 of record and witnesses that aren't involved in
21 decision-making concerning CRES offerings and
22 competitive procurement of wholesale power supplies
23 may have access to competitively sensitive
24 information provided by AEP?

25 A. I don't know the exact terms of the

1 confidentiality agreement so I can't answer that
2 question.

3 Q. You were counsel for IGS at least for a
4 portion of the discovery period during this case;
5 were you not?

6 A. I believe, yes.

7 Q. and you don't recall sitting here today
8 whether or not you entered into a confidentiality
9 agreement or a nondisclosure agreement with AEP at
10 that time?

11 A. I am involved in a number of proceedings
12 throughout this country. I execute a lot of
13 documents. I don't remember specifically if I signed
14 it with AEP, but if you have a signature, I take your
15 word for it that I did.

16 MR. CONWAY: Let me just --

17 A. I won't object to it.

18 MR. CONWAY: -- take a moment, your
19 Honor.

20 MR. OLKER: I'd like to interpose an
21 objection at this time, actually.

22 MR. CONWAY: May I approach the witness,
23 your Honor?

24 EXAMINER SEE: Just a moment.

25 MR. OLKER: I'd like to interpose an

1 objection first. Since the witness has indicated
2 that he hasn't seen any confidential documents, I
3 don't understand where this is going.

4 MR. NOURSE: I don't think he did. I'm
5 sorry.

6 MR. CONWAY: I don't believe he said
7 that. I think he was -- he wavered on whether he has
8 or he hasn't.

9 MR. OLIKER: Let's ask the court reporter
10 to read his answer back. I'm pretty sure he did.

11 MR. CONWAY: Your Honor, he said that he
12 was the counsel for IGS at the time the discovery was
13 occurring in this case. I think it's well within
14 reason to offer him the opportunity to take a look at
15 the confidentiality agreement, the protective
16 agreement, and confirm for himself whether or not he
17 did sign it and whether or not he is subject to it.

18 MR. OLIKER: That's a different issue
19 which is completely irrelevant, your Honor, if we go
20 back to his answer which is "I don't believe I've
21 seen any confidential documents."

22 MR. CONWAY: I have some follow-up
23 questions, your Honor, after I show him the
24 protective agreement and confirm that he's aware that
25 he did receive it and sign it.

1 MR. OLIKER: The agreement, your Honor.

2 EXAMINER SEE: Thank you. The objection
3 is overruled. You can show him the document.

4 Q. (By Mr. Conway) Mr. White, could you take
5 a look at the protective agreement between the
6 company and IGS and confirm you did sign it --

7 MR. OLIKER: Could I see a copy, too,
8 Dan --

9 Q. -- on behalf of IGS?

10 MR. OLIKER: -- if you're going to show
11 it to the witness.

12 MR. CONWAY: You're welcome to come up
13 and look over his shoulder. I don't have more than
14 one copy of it, your Honor.

15 Q. Mr. White, have you been able to confirm
16 that you did sign this agreement on behalf of IGS and
17 did sign the certificate --

18 A. Yes.

19 Q. -- that's attached to it?

20 A. I did.

21 Q. Okay. and, Mr. White, sitting here
22 today -- you do recall being involved in the
23 discovery process in this case; do you not?

24 A. I don't typically handle the discovery in
25 proceedings that I'm involved in, but that's a pretty

1 broad question. What do you mean by "discovery
2 process"?

3 Q. You understand that in the course of
4 discovery there's often discovery requests that are
5 served and there are interrogatories that are served
6 on the company by parties to the case and then all
7 parties to the case then get copies of the responses
8 the company makes to the discovery requests, the
9 interrogatories and requests for production of
10 documents.

11 MR. OLIKER: Objection. He continues to
12 use the term "parties," which does not necessarily
13 indicate that Mr. White received any documents, and
14 there's been no demonstration that Mr. White received
15 any confidential discovery in this case, and I'm
16 looking at my computer and I can confirm that.

17 MR. CONWAY: Your Honor, I'm entitled to
18 inquire, I think, as to what he does recall he
19 received as a part of the case.

20 EXAMINER SEE: The objection is
21 overruled.

22 and Mr. White can give any clarification
23 to his answer that he wants to.

24 A. I'll say that typically any discovery --
25 I do not look at discovery that comes in. If I need

1 to look at it, then my counsel will provide it to me.
2 But as a general practice, I don't look at discovery
3 if it's addressed to me or if it's opened for me.
4 There's thousands and thousands of documents that I
5 get in my e-mail every day, so I don't look through
6 the discovery, typically.

7 Q. Mr. White, would you agree that it would
8 be inappropriate for a person at IGS who is not the
9 counsel of record, who is a witness nevertheless in
10 the case, to gain access to competitively sensitive
11 information --

12 MR. OLIKER: Objection. That calls --

13 Q. -- if that person is involved in the
14 matters concerning competitive retail electric
15 services for IGS or is involved with the procurement
16 of wholesale energy supplies for IGS?

17 A. No, I do not necessarily agree with that.

18 Q. Would it violate the protective agreement
19 that you signed if that did happen and you were the
20 person involved?

21 MR. OLIKER: Objection. Calls for a
22 legal determination about a matter not before the
23 Commission.

24 MR. CONWAY: Your Honor, this is a very
25 significant and serious matter for the company.

1 Mr. White has a history of changing hats in the
2 middle of proceedings, going from being counsel of
3 record for the company to being a witness for the
4 company. I think we're entitled to know, to find out
5 whether or not in the course of doing that he has
6 violated the confidentiality agreement and obtained
7 access to our competitively sensitive information in
8 a manner that violates the protective agreement. I
9 think that's relevant to this case.

10 MR. OLIKER: Your Honor, he already
11 testified he doesn't know what the terms necessarily
12 of the confidentiality agreement are. He was shown
13 the agreement on the stand on the fly, had a chance
14 to look at it very briefly. He said he didn't access
15 confidential documents in the first place, so I don't
16 understand the line of questioning and how it's
17 relevant.

18 MR. CONWAY: Your Honor, he confirmed
19 that he signed the agreement. This isn't the same as
20 showing the witness a document that he may not have
21 seen before or that he may have only seen in passing.
22 It's a document, it's an agreement that he signed.

23 So if Mr. Olikier's objection is that
24 Mr. White is not familiar with the contracts that he
25 signs, I'm not sure quite what to make of it, and,

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1 certainly, we'll have to take that into consideration
2 in the future when we enter into such arrangements
3 with Mr. White.

4 EXAMINER SEE: The objection -- are you
5 finished, Mr. Conway?

6 MR. CONWAY: Yes, I am, thank you.

7 EXAMINER SEE: The objection is
8 overruled. Mr. White can answer the question.

9 Do you need it read back to you?

10 THE WITNESS: Sure. Please.

11 (Record read.)

12 A. I don't know because I'd have to look at
13 the specific terms of the protective agreement and
14 also look at the applicable law and know a lot of
15 other relevant information that I don't have at this
16 time to tell you whether what I hypothetically did
17 and didn't do would violate the terms of the
18 protective agreement that I signed.

19 Q. Let me ask you this follow-up question.
20 In the course of preparing your testimony for this
21 case and getting ready for this hearing after you
22 switched from being counsel of record to being a
23 witness in this case, did you give any consideration
24 to what you needed to do to make sure that you didn't
25 violate the protective agreement and the

1 nondisclosure certificate for confidential protected
2 materials that you signed?

3 A. To the extent I didn't review any
4 confidentiality -- confidential agreements or
5 confidential documents, I don't think that I needed
6 to do anything other than not review the confidential
7 documents.

8 Q. But you can't state definitively sitting
9 here to the fact you did not have access to that kind
10 of information during the term of your work here as a
11 witness on behalf of IGS?

12 A. I get thousands of e-mails in my inbox
13 with discovery. I don't typically -- that's not a
14 matter of my practice, that I open this discovery. I
15 don't cite any discovery documents in my testimony
16 that I'm aware of, and I don't testify to any
17 confidential information in my testimony that I'm
18 aware of, so it would only lead me to believe that I
19 would not have reviewed any confidential information
20 and certainly not intentionally.

21 and, further, I can't even say that that
22 would have been a violation of the protective
23 agreement if I had.

24 Q. So your testimony is that you don't think
25 that you actually reviewed competitively sensitive

1 information in this case, but if you had, you
2 wouldn't be able to tell me, sitting here today,
3 whether you thought that you were in compliance or
4 out of compliance with the protective agreement and
5 the nondisclosure certificate that you signed.

6 MR. OLIKER: Objection. Asked and
7 answered.

8 MR. CONWAY: I'm just trying to clarify
9 his answer, your Honor.

10 EXAMINER SEE: Objection is overruled.
11 Answer the question, Mr. White.

12 THE WITNESS: Can she read back my last
13 answer?

14 EXAMINER SEE: She can read the question
15 back to you.

16 THE WITNESS: Can you read back the
17 question?

18 (Record read.)

19 A. My testimony is that I am not aware of
20 reviewing any confidential data in this case, but to
21 the extent I did, there's no -- I don't necessarily
22 think that I would be out of compliance with the
23 confidentiality agreement.

24 I don't think -- I think that would be
25 moot because I'm testifying that I'm not aware of

1 reviewing any confidential data as part of this case.
2 I don't testify to any confidential data. I don't
3 put any confidential data in my testimony, so there's
4 no reason why I would have reviewed it in the first
5 place, so that's my answer.

6 Q. Do you understand that the concern that
7 the company has isn't whether or not you misused
8 competitively sensitive information as part of your
9 testimony, but rather you misuse it as a part of your
10 duties at IGS in advancing its business interests?

11 A. Well, I can assure you I've never used
12 any data of AEP to advance IGS's business interests.
13 I can testify to that. and, like I said, I haven't
14 seen the data so how could have I used it to advance
15 the business interests of IGS had I not seen the
16 data?

17 Q. But my question was, do you understand
18 that that's what AEP's concern is, the misuse of the
19 competitively sensitive information to advance IGS's
20 business interests?

21 A. I don't know what AEP's concern is.
22 They'd have to -- I mean, AEP -- I don't know what
23 AEP's concern is.

24 Q. You could not figure that out from your
25 original review of the protective agreement, what the

1 concern is?

2 A. Well, given the line of questioning, I'm
3 confounded, given that I've told you I haven't looked
4 at the data and I don't have -- I've never used it to
5 advance IGS's business.

6 Q. Let me switch gears here, Mr. White.
7 You're familiar, are you not, with the opinion and
8 order from February 25th of this year the
9 Commission issued, modified, and then approved
10 AEP Ohio's third electric security plan, sometimes
11 called ESP III for AEP Ohio?

12 A. Can you repeat the question, please?

13 Q. Are you familiar with the Commission's
14 February 25th, 2015, opinion and order that
15 approved AEP Ohio's ESP III?

16 A. Generally speaking, yes.

17 Q. At some point during the course of your
18 duties, did you review that opinion and order?

19 A. Yes.

20 Q. and in that order, the February 25th,
21 2015, order, the Commission approved AEP Ohio's PPA
22 rider on a placeholder basis; is that right?

23 A. I believe generally that's what happened
24 is as a placeholder basis, although they did not
25 approve the placement of the OVEC generation asset

1 into the PPA rider. I believe the Commission did say
2 they could start a placeholder PPA rider.

3 MR. CONWAY: Your Honor, may I approach
4 the witness? I'd like to present the witness with an
5 excerpt from the February 25th, 2015, opinion and
6 order, and I have several questions. You are welcome
7 to take a look at it --

8 EXAMINER SEE: You may.

9 MR. CONWAY: -- and confirm for yourself
10 it is an excerpt from that order, which I'll
11 represent that it is.

12 MR. OLIKER: Dan, do you have another
13 copy?

14 MR. CONWAY: Yes.

15 Q. Have you had a chance to, at least
16 cursorily, review the document I've provided? If you
17 haven't, just please do and let me know when you're
18 done.

19 A. It's a 30-page document, I mean, single
20 spaced, double -- is there a particular part that you
21 want me to review of the order?

22 Q. I just want you to confirm for me that
23 you've taken a look at it and it looks familiar to
24 you as an excerpt from the Commission's February
25 25th, 2015, opinion and order that approved the

1 company's ESP III?

2 A. Yes. This appears on its face to be the
3 opinion and order that came out of AEP's ESP III
4 case.

5 Q. As part of it, there's, I believe, a
6 table of contents included, small Roman No. ii and
7 iii. Do you see that?

8 A. Three Is?

9 Q. Excuse me. Little ii and little iii. Do
10 you see that part of it, the table of contents?

11 A. I'm sorry. Can you repeat the question?

12 Q. Do you see that included within this
13 excerpt is the table of contents from the order which
14 are numbered small Roman ii and small Roman iii?

15 A. Yes.

16 Q. Okay. and if you turn into the body of
17 the excerpt, we've included the portion of the order
18 that's entitled "Conclusion" on page 19 that goes on
19 for several pages after that through page 27.

20 A. Yes.

21 Q. So 19 through 27, that's the conclusion
22 of the order, right?

23 A. Yes.

24 Q. Okay. and then the signature page is
25 also included, page 97, as well as page 96 and 97.

1 Ninety-seven is the signature page, right?

2 A. Yes.

3 Q. Okay. Now, let me just ask you a few
4 direct questions, Mr. White. You are familiar, are
5 you not, with Ohio's ESP statute Section 4928.143,
6 right?

7 A. Generally, yes.

8 Q. I seem to recall crossing paths with you
9 in a number of these proceedings, three of which
10 involve AEP Ohio ESP applications. Do you recall
11 that?

12 A. Yes, I believe at least in one other
13 proceeding I've been cross-examined by you before,
14 but --

15 Q. That would be --

16 A. I'll take your word it was three. I
17 don't remember specifically.

18 Q. So you testified in the ESP III
19 proceeding actually, right?

20 A. Yes.

21 Q. and do you agree, based on your
22 experience in participating in the last ESP, the ESP
23 III for AEP Ohio, that the ESP statute, 4928.143 at
24 one of its provisions, actually (B)(2)(d), if you
25 recall, it authorizes electric utilities to include

1 in an ESP terms that have the effect of stabilizing
2 or providing certainty regarding retail electric
3 service?

4 A. I don't remember every specific provision
5 word for word of the statute, so I would have to see
6 the statute to tell you what each provision says in
7 the statute.

8 Q. and do you recall that the Commission
9 specifically found in the company's last ESP that the
10 ESP statute did permit that, what I just described?

11 A. What did you just describe? I'm sorry.

12 Q. That the ESP statute authorizes electric
13 utilities to include in an ESP terms that have the
14 effect of stabilizing or providing certainty
15 regarding retail electric service.

16 A. Off the top of my head I do not
17 specifically recall that, although they may have.

18 Q. Can you turn to page 20 of the excerpt
19 that I just furnished to you.

20 A. Yes.

21 Q. and I direct your attention to the second
22 full paragraph, first sentence in that order and ask
23 you to read it, and then after you've read it, let me
24 know.

25 A. Do you want me to read it out loud?

1 Q. You can read it to yourself to begin
2 with.

3 A. Second full paragraph, first sentence?

4 Q. Yes. Starts with the word "under."

5 A. Okay. Sure.

6 Q. Okay. Then could you turn your attention
7 to page 22, the first full paragraph on that page,
8 and review the first sentence of that first full
9 paragraph, the one that starts with "The Commission
10 finds." Let me know when you've finished reviewing
11 that.

12 A. Yes.

13 Q. Okay. So after having refreshed your
14 recollection about what the Commission did in its ESP
15 III order, which I believe you said you had
16 previously reviewed at some point, would you agree
17 that the Commission found in that order that the ESP
18 statute authorizes electric utilities to include in
19 an ESP terms that have the effect of stabilizing or
20 providing certainty regarding retail electric
21 service?

22 A. I would not -- I would not -- that's not
23 what the order says exactly. I can read you what the
24 order says.

25 Q. Did the Commission in its order

1 specifically state that it "...finds that R.C.
2 4928.143(B)(2)(d) authorizes electric utilities to
3 include, in an ESP, terms related to 'bypassability'
4 of charges to the extent that such charges have the
5 effect of stabilizing or providing certainty
6 regarding retail electric service"?

7 MR. OLIKER: Objection, your Honors.
8 This has gone on for a little while. I think we're
9 free to stipulate that the order says what it says.
10 Parties can freely cite to it in their briefs, but if
11 we're just going to read portions of the order into
12 the record, I don't think we're going to really get
13 anywhere.

14 MR. CONWAY: It's a matter of background,
15 your Honor. I have a following question as soon as
16 he agrees with me that that's what it states.

17 EXAMINER SEE: Okay. You can answer the
18 question, Mr. White.

19 A. Yes, that's what the order states.

20 Q. Okay. and do you agree or disagree with
21 the PUCO's finding regarding that?

22 A. I would have to look at 4928.143(B)(2)(d)
23 to know whether specifically, off the top of my head,
24 I agree or disagree with that finding.

25 Q. So at this point, sitting here today, you

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1 don't have an opinion as to whether or not the PUCO's
2 finding is one that you agree with?

3 A. I think, I have an opinion that,
4 generally speaking, the order to approve a PPA as a
5 placeholder I disagreed with. Again, to cite
6 specific statutes and how it reflects that agreement,
7 I would have to look at the specific statute or, I
8 mean, how it reflects that order, I'd have to look at
9 the specific statute.

10 Q. Okay. Let me go to another question,
11 Mr. White. Thank you for your answer.

12 Mr. White, do you agree that both
13 shopping and SSO customers may benefit from the PPA
14 rider because it would have a stabilizing effect on
15 the price of retail electric service irrespective of
16 whether the customer is served by a CRES provider or
17 the standard service offer?

18 MR. OLIKER: Do you have a page in his
19 testimony you're talking about, Dan?

20 MR. CONWAY: I just would like to have
21 him react to the statement and see whether or not he
22 agrees with it or disagrees with it.

23 A. Can you repeat the statement?

24 Q. Sure. Do you agree that both shopping
25 and SSO customers, nonshopping customers, may benefit

1 from the PPA rider because it would have a
2 stabilizing effect on the price of retail electric
3 service and that they would benefit irrespective of
4 whether they were served by the CRES provider or the
5 standard service offer?

6 A. Which PPA rider?

7 Q. The one that we have right here before us
8 today.

9 A. The current PPA rider or the PPA rider
10 that was --

11 Q. The placeholder PPA rider. The
12 placeholder PPA rider.

13 A. So the PPA rider that has the AEP -- the
14 placeholder rider that has no generation in it or the
15 rider that you're proposing?

16 Q. Let me back up. Just as a general
17 matter, do you agree that shopping and nonshopping
18 customers, SSO customers, may benefit from a PPA
19 rider because it would have or might have a
20 stabilizing effect on the price of retail electric
21 service?

22 A. I would have to know what PPA rider.

23 Q. Okay.

24 A. What goes into the PPA rider.

25 Q. Do you agree that rate stability is an

1 essential component of an ESP?

2 A. Are you speaking about a specific statute
3 or --

4 Q. I'm just asking you whether you have an
5 opinion under 4928.143(B), the ESP statute, whether
6 rate stability is an essential component of an ESP
7 approved under that statute.

8 A. Just my recollection is that I believe
9 that rate stability was mentioned in the 4928.143 as
10 a component, but, again, I'd have to look at the
11 statute to know whether it was.

12 Q. You don't know whether the Commission,
13 for example, believes that it's an essential
14 component of an ESP?

15 A. Again, I believe that rate stability was
16 mentioned in the 4928.143 statute, again, but I would
17 have to look at the statute to verify that.

18 Q. Well, let me ask you several questions
19 regarding your understanding of AEP Ohio's proposals
20 in this proceeding. I think we've already
21 established that the Commission approved the PPA
22 rider in its ESP III order on a placeholder basis,
23 right?

24 A. Yes, I believe that was the outcome of
25 the ESP III.

1 Q. and the company's specific proposal
2 regarding its PPA with AEP Generation Resources and
3 the PPA rider that is presented to the Commission in
4 this case are contained in the amended application
5 that it submitted as well as the supporting
6 testimony?

7 A. Can you repeat the question?

8 Q. Sure. The company's proposal regarding
9 its proposed PPA and the proposed PPA rider are
10 contained in -- their proposals are described and
11 supported by the amended application and the related
12 testimony that the company submitted on May 15th,
13 right?

14 A. Yes.

15 Q. Okay. and now in the proceeding the
16 company has requested that it be permitted to include
17 in the PPA rider the net costs or net revenues that
18 result from the PPA units, correct?

19 A. Can you repeat the question?

20 Q. In this proceeding, the current one where
21 we're trying to propose to include to provide content
22 to the PPA rider, we're, meaning AEP Ohio, in this
23 proceeding the company has requested in that regard
24 that it be permitted to include in the rider the net
25 costs or the net revenues that result from the PPA

1 units, right?

2 A. Yes, that's my general understanding of
3 the proposal.

4 Q. and the same applies to the OVEC
5 entitlement, the proposal is to include within the
6 rider the net costs or revenues from the OVEC
7 entitlement, right?

8 A. Yes, that's my general understanding of
9 the proposal.

10 Q. and depending on whether there are --
11 there are net costs on the one hand or net revenues
12 on the other hand, there will either be charges to
13 customers if there are net costs, or credits to
14 customers if there are net revenues, through the PPA
15 rider, passed through to the customers via the PPA
16 rider, correct?

17 A. Yes.

18 Q. Okay.

19 A. That's my understanding of the proposal.

20 Q. and you also understand, do you not, that
21 the company's view is that its proposal will provide
22 a price stabilizing effect? You understand, do you
23 not, that the company's view is that its proposal
24 will provide a price stabilizing effect?

25 A. Yes, I believe that's the position the

1 company has taken.

2 Q. and you also understand, do you not, that
3 the company's position is that its proposal will
4 provide certain reliability benefits? You might not
5 agree with it, but you understand that that's the
6 company's proposal, that it does provide such
7 benefits, right?

8 A. I believe the company's taking the
9 position that adoption of the PPA would provide
10 reliability benefits.

11 Q. Okay. and is it also your understanding
12 that the company's position is that its proposal will
13 provide certain economic development benefits?

14 A. I believe that's the position of the
15 company.

16 Q. Okay. and that it will also -- the
17 proposal will also have certain local economic
18 impacts that are beneficial.

19 A. I believe that's the position of the
20 company, and I address that in my testimony.

21 Q. Now, let me go back to the PPA rider
22 again and potential impacts on customer rates, that
23 aspect of it, of the proposal. Again, when the costs
24 of the PPA rider and the OVEC entitlement are less
25 than the revenues realized from the sale of the

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1 output from the units and the OVEC -- the PPA units
2 on the one hand, the OVEC entitlement units on the
3 other hand, those net revenues are flowed through to
4 customers as a credit, right?

5 A. Can you repeat the question?

6 Q. Sure. In periods where the costs of the
7 PPA units and the OVEC entitlement are less than the
8 wholesale revenues realized from the sale of the
9 output of the units, the PPA units and the OVEC
10 entitlement units, those net revenues, if they're
11 greater than the costs, they're flowed through to
12 customers as a credit, right?

13 MR. OLIKER: Objection. "Costs" is not
14 identified in this hypothetical.

15 MR. CONWAY: Your Honor, I just --
16 respectfully, I just explained that I'm talking about
17 the costs of the PPA units on the one hand and the
18 costs of the OVEC entitlement on the other hand, so I
19 think I did define the costs.

20 MR. OLIKER: One person's view of costs
21 may be very different from the company's.

22 MR. CONWAY: Well, I'm not sure how to
23 respond to that. We're talking about the PPA unit
24 costs and the OVEC entitlement costs. We've been
25 talking about it for about three weeks now. Everyone

1 seemed to be on the same page. So if the witness is,
2 nevertheless, not sure about what's involved, he can
3 say so, but I would just as soon give him the
4 opportunity to try to answer the question.

5 MR. OLIKER: Can he clarify? If
6 Mr. Conway adds costs plus a rate of return on the
7 weighted average cost of capital, then I'm fine with
8 the question. That's all I wanted.

9 MR. CONWAY: I'm talking about all the
10 costs that are going to be incurred by AEP Ohio when
11 it pays AEP Generation Resources for the power output
12 of the PPA units or it pays its obligations to OVEC
13 for cost recovery regarding the entitlement. That's
14 what I'm talking about.

15 Q. (By Mr. Conway) Do you understand my
16 question?

17 EXAMINER SEE: You can answer the
18 question, Mr. White.

19 A. I would -- yes, I understand the
20 question, and I was going to say "yes," to costs,
21 except that also includes AEP's rate of return on
22 the --

23 Q. That's fine. I'm not trying to trick
24 you.

25 A. So the cost plus the rate of return net

1 the revenues. If the cost plus the rate of return
2 exceeds the wholesale revenues, then it would be a
3 credit to customers.

4 Q. The costs --

5 A. I'm sorry.

6 Q. It's the flip side of that, right?

7 A. Yeah, the flip side.

8 Q. So if all the costs are less than the
9 wholesale revenues, then there's a credit to
10 customers, right?

11 A. Yes. All the costs in the rate of return
12 are less than the wholesale revenues, then there's a
13 credit under AEP's proposal.

14 Q. and the converse example, when all of the
15 costs exceed all the wholesale revenues, the rider
16 produces a charge for customers, right?

17 A. Yes.

18 Q. So whether the rider produces a credit
19 over any particular time period depends on whether
20 wholesale market prices provide revenues that are
21 more than the costs of the PPA units and the OVEC
22 entitlement, correct?

23 A. Can you repeat the question?

24 Q. Whether the PPA rider produces a credit
25 over any particular time period depends on whether

1 wholesale market prices provide revenues that are
2 greater than the costs of the PPA units and the OVEC
3 entitlement over the particular time period, right?

4 A. Yes.

5 Q. Okay. It doesn't depend -- whether or
6 not there's a credit doesn't depend on the units, the
7 PPA units or the OVEC units, having lower costs per
8 megawatt-hour than the rest of the generation assets
9 being sold into PJM, right?

10 MR. OLIKER: Objection. That's vague.

11 But if Mr. White understands the
12 question. I don't, but if he does.

13 EXAMINER SEE: Well, we'll let the
14 witness answer the question, and if he needs
15 clarification, he has already shown that he will
16 request it.

17 A. Can you repeat the question?

18 Q. Sure. Whether the PPA rider produces a
19 credit -- excuse me, strike that.

20 Whether the PPA rider produces a credit,
21 it doesn't depend on the PPA units or the OVEC
22 entitlement units having lower costs than the rest of
23 the generation assets in PJM, does it?

24 A. I think that that's not necessarily
25 true.

1 Q. Your testimony is that in order for a
2 credit to be produced by the PPA rider for customers,
3 the PPA units and the OVEC units need to have lower
4 costs than all the rest of the generation assets
5 being sold into PJM.

6 A. I'm trying to -- excuse me. I'm trying
7 to think through the mechanics of the bidding into
8 the wholesale markets, if it's going to affect the
9 marginal -- the ability to bid into the PJM, the cost
10 is going to affect the ability to bid into PJM, so
11 give me a second to think through the whole scenario.

12 Q. Sure. Take your time.

13 A. I do not believe that the costs would
14 affect whether it's going to be a credit under the
15 proposal.

16 Q. So it doesn't matter whether the PPA
17 units or the OVEC entitlement units have a cost
18 profile which is lower than some other units that are
19 being dispatched in PJM. It just depends on what the
20 wholesale prices are that the PJM market produces
21 that determines whether or not there's a credit,
22 right?

23 MR. OLIKER: Could I have that question
24 read back?

25 (Record read.)

1 A. Actually, I do think it matters because
2 if the costs are so high for AEP to run the unit, the
3 variable costs are so high for AEP to run the unit
4 and the costs are greater than the market price for
5 electricity, then AEP would not be bidding -- it
6 would not be prudent for AEP to bid into the
7 capacity -- into the energy markets. So the costs do
8 matter if they're too high -- if the variable costs
9 are too high for bidding into the energy markets.

10 Q. and that's in comparison to what the
11 energy prices are being produced by the market,
12 right?

13 A. No. I think that's a comparison as to
14 what the cost of the units are, because if the cost
15 of the units --

16 Q. Well, it's a comparison of the units'
17 cost and what the market prices are providing to the
18 units or might provide to the units, right?

19 A. Right. But the question is, do costs
20 matter? and I said, actually thinking about it,
21 costs do matter because if the costs are so high that
22 they are lower than -- or, greater than the variable
23 market prices that AEP could get, then it matters if
24 AEP costs are so high that they wouldn't -- they
25 wouldn't bid in at a higher cost than what the market

1 revenues they get.

2 Q. Let me get back to the bottom line
3 question, which is, in order to break even with
4 regard to the costs of the PPA, the PPA units, for
5 example, they don't have to become more competitive
6 or have lower costs than all other generating units
7 in the PJM market, right?

8 A. I think whether or not the proposal
9 breaks even makes a difference of whether or not the
10 costs are competitive with the other units in the AEP
11 market.

12 Q. So there's a range of cost profiles that
13 the generating units participating in the PJM market
14 have, correct? They go from some low to some high,
15 right?

16 A. Yes.

17 Q. All right. and not just --

18 A. and variable costs you're talking about?

19 Q. All costs, yes.

20 A. Well, it also depends on whether you're
21 talking about capacity or energy markets, too.

22 Q. I'm just talking about all costs of --
23 all costs of any generating unit within PJM. Would
24 you agree that the total amount of costs for any
25 particular generating unit may vary according to a

1 range in PJM compared to all the other generating
2 units in PJM?

3 A. I believe that that's an overly
4 simplistic way of stating things because you have
5 your fixed costs, which are incurred up front, and
6 then you have your variable -- and which are largely
7 associated with capacity revenues, and you have your
8 variable costs which occur as you generate
9 electricity, and you would have -- I'd have to know
10 what time frame you're talking about because
11 certain -- you know, your cost structure might
12 differentiate, you know, throughout time or some
13 generation units may become greater or less than, you
14 know, in one period of time versus another period of
15 time.

16 Q. Let me see if I can do this a slightly
17 different way. I'm not trying to -- I'm really not
18 trying to argue with you. I thought I was
19 establishing a fairly, a relatively easy point.
20 Obviously not. But let me see if I can try a
21 different way.

22 Is it your position that the only time
23 when the PPA units or the OVEC entitlement units will
24 produce a credit for customers is when they are the
25 most efficient units selling into the PJM market?

1 A. OVEC, they do not have to be the most
2 efficient units to produce a credit, but the
3 efficiency of the units is a -- will play a large
4 factor into whether or not they do produce a credit.

5 Q. and, similarly, is it your position that
6 in order for a credit to be produced by the PPA
7 rider, the PPA units and the OVEC entitlement units
8 must have the lowest costs of any generating units
9 selling into the PJM market?

10 A. No, they do not have to have the lowest
11 costs.

12 Q. Okay. Let me turn my attention to a
13 slightly different topic, Mr. White. Do you agree
14 that rate stability can be a value to customers even
15 if there's a cost to the customer to get the rate
16 stability?

17 A. I believe, all else being equal, some
18 customers may value rate stability. Depends on the
19 customer, though.

20 Q. But at least in some circumstances you
21 believe that customers will value rate stability,
22 even if there is a cost attached to it?

23 A. Some customers may not care about rate
24 stability, some customers may.

25 Q. and those that do are the ones I'm

1 focusing on right now.

2 A. I believe that some customers may care
3 about rate stability and they see value in it.

4 Q. and are willing to incur a cost to get
5 it, right?

6 A. Yes, some customers would maybe be
7 willing to incur a cost to receive rate stability.

8 Q. and would you agree that aside from, in
9 addition to, potential rate stability benefits, that
10 other potential benefits for the PPA rider proposal
11 may be obtained from such a rider, such as beneficial
12 economic impacts and reliability benefits?

13 MR. OLIKER: Could I have the question
14 read back. I'm sorry.

15 MR. CONWAY: Let me start over. Let me
16 just strike that question and start over.

17 Q. Mr. White, would you agree that there can
18 be other potential benefits from a PPA rider proposal
19 other than the rate stability benefit that we just
20 discussed, such as beneficial economic impacts and
21 beneficial impacts on reliability?

22 A. I don't think I said that there would be
23 a benefit of rate stability in the PPA rider.

24 Q. I didn't mean to put words in your mouth,
25 I'm just putting that aside for purposes of this

1 question.

2 MR. OLIKER: Your Honor, I want to make
3 sure the witness is allowed to complete his answer
4 when a question is posed. and if Mr. White is not
5 done, I want him to finish his answer.

6 MR. CONWAY: I apologize, Mr. White.

7 A. I think you're presuming in that
8 statement, the question you asked, that I said that
9 the PPA rider provides rate stability, which I would
10 disagree with that presumption.

11 Q. Put that aside.

12 A. Okay.

13 Q. I'm not trying to put words in your mouth
14 with regard to that, and if I did, I apologize for
15 it. I want to concentrate on other potential
16 benefits. Put aside rate stability as a topic, okay?

17 A. Okay.

18 Q. Would you agree that there can be other
19 potential benefits from a PPA rider, such as economic
20 benefits for local communities, economic development
21 benefits, more broadly, and also benefits related to
22 reliability?

23 A. I believe, over the long run, it's highly
24 unlikely the PPA rider would provide those benefits.

25 Q. So your position is those are not

1 potential benefits of a PPA rider?

2 A. My position is, over the long run, it's
3 highly unlikely that those potential benefits will
4 materialize out of the PPA rider versus the offset of
5 all the economic uncertainty that it will cause to
6 other entities that are looking to invest in
7 generation and the additional costs it has to
8 customers.

9 Q. Let me direct your attention to page 6 of
10 your testimony. I believe at page 6 towards the top
11 of the page you state that the PPA units are not
12 competitive today, or you indicate that; is that
13 correct?

14 A. Yes.

15 Q. and do you understand that AEP has taken
16 the position, as stated, that the PPA units are on
17 the economic bubble due to short-term market
18 conditions?

19 A. Yes, I believe that is the testimony of
20 one of AEP's witnesses.

21 Q. and the point that you refer to in your
22 sentence on the top of page 6 that appears to inform
23 your conclusion there is the fact, in your view, that
24 the PPA units are not competitive today, right?

25 A. I guess the basis of that is that

1 initially the PPA unit or the PPA proposal will be a
2 charge to customers, so my basis that the PPA units
3 aren't competitive today, and I believe several years
4 out in the future, is that AEP actually projects them
5 to be a charge to customers.

6 Q. and so your views in that regard are
7 based on information that has come to you from AEP,
8 in the first instance, right, what AEP thinks about
9 what's going to happen in the next year or two or
10 several years?

11 A. Yes.

12 Q. Okay. It's not based on some independent
13 quantitative analysis that you have done regarding
14 the economic viability of the PPA units, right?

15 A. It's based on the fact that it is
16 projected to be a charge and my general understanding
17 that it's a very difficult environment for coal
18 generation today and likely the future.

19 Q. But you haven't done, like, an analysis
20 focused on those PPA units to come to this
21 conclusion; it's based on the things that you just
22 mentioned?

23 A. Beyond what I read in AEP's testimony,
24 yes, it's my general understanding of the electric
25 markets.

1 Q. Thank you. Mr. White, did you review the
2 various pieces of testimony that were submitted in
3 support of AEP Ohio's amended application?

4 A. I've reviewed some of the testimony.
5 I've reviewed some of the testimony, yes.

6 Q. Do you remember which ones you reviewed?

7 A. I believe I reviewed Bletzacker's,
8 Pablo -- and I apologize if I --

9 Q. Vegas.

10 A. -- mispronounce the names, Pablo Vegas,
11 Toby --

12 Q. Toby Thomas.

13 A. Toby Thomas, portions of Allen's
14 testimony.

15 Q. By whom is Mr. Thomas employed?

16 A. I believe he is employed by AEP
17 Generation Resources.

18 Q. and do you recall what his position at
19 AEP Generation Resources is?

20 A. I don't recall his position. I don't
21 recall his title.

22 Q. You don't recall when you reviewed his
23 testimony seeing that his title is Vice President,
24 Competitive Generation?

25 A. I don't recall that specifically, but I

1 will -- I will stipulate to that.

2 Q. Okay. and do you recall the topics that
3 he addressed in his testimony?

4 A. I think he generally addressed the
5 competitiveness of the PPA units.

6 Q. So Mr. Thomas did address the risk of
7 early retirement that the PPA units face as a result
8 of the current market conditions?

9 MR. OLIKER: Your Honor, at this point
10 I'm going to object. If he's going to keep asking
11 questions about the AEP witnesses' testimony and
12 specifics, could he give him a copy rather than a pop
13 quiz.

14 MR. CONWAY: Well, your Honor, it's my
15 cross-examination, and I think I'm entitled to test
16 the witness's understanding of the company's
17 proposals. He makes a lot of criticisms of the
18 company's proposals, and I think it's certainly fair
19 game to question him about what his understanding of
20 the company's proposals are, and he's making -- who's
21 providing testimony for the company in support of
22 their positions being advanced here.

23 MR. OLIKER: He's testing his memory on
24 what he may or may not have reviewed when he doesn't
25 necessarily refer to Toby Thomas's testimony in his

1 direct testimony here. I mean, it's not who can
2 remember what the best. It's more about the basis of
3 your opinions.

4 MR. CONWAY: Well, your Honor,
5 Mr. Thomas -- excuse me, Mr. White has made criticism
6 of the company, meaning AEP Ohio's position in this
7 case, that it has advanced that the units are at risk
8 of retirement. He's made some critical comments
9 about whether or not the company's position in this
10 case somehow is contrary to the corporate separation
11 requirements that it faces, and I think I'm entitled
12 to find out from him to what extent he understands
13 that Mr. Thomas has provided support for the
14 proposition that the units are at risk of early
15 retirement, and Mr. Thomas is not employed by
16 AEP Ohio.

17 EXAMINER SEE: You can ask the witness
18 his opinion. So try to rephrase your question,
19 Mr. Conway.

20 MR. CONWAY: Thank you, your Honor.

21 Q. (By Mr. Conway) And so one of the topics
22 that Mr. Thomas addressed in his testimony is the
23 risk of early retirement that the PPA units face as a
24 result of current market conditions, right?

25 A. I believe Mr. Thomas stated that AEP

1 Generation Resources has no intent on retiring the
2 generation at this time. There's no definitive
3 plans. But he discussed the possibility of
4 retirement of generation resources, like any
5 generation resource would have a potential retiring
6 in the future.

7 Q. Tell me whether you recall from your
8 review of his testimony or not, whether or not he
9 addressed specifically the risk of early retirement
10 that the PPA units face as a result of current market
11 conditions.

12 A. From my recollection of the testimony, he
13 specifically states that they do not have any intent
14 to retire the units anytime soon and that potentially
15 in the future they could retire the units if the
16 economics of the units are worsened.

17 Q. and so Mr. Thomas did discuss in his
18 testimony the risk of retirement that the PPA units
19 face, correct?

20 A. To the extent that means the risk -- when
21 you're referring to risk, you mean he discussed that
22 it is potentially possible that AEP Generation
23 Resources could retire the units? He did make those
24 statements.

25 Q. Yes. So an employee of AEP Generation

1 Resources has appeared and testified in this case
2 regarding AEP Generation Resources' view of the risk
3 of early retirement that the PPA units face under the
4 current market conditions, correct?

5 A. He testified on behalf of AEP, but he was
6 employed with AEP Generation Resources. So to the
7 extent that -- he's filing testimony on behalf of
8 AEP, the distribution utility. I don't know what
9 his -- what his view is of AEP Generation Resources
10 or AEP, the distribution utility. I would assume if
11 you file testimony on behalf of a party, that's the
12 view of the party filing testimony.

13 Q. and he is an employee of AEP Generation
14 Resources, correct?

15 A. Correct.

16 Q. and you don't have any reason to believe
17 that he adopts positions in his testimony that are
18 not AEP Generation Resources' views?

19 A. The testimony is on behalf of AEP or the
20 Ohio Power Company dba -- or, I'm sorry. I can't
21 remember what -- I believe it's Ohio Power. If you
22 look at Mr. Thomas's testimony, it says testimony on
23 behalf of the Ohio Power Company, so I'm assuming
24 those are the views of the Ohio Power Company which
25 he's testifying on behalf of.

1 Q. Well, let me try it again. You don't
2 have any reason to believe that Mr. Thomas has
3 adopted or has advanced positions in his testimony
4 that are not AEP Generation Resources' positions?

5 A. I have reason to believe that he has
6 because he's filing testimony on behalf of Ohio Power
7 Company, so I would assume those are the Ohio Power
8 Company's positions that he's advancing.

9 Q. That wasn't my question. My question was
10 focusing on AEP Generation Resources. Do you have
11 any reason to believe, regardless of what AEP Ohio's
12 positions are regarding the topic, do you have any
13 reason to believe Mr. Thomas's testimony in this case
14 about the risk that the PPA units face from early
15 retirement are due to current economic conditions is
16 anything other than the position and the views of AEP
17 Generation Resources?

18 MR. OLIKER: Objection.

19 MS. BOJKO: Objection.

20 MR. OLIKER: Your Honor, I've let it go
21 on for a little while, your Honor, but at this point
22 he continues to try to call for Mr. White to
23 speculate on what another party or nonparty may think
24 about this proceeding when Mr. White is not really in
25 a position to tell you how Mr. Thomas feels.

1 I mean, I hope Mr. Conway and his own
2 witness figured that out before they filed this
3 testimony, but it's not for Mr. White to opine upon.

4 MR. CONWAY: Your Honor --

5 EXAMINER SEE: Hold on just a second.

6 Ms. Bojko, you also --

7 MS. BOJKO: Yes. My objection is it's
8 been asked and answered a couple times. Mr. White
9 explained the testimony has been filed on behalf of
10 AEP Ohio, and so now Mr. Conway is mischaracterizing
11 the testimony of his own witness, it was filed on
12 behalf of AEP Ohio.

13 MR. CONWAY: Your Honor, that's not
14 correct. The question is not whether the position of
15 AEP Ohio in this case is consistent with Mr. Thomas's
16 testimony or AEP Generation Resources' views and
17 positions on this issue. The question I have for
18 Mr. White is does he have any reason to believe that
19 AEP Generation Resources' views and position on this
20 matter are anything different than what Mr. Thomas
21 testified to?

22 MR. PRITCHARD: I believe I would weigh
23 in and say that is asking the witness to speculate as
24 to what AEP Generation Resources' views are so that
25 this witness could compare and contrast what Mr. Toby

1 Thomas has filed testimony, how it contrasts with
2 AEPGR's position, which I --

3 MR. CONWAY: Your Honor, that's also not
4 correct. I asked him if he had any reason to believe
5 anything to the contrary. He doesn't have to guess
6 at what AEP Generation Resources' views are. If he
7 doesn't know anything, if he doesn't know, he doesn't
8 have any reason to believe anything to the contrary,
9 he can just say so and we can move on.

10 EXAMINER SEE: The objections are
11 overruled.

12 Mr. White may answer the question.

13 A. I would say yes. The fact that he filed
14 testimony on behalf of AEP Ohio would give me some
15 reason to believe that they're the views of AEP Ohio,
16 not necessarily AEP Generation Resources.

17 Q. Is that the extent of the basis for your
18 belief that there may be a differential between the
19 positions of AEP Generation Resources on the one hand
20 and AEP Ohio on the other hand with regard to this
21 point?

22 A. Yes.

23 Q. Okay. Different topic, Mr. White.
24 Carbon emissions regulations, such as those proposed
25 to be implemented by the Clean Power Plan, they would

1 affect all carbon-emitting electric generating units,
2 correct?

3 A. Can you repeat the question?

4 Q. Carbon emissions regulations, such as
5 those proposed to be implemented by the Clean Power
6 Plan, they would affect all carbon-emitting
7 generating units, right?

8 A. Generally speaking, yes, they would have
9 an effect on all carbon-emitting power units,
10 although the effect would be different depending on
11 how much carbon you're emitting.

12 Q. If such regulations go into effect, they
13 would affect all coal-fired generating units, right?

14 A. Yes, very likely they would affect all
15 coal-fired units.

16 Q. and they would also affect all natural
17 gas-fired generating units, right?

18 A. There would be an effect, but it would
19 depend on the carbon -- the type of effect would
20 depend on the amount of carbon that's being emitted.

21 Q. and such regulations wouldn't just apply
22 to the PPA units or the OVEC units alone, right?

23 A. Correct, the Clean Power Plan would
24 affect more than just the PPA units and OVEC units.

25 Q. and IGS doesn't own any or operate any

1 coal-fired generation, correct?

2 A. Yes.

3 Q. Does IGS own or operate any merchant
4 power plants subject to regulation by the FERC?

5 MR. OLIKER: Objection to the extent that
6 calls for a legal determination.

7 MR. CONWAY: Well, your Honor, I don't
8 want him to practice law if he's not a lawyer at this
9 moment, but if he can generally testify as to his
10 understanding about whether IGS owns or operates
11 merchant power plants subject to FERC's regulation,
12 that would be fine for my purposes.

13 EXAMINER SEE: Okay. Mr. White, you can
14 answer the question.

15 A. IGS owns distributed generation. To the
16 extent that some of that distributed generation might
17 be registered as a qualified resource at FERC, I
18 mean, that's the extent of any kind of regulation
19 that we have.

20 Q. Okay. The distributed generation
21 resources you just referred to, those are resources
22 that are on the other side of the customer's meter
23 from the grid, right?

24 A. Yes.

25 Q. Putting those aside, then, the answer is,

1 I take it, is no, IGS does not own or operate
2 FERC-regulated merchant generating plants.

3 A. We don't operate wholesale generation.

4 EXAMINER SEE: Mr. White, you're going to
5 need to speak up.

6 THE WITNESS: We don't operate wholesale
7 generation.

8 Q. and you haven't analyzed what the impact
9 of the Clean Power Plan might be on particular
10 coal-fired or natural gas-fired generating units,
11 have you?

12 A. I have to the extent that I've looked at
13 the Clean Power Plan, and I know that the Clean Power
14 Plan specifically calls out the -- making coal plants
15 more efficient and utilizing more natural gas as part
16 of the building blocks for the Clean Power Plan. So
17 I've done the analysis in that regard, yes.

18 Q. So you've done that analysis, but nothing
19 more detailed than what you just described?

20 A. I haven't conducted a quantitative
21 analysis as to the impact.

22 Q. So you've read the EPA's Clean Power
23 Plan -- I don't even know if it's a rule or proposal.
24 But you've read the documents issued by EPA in that
25 regard?

1 A. Usually when I'm trying to get to sleep,
2 yes.

3 Q. But that's -- and you've thought about it
4 after having read it, correct?

5 A. Yes.

6 Q. and that's the extent of your analysis,
7 right?

8 A. The extent that I, yes, I've seen the
9 EPA's rules and regs, they call out coal generation
10 as one of the pillars as being required to become
11 more efficient, and another pillar is getting more
12 utilization out of natural gas power plants and
13 switching generation to natural gas. I have read
14 that and made conclusions and made analysis based on
15 that, that the cost of operating coal would be more
16 -- coal plants would be more costly if the Clean
17 Power Plan would be implemented.

18 Q. All coal-fired plants would be more
19 costly to operate if the Clean Power Plan is
20 implemented, right?

21 A. Yes, likely.

22 Q. But you haven't analyzed what the impact
23 of the Clean Power Plan would be on particular
24 coal-fired power plants, right?

25 A. Beyond just my general understanding that

1 it's very likely that implementation of the Clean
2 Power Plan will have a negative adverse effect on all
3 coal plants, I have not done an individual study on
4 specific coal plants.

5 Q. and it will have a negative impact on all
6 natural gas-fired plants too, correct?

7 A. I can't say that's the case. It could be
8 beneficial to some natural gas plants.

9 Q. You didn't conduct an independent
10 analysis of the economic impacts that retirement of
11 the PPA units would have on the local communities in
12 which those units are located, did you?

13 A. Can you repeat the question?

14 Q. You didn't conduct an independent
15 analysis of your own of the economic impacts that
16 retirement of the PPA units would have on the local
17 communities in which the units are located, did you?

18 A. I mean, depends on what you mean by
19 "analysis." I absorbed the facts that at the very
20 least the PPA proposal would cost customers
21 throughout the AEP territory money in advance -- or,
22 at the beginning of at least the term of the PPA, and
23 I weighed that versus, you know, some other of the
24 benefits that were spoken to in, I believe it was,
25 Mr. Allen's testimony, but I haven't quantified that.

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1 Q. So you did not do a study or an analysis
2 that quantified what the economic impacts would be on
3 the local communities where the plants are located in
4 the event the units are retired?

5 A. I have not attempted to quantify that.

6 MR. CONWAY: Thank you, Mr. White.
7 That's all I have.

8 EXAMINER SEE: Mr. Beeler?

9 MR. BEELER: Nothing, your Honor. Thank
10 you.

11 EXAMINER SEE: Any redirect, Mr. Olikar?

12 MR. OLIKER: Could we have just a few
13 minutes to discuss, please?

14 EXAMINER SEE: Yes.

15 (Discussion off the record.)

16 EXAMINER SEE: Let's go back on the
17 record.

18 Redirect, Mr. Olikar?

19 MR. OLIKER: Just briefly, your Honor.

20 - - -

21 REDIRECT EXAMINATION

22 By Mr. Olikar:

23 Q. Mr. White, do you remember a question you
24 received from Mr. Conway about terms and conditions,
25 I believe, of contracts that you may be involved

1 with?

2 A. Yes.

3 Q. and what types of terms and conditions
4 were you referring to?

5 A. I was referring to I am involved with
6 making sure IGS is complying with the terms and
7 conditions required by the PUCO rules, you know,
8 consumer protection rules. Part of my
9 responsibilities is to ensure in our contracts we
10 have met all the requirements in the PUCO rules.

11 Q. And do you remember a response that you
12 provided to Mr. Conway about IGS entering new
13 markets?

14 A. Yes.

15 Q. Do you have any decision-making authority
16 regarding IGS's entrance into new markets?

17 A. No. I just get asked about regulatory
18 compliance issues, but I don't decide what markets we
19 go into.

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

22 EXAMINER SEE: Ms. Mooney, any questions
23 for this witness?

24 MS. MOONEY: No questions.

25 EXAMINER SEE: Mr. Mendoza?

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1 MR. MENDOZA: No questions, your Honor.

2 EXAMINER SEE: Ms. Bojko?

3 MS. BOJKO: No questions, thank you.

4 EXAMINER SEE: Ms. Bair?

5 MS. BAIR: No questions.

6 EXAMINER SEE: Mr. Pritchard?

7 MR. PRITCHARD: No questions, your Honor.

8 EXAMINER SEE: Mr. Yurick?

9 MR. YURICK: No questions.

10 EXAMINER SEE: Mr. Boehm?

11 MR. K. BOEHM: No questions.

12 EXAMINER SEE: and Mr. Conway?

13 MR. CONWAY: Just one or two, your Honor.

14 - - -

15 RE-CROSS-EXAMINATION

16 By Mr. Conway:

17 Q. Mr. White, do you understand that the
18 concern that an entity that has provided you with
19 competitively sensitive information might be that who
20 they give it to, while not perhaps directly using it
21 to his company's advantage, might pass it along to
22 others who are directly involved in that?

23 MR. OLKER: Objection. This is ground
24 that we covered in the direct cross-examination of
25 Mr. White.

1 MR. CONWAY: Well, your Honor, he's
2 trying to rehabilitate his testimony from before by
3 telling us not to worry because I don't make the
4 decisions about how to enter new markets, and that's
5 not the concern here.

6 The concern is that he's involved in
7 discussions with others or that he might be involved
8 in discussions with others who do make those
9 decisions and he may use the information he's
10 obtained through the protective agreement, maybe not
11 by himself, but others with whom he discusses the
12 matters may use them. That's the concern. So the
13 question I asked is related to that, asking him if he
14 understands what the sensitivity is the company has
15 with regard to how the information is used.

16 EXAMINER SEE: The witness can answer the
17 question.

18 A. I'm sorry, do I understand what AEP's
19 concern is?

20 Q. Yes.

21 A. I don't know. No, I don't understand
22 what their concern is.

23 MR. CONWAY: No further questions, your
24 Honor.

25 EXAMINER SEE: Mr. Beeler?

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1 MR. BEELEER: Nothing, your Honor, thank
2 you.

3 EXAMINER SEE: Mr. Oliker?

4 MR. OLIKER: IGS would move for the
5 admission of Exhibit 8.

6 EXAMINER SEE: Are there any objections
7 to the admission of IGS Exhibit 8?

8 MR. CONWAY: No objections.

9 EXAMINER SEE: IGS Exhibit 8 is admitted
10 into the record.

11 (EXHIBIT ADMITTED INTO EVIDENCE.)

12 EXAMINER SEE: And with that we'll
13 conclude for today and reconvene tomorrow at 9 a.m.
14 starting with Mr. Campbell.

15 (The hearing adjourned at 1:35 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Tuesday, October 20,
2015, and carefully compared with my original
stenographic notes.

Maria DiPaolo Jones, Registered
Diplomate Reporter and CRR and
Notary Public in and for the
State of Ohio.

My commission expires June 19, 2016.

Rosemary Foster Anderson,
Professional Reporter and Notary
Public in and for the State of
Ohio.

My commission expires April 5, 2019.

(79553/rfa)

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Summary: Transcript In the Matter of the application of Ohio Power Company hearing held on 10/20/15 - Volume XIV electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.