

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Application of Ohio Power :
Company for Administration :
of the Significantly : Case No. 17-1230-EL-UNC
Excessive Earnings Test :
Pursuant to R.C. 4928.143(F) :
and Ohio Administrative Code :
4901:1-35-10. :

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PROCEEDINGS

Before Greta See, Attorney Examiner, at the Public
Utilities Commission of Ohio, 180 East Broad Street,
Room 11-C, Columbus, Ohio, called at 10:00 a.m. on
Tuesday, April 10, 2018.

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ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-4620
(614) 224-9481 - (800) 223-9481

- - -

APPEARANCES:

Michael DeWine, Ohio Attorney General
By Thomas W. McNamee, Esq.
Principal Assistant Attorney General
Public Utilities
30 East Broad Street, 16th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

Bruce Weston, Ohio Consumers' Counsel
By Bryce McKenney, Esq.
Bill Michael, Esq.
Christopher Healey, Esq.
Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215-4213

On behalf of the Residential
Consumers of Ohio Power Company.

American Electric Power
By Steven T. Nourse, Esq.
Christen M. Blend, Esq.
1 Riverside Plaza
Columbus, Ohio 43215

On behalf of Ohio Power Company.

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1 Tuesday Morning Session,
2 April 10, 2018.

3 - - -

4 EXAMINER SEE: Let's go on the record.
5 Scheduled for hearing today at this time
6 is Case No. 17-1230-EL-UNC, being entitled In the
7 Matter of the Application of Ohio Power Company for
8 Administration of the Significantly Excessive
9 Earnings Test.

10 My name is Greta See, I am the
11 Attorney-Examiner assigned to this case by the
12 Commission. At this time, I'd like to take
13 appearances of the parties starting with Ohio Power
14 Company.

15 MR. NOURSE: Thank you, Your Honor. On
16 behalf of Ohio Power Company, Steven T. Nourse,
17 Christen M. Blend, 1 Riverside Plaza, Columbus, Ohio
18 43215.

19 EXAMINER SEE: And on behalf of Ohio
20 Office of Consumers' Counsel.

21 MR. McKENNEY: Thank you, Your Honor.
22 On behalf of the Ohio Consumers' Counsel, Bill
23 Michael, Chris Healey and Bryce McKenney. We also
24 have with us today Jalila Dado, who is our intern.
25 She would be preparing for the Bar this summer; so

1 we're happy to have her with us.

2 EXAMINER SEE: Okay. And on behalf of
3 the Staff of the Commission.

4 MR. McNAMEE: On behalf of the Staff of
5 the Public Utilities Commission of Ohio, I'm
6 Thomas W. McNamee, Assistant Attorney General, the
7 address is 30 East Broad Street, 16th Floor,
8 Columbus, Ohio 43215.

9 EXAMINER SEE: Okay. Mr. Nourse.

10 MR. NOURSE: Thank you, Your Honor.
11 Call Andrea Moore to the stand.

12 EXAMINER SEE: Ms. Moore, if you'd raise
13 your right hand. Do you affirm that the information
14 you're about to give is true?

15 THE WITNESS: Yes.

16 (Witness placed under oath.)

17 EXAMINER SEE: Have a seat.

18 MR. NOURSE: Your Honor, before we get
19 started, if I could mark a couple exhibits. I'd like
20 to mark the application, May 15th, 2017, as AEP Ohio
21 Exhibit 1, and AEP Ohio Exhibit 2 would be testimony
22 of Andrea E. Moore.

23 Then I'd also at the outset like to mark the -- as
24 Joint Exhibit No. 1 the stipulation filed on February
25 13th, 2018.

1 (EXHIBITS MARKED FOR IDENTIFICATION.)

2 MR. NOURSE: Thank you, Your Honor.
3 With that, I'd also like to note that we have a copy
4 of the FERC Form 1 10-K, and those are voluminous
5 records that Ms. Moore references in her testimony,
6 and she's available for questions about that, but we
7 didn't plan to mark that as an exhibit per past
8 practice.

9 EXAMINER SEE: But you did have one
10 available for the Bench if needed?

11 MR. NOURSE: I do have one here
12 available. She's available to answer questions about
13 the pertinent portions of those filings.

14 EXAMINER SEE: Okay.

15 MR. NOURSE: Thank you for your
16 patience, Your Honor.

17 - - -

18 ANDREA E. MOORE,
19 being first duly sworn, as hereinafter certified,
20 deposes and says as follows:

21 DIRECT EXAMINATION

22 BY MR. NOURSE:

23 Q. So, Ms. Moore, can you state your name
24 and address?

25 A. My name is Andrea Moore, and my address

1 is 700 Morrison Drive, Gahanna, Ohio 43230.

2 Q. By whom are you employed and in what
3 capacity?

4 A. I'm employed by AEP Ohio as the director
5 of Regulatory Services.

6 Q. And did you file testimony in this
7 docket on May 15th, 2017?

8 A. Yes.

9 Q. And that testimony was prepared by you
10 or under your direction?

11 A. Yes.

12 Q. You have changes, additions, or
13 corrections you'd like to go over with this
14 testimony?

15 A. I do have a few corrections. Can you
16 guys hear me or do you want the mike on?

17 EXAMINER SEE: I can hear you fine.

18 THE WITNESS: Can you guys hear me?

19 MR. MCKENNEY: Uh-huh.

20 BY MR. NOURSE:

21 Q. Okay. And your first correction.

22 A. The first correction is on Page 1, Line 2,
23 the address, the Tech Center Drive should be struck,
24 and that should be Morrison Road, M-o-r-r-i-s-o-n,
25 Road.

1 Q. Okay. Please proceed with your other
2 corrections.

3 A. On Page 4, Line 21, in the middle of
4 that sentence at the very end the words "check if
5 there is a value" should be struck to where the
6 sentence just reads "This amount does not include
7 expenditures for philanthropic contributions and
8 purchases of Ohio goods and services."

9 Q. Thank you.

10 A. On Page 8, Line 22, the word "capital"
11 is misspelled, should be c-a-p-i-t-a-l, and the word
12 "actual" in that same Line 22 is misspelled, it
13 should be a-c-t-u-a-l.

14 On Page 9, Line 4, the end of that
15 sentence there's a "30". The zero should be a close
16 bracket.

17 On Line 8 after the word "reliability,"
18 the first word on that line, still on Page 9, there
19 should be a period.

20 Q. Thank you, Ms. Moore.

21 With those changes, if we were to ask
22 you the same questions today under oath, would your
23 answers be the same?

24 A. Yes.

25 Q. Okay. Just a couple more questions from

1 me.

2 Earlier I referenced the FERC Form 1 and
3 10-K filings for 2016, and you reference those on
4 Page 2 in Footnote 1, correct?

5 A. That's correct.

6 Q. Okay. So as those are filing
7 requirements, you're incorporating those filings into
8 your testimony through that reference; is that
9 correct?

10 A. That's correct.

11 Q. Okay. Thank you.

12 MR. NOURSE: That's all the questions I
13 have, Your Honor. I'd move for admission of AEP Ohio
14 Exhibit 1, 2, and Joint Exhibit 1 subject to
15 cross-examination.

16 EXAMINER SEE: Mr. McKenney.

17 MR. McKENNEY: All right. Thank you,
18 Your Honor.

19 - - -

20 CROSS-EXAMINATION

21 BY MR. McKENNEY:

22 Q. Good morning, Ms. Moore. How are you
23 this morning?

24 A. I'm good. Thanks. How are you?

25 Q. Good. Just to be clear at the outset

1 here, the testimony you've filed in this case is not
2 intended to address the stipulation filed in this
3 case; is that correct?

4 A. This was the direct testimony that I
5 filed in this case.

6 Q. That's right. And you did not file
7 supplemental testimony, correct?

8 A. That's correct.

9 Q. Rather, the purpose of your testimony is
10 to address the Company's capital investments and
11 other considerations for SEET purposes, right?

12 A. That's a part of it, yes.

13 Q. All right. So a part of that really
14 includes the risks faced by the Company; is that
15 correct?

16 A. Some of the risks, yes.

17 Q. Yes. Including the OVEC entitlement
18 would be, for example, one of the risks?

19 A. I believe Page 5, Line 7 and 8,
20 reference that the Company had some uncertainty and
21 risk associated with those units in 2016.

22 Q. All right. But aside from that OVEC
23 entitlement, the Company doesn't own generation,
24 correct?

25 A. That's correct.

1 Q. The Company's not in the generation
2 business, correct?

3 A. Correct.

4 Q. But while it's your testimony that the
5 Company faces risk from the OVEC entitlement, the
6 Commission has directed the Company to divest or
7 transfer that interest, hasn't it?

8 A. I'm sorry. Can you repeat that
9 question?

10 Q. The Commission has directed the Company
11 to divest or transfer its interest in OVEC, isn't
12 that correct?

13 A. The Company has to file each year an
14 update as to whether or not we could divest our
15 interest in OVEC.

16 Q. And the Company files that update
17 because the Commission directed the Company to
18 transfer or divest its interest in OVEC?

19 A. To the extent that we could, yes.

20 Q. Okay. And the Commission directed the
21 Company to divest or transfer its interest in OVEC
22 well before 2016, the year in which we're considering
23 the earnings for the Company in this case, isn't that
24 right?

25 A. I don't recall the year.

1 Q. Fair enough. You also identify other
2 risks faced by the Company, don't you?

3 A. I do.

4 Q. Yes. Including regulatory risks. You
5 state in your testimony that the Company faces
6 regulatory risks; is that correct?

7 A. That's correct.

8 Q. One of those risks being the risk of
9 uncollected deferrals, right?

10 A. That's correct.

11 Q. In fact, you state that "...increased
12 pressure on regulators to maintain existing utility
13 electric rates can create regulatory lag issues for
14 EDUs." It's on Page 7, Line 21 of your testimony.
15 Did I read that correctly?

16 A. That's correct.

17 Q. But you've never been a regulator, have
18 you?

19 A. No. I was just giving a general
20 statement that normally the regulators have tried to
21 minimize or hold flat customer rates.

22 Q. But you're speculating as to the
23 motivations of the regulator to make deferrals,
24 aren't you?

25 MR. NOURSE: Your Honor, I object.

1 She's giving her testimony as to the Company's
2 perspective and the risks that they face. I don't
3 think that's an accurate statement.

4 MR. McKENNEY: Your Honor, while she
5 testifies to the risks faced by the Company in this
6 case, she's actually testifying to the motivations of
7 the Commission, as the regulator, to make deferrals
8 or the authority to collect on deferrals. I don't
9 think that's a general statement, I think that's
10 speculation.

11 MR. NOURSE: No, Your Honor, that's
12 inaccurate, because she's clearly testifying to the
13 risks facing the Company, not in the minds or
14 intentions or -- of the regulator, just a fact that
15 exists.

16 EXAMINER SEE: The objection is
17 sustained.

18 BY MR. McKENNEY:

19 Q. Ms. Moore, to obtain a deferral, the
20 Company has to apply to the Commission for authority
21 to do so, isn't that right?

22 A. I would say that's correct, yes.

23 Q. Similarly, it also applies to the
24 Commission to collect any deferred amounts, isn't
25 that right?

1 A. I would say that that's correct, yes.

2 Q. So any risk associated with
3 uncollectible deferrals is a self-imposed risk, isn't
4 it?

5 A. I -- I disagree. I think that any of
6 the risks associated with deferrals is, one, a cash
7 flow risk. There's not -- when the Commission
8 actually orders for a company to defer costs, it's
9 not guaranteeing the recovery of those costs, and it
10 does create a cash flow issue between the time we're
11 actually deferring cost to the time we collect it if
12 we do collect it.

13 Q. You stated when the Commission orders a
14 deferral.

15 A. Yes.

16 Q. But, in fact, the Company has to apply
17 to the Commission to do a deferral, correct?

18 MR. NOURSE: Your Honor, I just object,
19 it's a generalization. I mean, the Commission
20 obviously orders deferrals on its own sometimes and
21 sometimes based on the Company's request, and he's
22 not giving a specific example.

23 MR. McKENNEY: Your Honor, to grant a
24 deferral, the Company has to apply to the Commission
25 for the authority to do so. I don't think that's a

1 general -- I mean, it is a general statement, but
2 it's an accurate statement. That's how deferrals are
3 granted. The Company comes in on its own volition to
4 obtain the deferral from the Commission.

5 EXAMINER SEE: The objection is
6 sustained. If you want to try again, Mr. McKenney,
7 you can.

8 MR. McKENNEY: Thank you, Your Honor.

9 BY MR. McKENNEY:

10 Q. Let's move on.

11 On Page 8, Lines 7 through 9, you've
12 also identified Senate Bill 221 and the requirements
13 thereunder as a risk to the Company; is that correct?

14 A. That's correct.

15 Q. But Senate Bill 221 was passed in 2008,
16 wasn't it?

17 A. I can't recall the exact year, but it's
18 been --

19 Q. But it's safe to say that the Company
20 has had a number of years to prepare for Senate
21 Bill 221, isn't that right?

22 A. Not necessarily. Senate Bill 221 has
23 been around for some time, but there's still
24 uncertainty around how to interpret Senate Bill 221.
25 And I think that the Company's looking at even some

1 of the maybe Supreme Court appeals, things like that
 2 that AEP Ohio has experienced around Senate Bill 221.
 3 And what I'm talking about there is some of the
 4 uncertainties that I don't think that it's clear how
 5 to apply Senate Bill 221.

6 Q. You also identify environmental mandates
 7 as a risk to the Company.

8 A. That's correct.

9 Q. Would you say it's a fair statement that
 10 environmental mandates are primarily a risk for
 11 generation of the Company's?

12 A. No. I would consider the Company's
 13 mandate for providing renewable energy to our
 14 customer base would be considered environmental
 15 mandate.

16 Q. But it's also your testimony that the
 17 Company should be credited for its voluntary efforts
 18 to pursue renewables and decrease carbon emissions,
 19 isn't that right?

20 A. What I was just speaking about is
 21 different than the renewable piece that you had just
 22 asked me about, or the 900 megawatts of renewable
 23 energy in the state of Ohio.

24 Q. So those 900 megawatts that it's
 25 voluntarily pursuing, according to your testimony,

1 would still get credited to the Company for complying
2 with Senate Bill 221 and other environmental
3 mandates, wouldn't it? I could rephrase the
4 question.

5 You still -- the environmental mandates
6 the Company's pursuing would still allow the Company
7 to comply -- sorry.

8 The renewables that the Company's
9 pursuing would still allow it to comply with
10 environmental mandates, wouldn't it?

11 A. That wasn't what I was talking about for
12 those environmental mandates. For those, I'm
13 actually talking about the RECs that we have to do
14 for our customer base.

15 Q. You also identify ESP timing as a risk
16 to the Company, don't you?

17 A. I do.

18 Q. But the Company has the discretion to
19 file an ESP, doesn't it? The Company files ESPs --
20 it's up to the Company when to file an ESP; is that
21 correct?

22 A. There's periods of the ESP. And when
23 you go in for the ESP period, the length of the term
24 is determined in that ESP proceeding.

25 Q. Generally the Commission does not direct

1 the Company to file a new ESP?

2 A. No. In general our terms have been set
3 for a period of time, and before that period of time
4 expires the Company would come in and file for
5 another ESP.

6 Q. So once again, ESP timing is a
7 self-imposed risk upon the Company?

8 A. I don't agree that it's a self-imposed
9 risk. Like I said, the Company comes in and makes an
10 ESP filing, and the term of that ESP is then granted
11 through that filing through that Commission order.

12 Q. But the Company proposes that term in
13 its ESP filing, doesn't it?

14 A. At times, yes.

15 MR. McKENNEY: I have nothing further,
16 Your Honor.

17 EXAMINER SEE: Mr. McNamee, any
18 questions for this witness?

19 MR. McNAMEE: The only questions I would
20 have would be friendly; so I pass.

21 EXAMINER SEE: Okay. Any redirect,
22 Mr. Nourse?

23 MR. NOURSE: No, Your Honor.

24 EXAMINER SEE: Okay.

25 MR. NOURSE: Would just renew my motion

1 for admission of AEP Exhibits 1 and 2.

2 EXAMINER SEE: Are there any objections
3 to the admission of AEP Exhibits 1 and 2, the
4 application and the direct testimony of Ms. Moore?

5 MR. McNAMEE: None from the Staff.

6 MR. McKENNEY: No objection, Your Honor.

7 EXAMINER SEE: AEP Exhibits 1 and 2 are
8 admitted into the record.

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 EXAMINER SEE: Thank you, Ms. Moore.

11 THE WITNESS: Thank you.

12 MR. NOURSE: Thank you, Your Honor. The
13 Company calls Tyler Ross.

14 EXAMINER SEE: Mr. Ross, if you'd raise
15 your right hand. Do you affirm that the information
16 you're about to give is true?

17 THE WITNESS: I do.

18 (Witness placed under oath.)

19 EXAMINER SEE: Thank you. Have a seat.

20 MR. NOURSE: Your Honor, if I could mark
21 AEP Ohio Exhibit 3, prefiled testimony of Tyler Ross.

22 EXAMINER SEE: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MR. NOURSE: Thank you.

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TYLER H. ROSS,
being first duly sworn, as hereinafter certified,
deposes and says as follows:

DIRECT EXAMINATION

BY MR. NOURSE:

Q. Mr. Ross, do you have the document that
we just marked AEP Ohio Exhibit 3?

A. I do.

Q. This is your prefiled testimony prepared
by you or under your direction?

A. That is correct.

Q. And I should have asked you by whom
you're employed and in what capacity?

A. I'm employed by AEP Service Corporation
as director of Regulatory Accounting Services.

Q. Thank you. And do you have corrections,
additions, or changes to your prefiled testimony?

A. I do not.

Q. If we were to ask you these same
questions today under oath, would your answers be the
same?

A. Yes, they would.

Q. Thank you.

MR. NOURSE: Your Honor, I'd move for
the admission of AEP Ohio Exhibit 3 subject to

1 cross-examination.

2 EXAMINER SEE: Mr. McKenney.

3 MR. McKENNEY: Thank you, Your Honor.

4 - - -

5 CROSS-EXAMINATION

6 BY MR. McKENNEY:

7 Q. Good morning, Mr. Ross. How are you
8 this morning?

9 A. Good morning. Doing well.

10 Q. Like Ms. Moore, you also did not file
11 testimony to support the stipulation; is that
12 correct?

13 A. That is correct.

14 Q. You're not testifying regarding the
15 Commission's three-part test regarding the
16 reasonableness of the stipulation?

17 A. That is correct.

18 Q. Mr. Ross, I'd like to -- do you have a
19 copy of your testimony in front of you?

20 A. I do.

21 Q. I'd like to turn to Exhibit THR-1,
22 Page 2.

23 A. Okay.

24 Q. Okay. I just want to walk through some
25 of these numbers real quick with you if that's all

1 right.

2 A. Sure.

3 Q. Starting there with Line 5, do you see
4 the actual 2016 earnings attributable to common
5 shareholder?

6 A. Yes.

7 Q. You start with earnings of \$282 million
8 approximately.

9 A. Yes.

10 Q. And average equity of \$2,052,000
11 approximately, correct?

12 A. That is correct.

13 Q. But by dividing those earnings and
14 average equity, you arrive at a 13.75 percent ROE; is
15 that correct?

16 A. That is correct, yes.

17 Q. Then if we go down below that, you see
18 your removal of the 2016 preliminary SEET provision,
19 right?

20 A. Yes.

21 Q. And then on Line 12 walking through the
22 2016 earnings attributable to common shareholder, you
23 make an adjustment, \$319 million, to those earnings,
24 right?

25 A. Yes.

1 Q. So what you would do is you would add
2 the 37 million to the 282 million to arrive at that
3 \$319 million?

4 A. That's correct.

5 Q. Similarly, with the average equity you
6 would add 18 million approximately to that 2 billion
7 to arrive at \$2,070,000?

8 A. Correct.

9 Q. And that arrives at a ROE of 15.44
10 percent; is that correct?

11 A. That is correct.

12 Q. Then we move into your adjustments,
13 don't we?

14 A. Yes.

15 Q. Your first adjustment, you add back --
16 actually let's -- if we look down to Line 21, the net
17 pretax December 2016 provision for impact of global
18 settlement.

19 A. Yes.

20 Q. You add 17 million approximately to that
21 319 million and the 282 million in earnings above
22 that, right?

23 A. That is correct.

24 Q. That's a total of about 337,599,000?

25 A. Yes.

1 Q. Similarly, the 8 million in average
2 equity there next to that you would add to the above
3 amount; is that correct?

4 A. That is correct.

5 Q. To arrive at about \$2,079,000?

6 A. That looks --

7 Q. So if we were to divide this number --

8 EXAMINER SEE: Woah. Woah.

9 MR. McKENNEY: Oh, I'm sorry.

10 EXAMINER SEE: That last question,
11 Mr. McKenney, read it over, please.

12 MR. McKENNEY: Okay.

13 BY MR. McKENNEY:

14 Q. I'll try and slow down.

15 Mr. Ross, next to that 17 million is the
16 8,947,000.

17 A. Change to equity, that is correct.

18 Q. Yes, that's correct. So what you would
19 do is you would divide that 337,599,000 by the
20 2,079,768, correct?

21 A. Without doing the math here in my head,
22 yes, you would just -- you'd add those numbers to
23 Lines 12 and Lines 21 together and then calculate a
24 new equity.

25 Q. Yeah, that's right.

1 A. Yeah.

2 Q. Subject to check, if you were to divide
3 those, you would arrive at an ROE of 16.23 percent?

4 A. Yes, that is correct.

5 Q. Is that correct?

6 That's the same ROE proposed by OCC
7 Witness Daniel Duann, isn't it?

8 A. I don't recall the number that Witness
9 Duann had.

10 Q. Did you read Mr. Duann's testimony?

11 A. I read fragments of it, but I do not
12 recall all the details of it.

13 Q. But you would agree that making just
14 Adjustment 1, you do arrive at an ROE of 16.23
15 percent, correct?

16 A. Taking the per books, adding back the
17 SEET provision that was recorded, and then adding
18 back Adjustment 1, you would then arrive at a 16.23
19 percent ROE.

20 Q. Thank you. But then after that is when
21 you move into your subsequent adjustments, right?

22 A. Well, there's three adjustments yet.

23 Q. Two more after that, right?

24 A. Yes. Yes.

25 Q. Okay. In your second adjustment, you

1 would remove 13.8 million net of tax earnings based
2 upon the Supreme Court's opinion in 2016 Case
3 No. 2013-0521, right?

4 A. Yes, that's correct.

5 Q. Just to be clear, you're not an
6 attorney, right?

7 A. Correct.

8 Q. But your understanding of the opinion is
9 that the Commission was directed by the court to
10 reconsider its adoption of a 12 percent ROE for the
11 term of the ESP?

12 A. Just to clarify, you know, the -- we
13 were made aware of the Supreme Court's overturning of
14 the 12 percent threshold. The Company had
15 consultation with our regulatory and legal teams who
16 deemed that it was no longer necessary for that
17 provision, and we reversed it on the books, and then
18 we made the adjustment here because the Company felt
19 like these were not representative of 2016 SEET
20 earnings.

21 MR. McKENNEY: Your Honor, I'd move to
22 strike that, it's not responsive to the question. I
23 know it was clarifying information, but I don't think
24 it adds anything here and I don't think -- I didn't
25 have a question pending.

1 MR. NOURSE: Well, there was a question.
2 Could I hear the question again, please?

3 EXAMINER SEE: Yes.

4 (Record read back as requested.)

5 MR. NOURSE: Yeah. So I think Mr. Ross
6 is clearly responding to that question, which is not
7 a complete explanation of what the Supreme Court did,
8 and so he helpfully explained a more accurate version
9 of what the Supreme Court did and what we did in
10 response.

11 MR. McKENNEY: Can I hear the response
12 back as well?

13 (Record read back as requested.)

14 MR. McKENNEY: Your Honor, I'll withdraw
15 my motion to strike.

16 BY MR. McKENNEY:

17 Q. Mr. Ross, what this resulted in is
18 additional earnings reported in 2016, even though in
19 your opinion they were actually earned in 2014; is
20 that correct?

21 A. Yes. This reversal resulted in
22 additional per-books earnings for 2016 for Ohio
23 Power, but this adjustment was not indicative of
24 OPCo's 2016 earnings. They were relevant to 2014.

25 Q. But the Commission never ruled -- the

1 Commission never issued an opinion regarding the 2014
2 SEET earnings, did it?

3 MR. NOURSE: Your Honor, I just want to
4 interpose an objection. I'm not sure -- you know,
5 he's asked him whether the Commission issued a
6 decision in a case that OCC stipulated, and the
7 Commission resolved through an order adopting that
8 stipulation that OCC supported to resolve the 2014
9 decision.

10 MR. McKENNEY: Your Honor, my question
11 was whether it ruled on the earnings. So while the
12 global settlement was adopted by the Commission, the
13 global settlement did not establish the Company's
14 earnings or earnings threshold for 2014.

15 MR. NOURSE: The global settlement,
16 which OCC supported, resolved the 2014 case and all
17 the issues that go along with that case.

18 MR. McKENNEY: It resolved the case, but
19 it did not hold what the Company's earnings or
20 earnings threshold were in 2014. It just
21 established -- it just held that the Company would be
22 bound to not have excessive earnings for the year.

23 EXAMINER SEE: So the question for the
24 witness is?

25 MR. McKENNEY: That the Commission never

1 made a determination regarding what the Company's
2 earnings were in 2014, correct?

3 EXAMINER SEE: The objection is
4 overruled. You can answer the question.

5 THE WITNESS: I am not aware of the
6 Commission issuing a final order stating what the
7 threshold was, what the earnings threshold was, or
8 what Ohio Power's earnings for SEET purposes were for
9 2014.

10 BY MR. McKENNEY:

11 Q. And it's your testimony that the
12 Commission cannot go back and review the earnings for
13 2014, correct?

14 A. Based upon the global settlement, yes.

15 Q. And that's also true for the earnings
16 threshold in 2014, right?

17 A. I would guess by linkage, yes.

18 Q. So all SEET -- so all years prior to
19 2016, the Commission cannot go back and review the
20 Significantly Excessive Earnings Test of the Company?

21 MR. NOURSE: Your Honor --

22 MR. McKENNEY: I'll rephrase the
23 question, Your Honor. I'll rephrase that.

24 BY MR. McKENNEY:

25 Q. It's your testimony that all SEET years

1 prior to 2016 can no longer be considered by the
2 Commission, correct?

3 MR. NOURSE: I just object. I don't
4 think Mr. Ross opines on what the Commission can and
5 can't do.

6 MR. McKENNEY: That's fine, Your Honor.
7 BY MR. McKENNEY:

8 Q. Mr. Ross, by subtracting these earnings
9 from 2016 and adding them to 2014 earnings, doesn't
10 that evade the Commission's review of those earnings?

11 A. I don't think I'm one to speak to that
12 issue. I'm just simply, you know, calculating the
13 numbers. Obviously anything relevant to 2014 or 2016
14 SEET earnings we're going to have consultation with
15 the regulatory legal teams as far as what the
16 Commission can or cannot do for those years. I mean,
17 I have to defer to our other departments' advice that
18 they provide.

19 Q. Fair enough. Your third adjustment then
20 is you recommend an adjustment to lower the Company's
21 earnings based on the removal of incremental PIRR
22 equity carrying charges, correct?

23 A. That is correct.

24 Q. Once again, this adjustment is based on
25 an opinion of the Supreme Court of Ohio, correct?

1 A. Based on an opinion from the Supreme
2 Court of Ohio and a subsequent order issued by the
3 PUCO to implement updated PIRR rates.

4 Q. That's right. A different opinion,
5 though, correct?

6 A. Yes.

7 Q. Yes. Once again, you're not an
8 attorney, right?

9 A. Correct.

10 Q. And the court remanded the matter back
11 to the Commission, at which point the Commission
12 reinstated the weighted average cost of capital rate
13 of return on the PIRR, correct?

14 A. That is correct, in July of 2016.

15 Q. Actually it was June 2016, I believe.

16 A. Rates went into effect July 2016.

17 Q. All right, see what you're saying.

18 Forgive me.

19 So rates went into effect July 2016?

20 A. Correct.

21 Q. So while the Commission approved the
22 Company's request to increase PIRR rates for a
23 weighted average cost of capital return effective
24 2012, the Company didn't actually begin collecting
25 that money until 2016; is that right?

1 A. Can you repeat the question, please?

2 Q. While the Commission approved the
3 Company's request to increase PIRR rates for weighted
4 average cost of capital return effective back to
5 2012 --

6 A. Oh, back to 2012, okay.

7 Q. -- the Company didn't actually begin
8 collecting that money until 2016?

9 A. That is correct, in July of 2016.

10 Q. Thank you.

11 MR. McKENNEY: I have nothing further,
12 Your Honor.

13 EXAMINER SEE: Mr. McNamee.

14 MR. McNAMEE: Again, no questions, they
15 would be friendly.

16 EXAMINER SEE: Any redirect, Mr. Nourse?

17 MR. NOURSE: No, Your Honor.

18 I'd just renew my motion for AEP Ohio
19 Exhibit 3.

20 EXAMINER SEE: Thank you, Mr. Ross.

21 Are there any objections to the
22 admission of AEP Exhibit 3?

23 MR. McNAMEE: No objection from Staff,
24 Your Honor.

25 MR. McKENNEY: No objection, Your Honor.

1 EXAMINER SEE: AEP Exhibit 3, the direct
2 testimony of Mr. Ross, is admitted into the record.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 MR. NOURSE: Thank you, Your Honor.

5 And the Company calls William Allen.

6 EXAMINER SEE: Mr. Allen, if you'd raise
7 your right hand. Do you affirm that the information
8 you're about to give is true?

9 THE WITNESS: Yes, I do.

10 (Witness placed under oath.)

11 EXAMINER SEE: Thank you. Have a seat.

12 MR. NOURSE: Your Honor, if I could mark
13 two exhibits, Mr. Allen's direct testimony from May
14 15th, 2017, is AEP Ohio Exhibit --

15 EXAMINER SEE: 4.

16 MR. NOURSE: -- 4, I'm sorry, and
17 Mr. Allen's testimony from March 9, 2018, in support
18 of the stipulation, would be Exhibit 5.

19 EXAMINER SEE: So marked.

20 MR. NOURSE: Thank you.

21 (EXHIBITS MARKED FOR IDENTIFICATION.)

22 - - -

23 WILLIAM A. ALLEN,
24 being first duly sworn, as hereinafter certified,
25 deposes and says as follows:

DIRECT EXAMINATION

BY MR. NOURSE:

Q. Mr. Allen, by whom are you employed and in what capacity?

A. I'm employed by American Electric Power Service Corporation as managing director of Regulatory Case Management.

Q. Thank you. Let's go through AEP Ohio Exhibit 4 first, which is your May 15, 2017, testimony.

A. Okay.

Q. And this testimony is prepared by you or under your direction, correct?

A. That's correct.

Q. Do you have any changes, additions, or corrections to this piece of testimony?

A. No, I do not.

Q. And if we were to ask you the same questions today under oath, would your answers be the same?

A. Yes, they would.

Q. Thank you. And with respect to Exhibit 5, which is the March 9th, 2018, testimony in support of the stipulation, was that testimony prepared by you or under your direction?

1 A. Yes, it was.

2 Q. And do you have changes, additions, or
3 corrections to this testimony?

4 A. Yes, just one. On Page 5, Lines 20 and
5 21, the words "should not be included" should be
6 deleted from that sentence such that the sentence now
7 reads "It would be improper to include the same \$21.4
8 million in pretax earnings in AEP Ohio's 2016 SEET
9 earnings since those earnings were already included
10 in AEP Ohio's 2014 SEET earnings."

11 Q. Thank you, Mr. Allen. With that change,
12 if we ask you the same questions under oath today,
13 would your answers be the same?

14 A. Yes, they would.

15 Q. Okay.

16 MR. NOURSE: Your Honor, on that basis,
17 I would move for admission of AEP Ohio Exhibits 4 and
18 5 subject to cross-examination.

19 EXAMINER SEE: Mr. McKenney.

20 MR. McKENNEY: Mr. Healey actually, Your
21 Honor.

22 EXAMINER SEE: Ah.

23 MR. HEALEY: Your Honor, would you
24 entertain motions to strike at this time in regard to
25 AEP Exhibits 4 and 5?

1 EXAMINER SEE: Sure.

2 MR. HEALEY: The first motion to strike
3 pertains to Exhibit 4, his initial testimony,
4 starting on Page 4, Line 10, it's the sentence that
5 reads "The" -- the sentence that begins "The
6 Company's 2011, 2012 and 2013 SEET cases," and
7 continues through the end of the following sentence
8 with the words "accepted in the prior settlements."

9 I'd also move to strike --

10 MR. NOURSE: I'm sorry, could I clarify
11 that first one, Chris?

12 MR. HEALEY: Sure.

13 MR. NOURSE: Where does it end?

14 MR. HEALEY: It ends at the end of the
15 partial sentence on Line 14, "prior settlements."

16 MR. NOURSE: Thank you.

17 MR. McNAMEE: Where does it start?

18 MR. HEALEY: It starts at the very
19 beginning of Line 10, "The Company's 2011."

20 I'd also move to strike on that same
21 page beginning on Line 21 the last word "and" and all
22 of Lines 22 and 23.

23 I'd also move to strike on Page 5 --

24 EXAMINER SEE: Hold on just a second.

25 MR. HEALEY: Yes, Your Honor.

1 EXAMINER SEE: On Page 5.

2 MR. HEALEY: Page 5 of the same
3 testimony, Line 21, the last full sentence there that
4 starts with "The Company and Commission" and ends on
5 Line 23 with "have been settled."

6 There's one more relevant portion in the
7 March 9th testimony starting on Page 3, I move to
8 strike that testimony starting on Line 7 at the
9 beginning and continuing through all of Lines 8, 9,
10 10, and then the first three words on Line 11, "the
11 prior settlements."

12 Your Honor, the reason that the
13 Commission should strike these four portions of
14 Mr. Allen's testimony is because these are all
15 citations to stipulations that were signed by AEP
16 Ohio, each of which has identical language stating
17 that they shall not be cited as precedent in any
18 future proceeding. AEP was a party to each
19 settlement and agreed not to cite these, yet
20 Mr. Allen is citing each of these as support for his
21 positions in this case and encouraging the Commission
22 to adopt AEP's methodology for calculating SEET
23 threshold. I believe these should be stricken for
24 that reason.

25 MR. NOURSE: Your Honor, I disagree.

1 The -- looking at the May 15th, 2017, testimony first
2 on Page 4, that Q and A deals with the history of
3 SEET with respect to AEP Ohio. So it's a simple
4 recitation of the various cases that have been
5 processed under the SEET statute, and those are
6 definitely part of that history, those cases that
7 were settled.

8 I think the reference at the bottom of
9 Page 4, Lines 21 and 23, is similar, a factual
10 statement, and as is the sentence at the end of
11 Page 5, these settlements have all been adopted by
12 the Commission as their order.

13 When you're looking at the issue that
14 OCC's raising in this case of whether something
15 violates an important regulatory principle or
16 practice, I believe the fact that the Commission has
17 adopted something even in a settlement is relevant.
18 I don't think it's precedent in the sense that we're
19 saying the Commission adjudicated this specific
20 issue, that it should be followed as precedent here,
21 but I think -- I would submit in connection with the
22 three-part test in the argument that something
23 violates an important practice or principle, you
24 know, citing the fact that the Commission has adopted
25 that result in another case even through settlement I

1 think is relevant there, but it's not citing it as
2 precedent in that general sense.

3 Just finally to look at the stipulation
4 testimony, Page 3, those sentences that are
5 referenced there, again, same thing, it's partly just
6 a historical account of those cases as well as a --
7 saying that the Commission adopted the method in its
8 order which is, you know, not violative of any
9 regulatory principle or practice.

10 MR. HEALEY: Your Honor, Mr. Nourse's
11 interpretation would render meaningless the provision
12 in all stipulations that they could not be cited as
13 precedent. It's an obvious end-around to say, "Well,
14 the Commission adopted it, therefore, it's relevant;
15 therefore, it should be considered." If it's not
16 being cited as precedent, then I would argue that
17 it's not relevant at all, otherwise that's the very
18 definition of precedent.

19 Mr. Allen is saying this is what
20 happened in the past, you should do the same thing
21 now. That is what precedent is.

22 MR. NOURSE: No, Your Honor, I disagree.
23 The purpose of that clause that's in the stipulations
24 is to say, hey, if OCC settled a case and they agreed
25 to something in a case that they would not have

1 agreed to in litigation, we can't use that against
2 OCC and cite that as precedent, it would bind OCC in
3 a future case. That's the context and purpose of
4 that language.

5 It's not the context and purpose that
6 we're dealing with here where the Commission has
7 adopted as its order a result and a current context
8 of attacking a stipulation under the three-part test.
9 So it certainly doesn't eliminate the meaning of that
10 language, it preserves that.

11 We're not saying here, first of all, OCC
12 wasn't part of those prior settlements and we're not,
13 you know, even using that against OCC specifically.
14 We're responding to OCC's challenge and using the
15 three-part test and the fact that the Commission has
16 adopted that result in its order.

17 EXAMINER SEE: The motion to strike
18 those four parts of Mr. Allen's testimony in what has
19 been marked as AEP Exhibits 4 and 5 is denied.

20 - - -

21 CROSS-EXAMINATION

22 BY MR. HEALEY:

23 Q. Good morning, Mr. Allen. A few
24 clarifying points just to start so we're on the same
25 page. If I use the abbreviation ROE, you'll

1 understand that I mean return on equity, correct?

2 A. That's correct.

3 Q. And if I use the acronym SEET, S-E-E-T,
4 you'll understand I'm referring to the Significantly
5 Excessive Earnings Test as that phrase is commonly
6 being used by everyone in this case?

7 A. Yes.

8 Q. You're testifying in support of the
9 stipulation; is that right?

10 A. Yes, that's correct.

11 Q. And you're generally familiar with the
12 Commission's three-part test for evaluating
13 stipulations?

14 A. Yes, I am.

15 Q. And in particular you understand that
16 the first part of that test is where the Commission
17 asks whether the stipulation is the product of
18 serious bargaining among capable, knowledgeable
19 parties, correct?

20 A. As indicated on the top of Page 4 of my
21 testimony, that's correct.

22 Q. What is bargaining?

23 A. Bargaining would be a negotiation
24 process where individuals try to find a common point
25 of acceptance.

1 Q. What's the difference between bargaining
2 and serious bargaining?

3 A. I think as serious bargaining is
4 described here is that the -- that the -- the parties
5 that are being described bargained in a meaningful
6 way where there was intent to come to a resolution
7 that the parties were willing to stand behind.

8 Q. Let's turn to Page 4 of your
9 supplemental testimony.

10 A. I'm there.

11 Q. Starting at Line 11, you state that "The
12 Company" -- being AEP -- "contacted Staff and the
13 Office of the Ohio Consumers' Counsel...", correct?

14 A. That's correct.

15 Q. When you say "The Company contacted
16 Staff...", did you personally contact Staff regarding
17 this case?

18 A. My memory is that counsel for AEP Ohio
19 reached out to Staff on behalf of the Company.

20 Q. And were you copied on any of those
21 communications?

22 A. I was in discussions with our counsel
23 before those discussions occurred, and discussed what
24 those discussions would be and what offers the
25 Company was willing to make.

1 Q. Thank you. My question was: Were you
2 copied on any of the communications between AEP's
3 counsel and Staff?

4 A. I don't recall.

5 Q. When you say the Company contacted OCC
6 to discuss settlement of the case, you did not
7 personally contact OCC; is that right?

8 A. That's correct.

9 Q. And were you copied on any
10 communications between AEP and OCC regarding this
11 case?

12 A. Similar to the discussion regarding
13 Staff, I had discussions with our counsel prior to
14 them reaching out to OCC, but I don't recall if I was
15 copied on any specific communications.

16 MR. HEALEY: Your Honor, I'd move to
17 strike Page 4, starting at Line 11, the words "The
18 Company" and continuing through the end of Line 13.
19 Mr. Allen has admitted that he did not personally
20 reach out to the Staff or OCC, and he does not know
21 if he was copied on any of those communications;
22 therefore, he lacks personal knowledge under Rule of
23 Evidence 602 regarding those communications.

24 MR. NOURSE: Your Honor --

25 EXAMINER SEE: Let me get a

1 clarification, please.

2 MR. NOURSE: Sorry.

3 EXAMINER SEE: You said motion to strike
4 from Line 11, Page 4, to the end of Line 13?

5 MR. HEALEY: Correct.

6 EXAMINER SEE: Okay. Go ahead,
7 Mr. Nourse.

8 MR. NOURSE: Your Honor, to -- first of
9 all, I disagree. Mr. Allen -- well, first of all, I
10 think any party is entitled to take actions through
11 counsel with respect to, you know, litigation and
12 settlement before the PUCO. So, you know, the
13 parties -- the fact the parties engaged in settlement
14 through counsel on both sides in this case doesn't
15 take away from the fact that those negotiations
16 occurred.

17 Secondly, the fact that Mr. Allen does
18 not recall whether he was copied has no bearing and
19 it doesn't suggest that he didn't see the offers or
20 that he wasn't aware of them or, again, through
21 discussions with counsel, that's certainly not
22 uncommon for parties to engage in negotiations and
23 settlement offers through counsel, and it doesn't
24 take away from the fact that it occurred or his
25 general knowledge of what happened in this case.

MR. HEALEY: Your Honor, with all due respect to Mr. Nourse, I understand the process is that parties go through counsel. The question here is not whether that's appropriate or whether that's commonly done. The question is does this witness have personal knowledge that these communications occurred. And as per his testimony here and his cross-examination testimony, he's acknowledged that he does not.

MR. NOURSE: No, Your Honor, he has not. He merely said he did not recall whether he had been copied. I understand copied to mean a real-time, you know, copying through email, I guess, of a transmission as opposed to seeing a document later, talking with counsel, conferring, and then responding to the other party.

So the fact that he -- whether he was or wasn't copied he doesn't recall is immaterial and irrelevant. The fact that he does have knowledge about the settlement and the back and forth and the settlement negotiations between counsel is the basis for his opinion on the three-part test, Prong No. 1.

I would just add, Your Honor, if I could, I mean, the three-part test does not say -- Prong No. 1 does not say that the parties have to

1 have certain types of agents or certain officers or
2 certain employees in the same room at the same time.
3 There's no basis in --

4 MR. HEALEY: Your Honor, is any of this
5 relevant to the motion that's pending --

6 MR. NOURSE: If I could finish.

7 MR. HEALEY: -- as opposed to
8 Mr. Nourse's testimony in this case?

9 MR. NOURSE: If I could finish, Your
10 Honor. The premise of Mr. Healey's motion here that
11 we're discussing is an assumption that the first
12 prong requires parties to be -- to have certain kinds
13 of employees or agents or officers involved in the
14 same room at the same time or, you know, he made up
15 this thing about being copied, which I don't think
16 has any relevance, either, but the test, itself, is
17 is the settlement a product of serious bargaining.

18 Mr. Allen has already indicated the
19 basis of his knowledge, he was aware of each
20 transmission and discussed it with counsel back and
21 forth, and he's already testified to that knowledge,
22 and that's the basis for his judgment, his opinion
23 about the product of serious bargaining under Prong 1.

24 EXAMINER SEE: Did you have anything you
25 wanted to add to that, Mr. Healey?

1 MR. HEALEY: No, Your Honor.

2 EXAMINER SEE: At this point, the motion
3 to strike that -- those two sentences are denied.
4 Continue, Mr. Healey.

5 BY MR. HEALEY:

6 Q. Mr. Allen, do you have a copy of the
7 stipulation in front of you?

8 A. I do.

9 Q. Can you turn to Page 5, please?

10 A. I'm there.

11 Q. I direct you to Paragraph D at the top,
12 which refers to Staff Witness Buckley's testimony,
13 stating that he supports a finding that the
14 comparable risk groups mean earned ROE is 8.67
15 percent. Do you see that?

16 A. I do.

17 Q. You disagree with Mr. Buckley's 8.67
18 percent ROE, correct?

19 A. My analysis results in a different mean
20 ROE.

21 Q. Mr. Allen, do you disagree with Staff
22 Witness Buckley's testimony regarding an ROE of 8.67
23 percent?

24 A. So I believe that the methodology that I
25 employed more accurately represents what the

1 comparable groups mean earned ROE was for 2016. So I
2 think that's a more accurate representative mean ROE
3 than the ROE that Staff Witness Buckley uses.

4 Q. I appreciate your discussion of your
5 testimony. I'm talking about Mr. Buckley's
6 testimony. I'm talking about his conclusion
7 regarding an 8.67 percent ROE. Do you agree with
8 that number or do you disagree with it?

9 A. My testimony is that the appropriate
10 mean earned ROE is 10.69 percent.

11 Q. And 10.69 percent is not the same as
12 8.67 percent, correct?

13 A. That's correct.

14 Q. And AEP does not concede through the
15 stipulation that this 8.67 percent ROE should be used
16 for the SEET in this case, correct?

17 A. What the Company is agreeing to in the
18 stipulation is that under either the approach used by
19 Staff Witness Buckley or the approach that I support
20 in my testimony, that under either of those
21 approaches that there is no significantly excessive
22 earnings for AEP Ohio for 2016.

23 Q. Thank you. That wasn't my question,
24 though. My question was: Does AEP concede through
25 the stipulation that the 8.67 percent ROE should be

1 used for the SEET in this case?

2 A. I think the stipulation speaks for
3 itself. What the stipulation is stating is that
4 there were two calculations of the SEET threshold;
5 one performed by the Company and one performed by the
6 Staff.

7 What the Company and the Staff are
8 agreeing to is what's stated in Paragraph F on Page 5
9 which states "Accordingly, the Signatory Parties
10 agree that AEP Ohio's 2016 earned ROE does not
11 constitute significantly excessive earnings under
12 Section 4928.143(F) of the Revised Code."

13 Q. Mr. Allen, we're going to get to
14 Paragraph F. When I ask you a question about
15 Paragraph F, I would welcome your response. But my
16 question right now is with regard to Paragraph D,
17 which discusses Staff Witness Buckley's earned ROE of
18 8.67 percent. And you, as the witness sponsoring the
19 stipulation, I'm asking you: Does AEP, through this
20 stipulation, concede that that 8.67 percent ROE
21 should be used in this case?

22 A. So I think you're taking that out of
23 context. So if you go back to Page 4, the paragraphs
24 that you're referring to are in the Recommendations
25 section of the stipulation. What the signatory

1 parties -- one of which is AEP Ohio, who I'm speaking
2 on behalf of -- they recommend that the Commission
3 make the following findings, and the finding that
4 we're recommending is that the Staff testimony
5 supports that mean ROE of 8.67 percent. The
6 Company's not conceding to it. What the Company is
7 agreeing to is what's in Paragraph F.

8 Q. Paragraph D also states that "Staff
9 calculated a SEET threshold of 16.08 percent." Do
10 you see that?

11 A. I do.

12 Q. Your answer would be the same, that by
13 signing the stipulation AEP is not conceding that the
14 16.08 percent SEET threshold should be used in this
15 case, correct?

16 A. What the Company is recommending is that
17 the Commission find that the Staff calculated a SEET
18 threshold of 16.08 percent.

19 Q. And does AEP concede that that 16.08
20 percent number should be used in this case?

21 A. What the Company is recommending is that
22 the Commission look at both -- or, I'm sorry, several
23 of the facts that are listed in the Recommendations
24 section, which are listed in Paragraphs A through E,
25 and that ultimately the Commission find that there

1 were no significantly excessive earnings as stated in
2 Paragraph F.

3 Q. Mr. Allen, I understand that point.
4 We've been through that a couple times. I'm asking
5 you a very simple, straight-forward question, which
6 is: Does AEP or does AEP not concede that the 16.08
7 percent SEET threshold should be adopted by the
8 Commission in this case?

9 MR. NOURSE: Your Honor, I would just
10 object. I think it's argumentative at this point and
11 it's been asked and answered. Mr. Allen has
12 thoroughly explained what the context of D is and has
13 already agreed that the Company has not, you know,
14 conceded or agreed to those two numbers.

15 We're agreeing that that's Staff
16 position and we have our position, and that both are
17 consistent with the method generally and both arrive
18 at the same factual conclusion for 2016, that no SEET
19 occurred. I don't see what we have to gain by
20 continuing to beat up the witness about this.

21 MR. HEALEY: Your Honor, I'm happy to
22 move on if we'll accept Mr. Nourse's stipulation
23 regarding those two numbers not being a concession by
24 AEP. But with all due respect to Mr. Allen, he's not
25 given me a yes or no answer on the five times I've

1 asked this question.

2 MR. NOURSE: Well, Your Honor, he
3 doesn't have to answer yes or no, but he has agreed
4 and explained that already.

5 EXAMINER SEE: The question has been
6 answered -- asked and answered several times. Move
7 on, Mr. Healey.

8 BY MR. HEALEY:

9 Q. Mr. Allen, you filed testimony in this
10 case before the stipulation was filed, correct?

11 A. That's correct.

12 Q. And in that testimony, this would be
13 your May 15 testimony marked as AEP Exhibit 4, you've
14 concluded that AEP Ohio's 2016 earned ROE does not
15 constitute significantly excessive earnings, correct?

16 A. That's correct.

17 Q. And now turning to Paragraph F of the
18 stipulation, which states that "...the Signatory
19 Parties agree that AEP Ohio's 2016 earned ROE does
20 not constitute significantly excessive earnings...",
21 that would be consistent with your May 15th, 2017,
22 testimony, correct?

23 A. The conclusion is the same, yes.

24 Q. So in agreeing to Paragraph F, AEP did
25 not make any concessions to Staff regarding that

1 conclusion, correct?

2 EXAMINER SEE: Repeat the question,
3 Mr. Healey.

4 MR. HEALEY: Yes, Your Honor.

5 BY MR. HEALEY:

6 Q. In agreeing to Paragraph F of the
7 stipulation, AEP did not make any concessions to
8 Staff regarding the conclusion that there is no
9 significantly excessive earnings in this case?

10 A. What the Company agreed as part of the
11 stipulation was that under either of the two
12 approaches adopted by Staff or the Company, that
13 there were no significantly excessive earnings. We
14 didn't have to go down the path of identifying
15 differences in the calculations because both of them
16 resulted in the same result.

17 Q. And that result would be that customers
18 are not going to receive any refund from AEP in this
19 case, correct?

20 A. The result is that there were no
21 significantly excessive earnings and therefore no
22 refunds would be appropriate.

23 Q. You're aware that OCC Witness Duann in
24 his prefiled testimony proposed a \$53 million refund
25 for customers, correct?

1 A. I'm aware that he proposed such a
2 recommendation.

3 Q. And the stipulation does not provide a
4 refund to customers that's greater than AEP's
5 proposed zero dollars and less than Mr. Duann's
6 proposed \$53 million, correct?

7 A. The calculations that OCC Witness Duann
8 used to arrive at the result that there was a refund
9 were inappropriate and, therefore, I don't agree that
10 any refund would have been appropriate and so the
11 settlement that the Company agreed to includes no
12 refund.

13 Q. Let's turn to Page 4 of your -- your
14 supplemental testimony.

15 A. I'm there.

16 Q. I direct your attention to the question
17 beginning at Line 17 regarding the second part of the
18 PUCO's test. Here you're discussing the benefits to
19 customers of the stipulation, correct?

20 A. Yes, benefits to customers and the
21 public interest.

22 Q. Yes. Thank you for clarifying.

23 Starting at Line 20 you state that
24 "The...Stipulation benefits customers and the public
25 interest by resolving this case in a timely

1 manner..." Do you see that?

2 A. I do.

3 Q. You're not testifying that the
4 stipulation, itself, resolves this case in the
5 absence of a Commission order, are you?

6 A. That's correct. The Commission order
7 would have to be entered into in order to effectuate
8 the stipulation.

9 Q. And your testimony doesn't analyze how
10 long it might take the Commission to enter an order
11 in this case, does it?

12 A. It does not. What I'm referring to here
13 is the resolution of the hearing process, the case
14 that we're going through today.

15 Q. Mr. Allen, you're aware that the hearing
16 in this case was originally scheduled for February
17 6th, 2018?

18 A. I don't recall the original date.

19 Q. Subject to check. I can show you the
20 order if you'd like to see it.

21 A. I know there was a prior date that we
22 were scheduled.

23 Q. And then you understand that the parties
24 filed a motion to suspend that hearing to pursue
25 settlement negotiations?

1 A. Yes, that's my recollection.

2 Q. And today is April 10, 2018.

3 A. Yes.

4 Q. Now, did you include in your testimony
5 an analysis of how long it would take this case to be
6 resolved if there were no stipulation?

7 A. I didn't put an analysis of that in my
8 testimony, no.

9 Q. And did your testimony include any
10 discussion of how many hours we all might spend
11 litigating this case under the stipulation?

12 A. I didn't do a specific quantification,
13 but the stipulation -- stipulation generally reduces
14 the timeframe that is needed to litigate a case,
15 because it narrows the issues that the Commission and
16 the parties need to focus on.

17 Q. What are the issues that the parties and
18 the Commission need to focus on in this case?

19 A. Under the stipulation, the parties to
20 the stipulation have agreed that under either
21 approach to calculating the SEET threshold, that
22 there are no significantly excessive earnings and
23 we've agreed to the level of earnings for AEP Ohio.
24 So it fully resolves the issues before the
25 Commission.

1 Q. When you say "it fully resolves the
2 issue before the Commission," you mean as between AEP
3 and Staff, correct?

4 A. The two signatory parties to the
5 stipulation, yes.

6 Q. Correct. And the Ohio Consumers'
7 Counsel is a party to this case, but did not sign the
8 stipulation?

9 A. That's correct.

10 Q. So any of the issues that are being
11 raised in the stipulation are still being litigated,
12 only now it's OCC on one side and AEP and Staff on
13 the other as opposed to three parties, correct?

14 A. Yes. And so limiting the number of
15 parties that are contesting issues would add to
16 administrative efficiency.

17 Q. Let's turn back to Page 2 of your
18 supplemental testimony.

19 A. I'm there.

20 Q. You state at Line 16 that AEP's
21 supporting a 17.69 percent SEET threshold in this
22 case, correct?

23 A. It states that that is the SEET
24 threshold that was determined through the analysis I
25 performed.

1 Q. And in -- are you suggesting that you
2 performed this analysis, but that's not your position
3 in your testimony?

4 A. No. I support that position.

5 Q. And I just want to walk through how that
6 number was derived so we're on the same page.

7 A. Sure.

8 Q. In Line 15 is the ROE of 10.69 percent
9 of the comparable group, correct?

10 A. Yes.

11 Q. And then you took the standard deviation
12 from the comparable group ROE analysis, multiplied it
13 by 1.64, and added that product to the 10.69 percent
14 number, correct?

15 A. That's correct, and that's laid out in
16 Exhibit WAA-1 to my originally filed testimony.

17 Q. Let's turn to the next page of your
18 supplemental testimony, that would be Page 3,
19 starting at Line 5, where you discuss the methodology
20 AEP Ohio employed in this case. Does that
21 methodology, as referred to there, include the
22 calculation that you and I just walked through?

23 A. The subsequent Commission orders, that
24 discussion there on Lines 5 and 6, yes.

25 Q. Now, in response to this Q and A on

1 Page 3, the first one, you reference as I see it six
2 different PUCO proceedings; there's the 09-786 case,
3 and then the 2011, '12, '13, '14, and '15 SEET cases,
4 is that accurate?

5 A. Yes. The 2009 case is the generic
6 proceeding related to SEET, and the other cases
7 described there are specific AEP cases that were
8 settled.

9 Q. Did the Commission adopt a SEET
10 threshold using a 1.64 standard deviation multiplier
11 in any of those six cases?

12 A. The settlements approved by the
13 Commission in the '11, '12, and '13 cases included
14 analysis that supported a SEET threshold using the
15 1.64 standard deviation multiplier, and the
16 settlement -- settlements filed in the 2014 and '15
17 cases that ultimately -- that ultimately were
18 resolved in the global settlement also included SEET
19 thresholds that were based upon a 1.64 standard
20 deviation multiplier.

21 Q. Mr. Allen, are you familiar with the
22 Commission's ruling in the 09-786 case regarding the
23 200-basis-point safe harbor for the SEET test?

24 A. I am.

25 MR. HEALEY: Your Honor, I'd like to

1 mark as OCC Exhibit 1 the stipulation and
2 recommendation filed in Case No. 13-2249. This is
3 AEP's 2011 SEET case that Mr. Allen refers to on
4 Page 3, Line 7 of his supplemental testimony. May I
5 approach the witness, Your Honor?

6 EXAMINER SEE: Yes. I'm sorry, repeat
7 what you're admitting, Mr. Healey.

8 MR. HEALEY: I'm marking as OCC
9 Exhibit 1 a stipulation filed in Case No. 13-2249, it
10 was filed on February 24th, 2014.

11 EXAMINER SEE: Thank you. You may
12 approach.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 BY MR. HEALEY:

15 Q. Mr. Allen, I've handed you what's now
16 been marked OCC Exhibit 1. This is a stipulation and
17 recommendation filed in Case No. 13-2249 regarding
18 AEP's 2011 SEET. Do you have that in front of you?

19 A. I do.

20 Q. And this is the settlement that you're
21 referring to on Lines 7 and 8, Page 3 of your
22 supplemental testimony, correct, with regard to the
23 Company's 2011 SEET case?

24 A. Yes.

25 Q. Can you show me where in this settlement

1 the parties recommend use of the 1.64 standard
2 deviation multiplier?

3 A. I don't see it in the settlement
4 document, itself. It may have been referenced in the
5 Commission order. I know I was reading the
6 Commission order last night and it referenced the
7 Staff threshold of 16.97 percent, which would have
8 included the 1.64 standard deviations.

9 MR. HEALEY: Your Honor, I'd move to
10 strike his references to the Commission order. The
11 Commission order speaks for itself. His musings on
12 what it may or may not say should not be admitted as
13 evidence.

14 MR. NOURSE: Well, Your Honor, I
15 wouldn't call the Commission's orders musings.

16 MR. HEALEY: I was referring to
17 Mr. Allen's musings.

18 MR. NOURSE: But I do think the -- the
19 order adopting the stipulation is pertinent in
20 response to Mr. Healey's question.

21 EXAMINER SEE: Read Mr. Allen's response
22 back to me, please.

23 (Record read back as requested.)

24 EXAMINER SEE: Motion to strike is
25 granted.

1 BY MR. HEALEY:

2 Q. Mr. Allen, let's turn to Page 5 of the
3 document I just handed you. At the bottom in
4 Paragraph G it states that OPCo -- which I understand
5 to mean Ohio Power given that this was, I believe,
6 premerger -- "OPCo's 2011 adjusted earned ROE of 8.56
7 percent falls below the low end of the safe
8 harbor..." Do you see that?

9 A. I do.

10 Q. As we discussed previously, you
11 understand the 200-basis-point safe harbor provision
12 from the '09 case, correct?

13 A. I do, yes.

14 Q. That 200-basis-point safe harbor is
15 different than calculating a SEET threshold using a
16 standard deviation and a multiplier, correct?

17 A. Yes. They would both be based upon the
18 same comparable group and calculation of the mean,
19 then the adder on top of the mean would be different.

20 Q. And if you look at Page 6 of the same
21 document, Paragraph H mentions that CSP -- that being
22 Columbus Southern, again, AEP under the premerger --
23 their adjusted ROE also falls below the low end of
24 the safe harbor range, correct?

25 A. That's correct.

1 Q. Thank you.

2 MR. HEALEY: Your Honor, I'd like to
3 mark as OCC Exhibit 2 a stipulation and
4 recommendation filed on April 16th, 2014, in Case
5 No. 13-2251. May I approach the witness, Your Honor?

6 EXAMINER SEE: Yes. The exhibit is so
7 marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)
9 BY MR. HEALEY:

10 Q. Mr. Allen, I've just handed you a
11 stipulation that was filed in Case No. 13-2251 that
12 has been marked as OCC Exhibit 2. This is a
13 stipulation that was filed with respect to AEP's 2012
14 SEET case, correct?

15 A. Yes.

16 Q. And this is the stipulation that you
17 referred to on Page 3 of your supplemental testimony,
18 Line 7, when you referenced the Company's 2012 SEET
19 cases which were settled?

20 A. I'm sorry, can you repeat the question?

21 Q. Sure. This is the settlement that
22 you're referring to on Page 3, Line 7 of your
23 supplemental testimony when you referred to the
24 Company's 2012 SEET case, correct?

25 A. Yes.

1 Q. I'd ask you again, can you please
2 identify where in the stipulation the parties
3 recommend that the Commission use a 1.64 standard
4 deviation multiplier to arrive at a SEET threshold?

5 A. Once again, as I described before, there
6 are Commission orders that go along with these
7 settlements that include discussion of the additional
8 information, and so these settlements were part of
9 what the Commission made its decision based upon. So
10 this is the settlement that underlies that Commission
11 order, and that the analysis presented by the Company
12 and Staff that used this analysis are also part of
13 this case that supported the stipulation.

14 Q. Thank you. My question was: Does the
15 stipulation filed in that case recommend to the
16 Commission that it adopt a 1.64 standard deviation
17 multiplier when calculating the SEET threshold?

18 A. It does not, because it wasn't necessary
19 with the safe harbor threshold applying.

20 Q. Now, with respect to your supplemental
21 testimony, we're still on Page 3, starting at Line 8,
22 you referenced two stipulations that were filed on
23 September 1st, 2016. Do you see that?

24 A. I do.

25 Q. And those were in Cases 15-1022 and

1 16-1105?

2 A. Yes.

3 Q. Now, the Commission didn't approve those
4 stipulations, correct?

5 A. That's correct. It was ultimately
6 resolved in the global settlement as it states in the
7 next sentence.

8 MR. HEALEY: Your Honor, I would move to
9 strike Page 3, beginning on Line 8 of his
10 supplemental testimony, the sentence beginning with
11 "Further," "Further, on September 1," continuing
12 through the end of that sentence at the beginning of
13 Line 11 "the prior settlements." I object to these
14 on relevance grounds.

15 Stipulations that were filed and never
16 ruled upon by the Commission have no relevance to
17 this proceeding and therefore they should be stricken --
18 struck. That would be Rule of Evidence 402.

19 MR. NOURSE: Well, Your Honor, I think
20 mister -- both the language in the settlement -- or
21 in the testimony and Mr. Allen's explanation of those
22 references just now make the record clear and
23 complete on this point; so I don't see any harm by
24 leaving them in.

25 MR. HEALEY: Your Honor, the standard is

1 not whether there's harm, the standard is whether
 2 they're relevant. Rule of Evidence 401 says relevant
 3 evidence is evidence having a tendency to make the
 4 existence of any fact that is of consequence to the
 5 determination of the action more probable or less
 6 probable than it would be without the evidence.
 7 Stipulations that were signed and filed and said God
 8 knows what and were never approved don't possibly
 9 have any bearing on whether a fact in this case is
 10 true or not true.

11 MR. NOURSE: Well, again, Your Honor, I
 12 think we've established that some of this testimony
 13 is really just showing the history, and a fairly
 14 complete history of SEET cases and litigation and
 15 settlement for AEP Ohio as context for the current
 16 settlement, which is very much in line with that
 17 history, I think it's relevant from that standpoint,
 18 and track record of Staff and the Company, you know,
 19 being consistent and following the same method. This
 20 is part of that track record, it's part of that
 21 history. I think Mr. Allen's completely explained
 22 it; so there's no possibility of misunderstanding it
 23 or confusion about that. So it is relevant in that
 24 context.

25 EXAMINER SEE: Mr. Healey, you asked

1 that -- what's the end point of your request?

2 MR. HEALEY: The first three words on
3 Line 11 of Page 3, "the prior settlements."

4 EXAMINER SEE: And the motion to strike
5 is granted.

6 BY MR. HEALEY:

7 Q. Mr. Allen, let's turn to Page 6 of your
8 supplemental testimony.

9 A. I'm there.

10 Q. You disagree with OCC Witness Duann's
11 testimony that \$22.8 million of PIRR equity carrying
12 charges earned by AEP in 2016 were improperly shifted
13 to 2012 to 2015; is that right?

14 A. As I state in Line 5, there was no
15 shifting of income; so I do agree (sic) with
16 Dr. Duann's recommendation.

17 EXAMINER SEE: I'm sorry, read his
18 answer back, please.

19 (Record read back as requested.)

20 THE WITNESS: Do disagree.

21 BY MR. HEALEY:

22 Q. On Line 11, Page 6 of your supplemental
23 testimony, you refer to Exhibit THR-2 to Company
24 Witness Ross's direct testimony. Do you see that?

25 A. I do.

1 Q. And you assert that this illustrates
2 that had these earnings for PIRR equity carrying
3 charges been recorded in SEET years 2012 through '15,
4 AEP still would not have had excessive earnings; is
5 that a fair characterization?

6 A. Yes.

7 Q. Do you have a copy of Mr. Ross's
8 testimony in front of you?

9 A. I do.

10 Q. Let's turn to this Exhibit THR that you
11 reference here in your supplemental testimony.
12 Actually, first let's go back to Page 6 of your
13 supplemental testimony.

14 A. Okay.

15 Q. On Line 15 you state, with respect to
16 Mr. Ross's exhibit, that these earnings would not
17 have resulted in over-earnings due to -- this is on
18 Line 15 -- due to Commission-adjudicated SEET
19 thresholds. Can you show me where on Exhibit THR-2
20 the Commission-adjudicated SEET thresholds are?

21 A. There's not a column that indicates what
22 the adjudicated thresholds are in that exhibit.

23 Q. Mr. Allen, let's go back to your initial
24 testimony from May 15, 2017.

25 A. Okay.

1 Q. And let's turn to Page 6, please. This
2 is where you discuss AEP's energy efficiency
3 programs.

4 A. Yes.

5 Q. Are you testifying today as an energy
6 efficiency expert?

7 A. I'm not.

8 Q. Are you testifying today as an expert on
9 shared savings?

10 A. No.

11 Q. On Line 11 you note -- or claim, rather,
12 that AEP Ohio's 2016 EE/PDR program produced customer
13 savings exceeding \$295 million. Do you see that?

14 A. I do.

15 Q. Do you know what percentage of AEP's
16 residential customers participated in those programs
17 in 2016?

18 A. The programs would be available to all
19 of AEP Ohio's customers, some of the light bulb type
20 programs would be available to all residential
21 customers, and all residential customers would have
22 participated in some of the energy review analysis
23 that are provided to customers on a somewhat regular
24 basis throughout the year identifying how their
25 energy usage compares to the energy usage of

1 similarly situated customers. So I think if you look
2 at it in that regard, all of our residential
3 customers likely participated to some degree.

4 Q. Your testimony with respect to energy
5 efficiency is that if the Commission finds that AEP
6 exceeds the SEET threshold in this case, AEP should
7 get to keep the \$31.2 million in shared savings,
8 correct?

9 A. That is my recommendation, yes.

10 Q. And on Line 17 of Page 6 of your initial
11 testimony, one of the reasons you give for this is,
12 quote, "...to ensure that the Company's incentive to
13 implement EE/PDR programs that have provided
14 significant customer benefits is not diminished or
15 eliminated." Do you see that?

16 A. I do.

17 Q. Will AEP stop offering energy efficiency
18 and peak demand programs if the Commission rules that
19 shared savings are included in AEP's earnings for
20 purposes of the SEET?

21 A. It would impact the Company's financial
22 incentive to participate in those programs, because
23 what it would do is it would provide shared savings
24 to incent the Company to undertake the programs on
25 one hand and then take those dollars away from the

1 Company through the SEET proceeding thereby
2 nullifying the benefit that the Company received; so
3 it would take away that financial benefit. There are
4 risks associated with undertaking energy efficiency
5 programs, and so I think it would diminish the amount
6 of EE participation that the Company undertook if
7 these dollars were taken back from the Company.

8 MR. HEALEY: Your Honor, I move to
9 strike as nonresponsive. My question was: Will AEP
10 stop offering energy efficiency and peak demand
11 reduction programs if the Commission rules that
12 shared savings are included in AEP's earnings for
13 purposes of the SEET, not whether it will have a
14 diminished incentive or how much money it will make
15 or how much money it will lose or whether more or
16 less customers will participate. The question is:
17 Will they stop the programs?

18 MR. NOURSE: Well, Your Honor, this is
19 kind of like his yes-or-no answer. It's not always
20 the best answer to say, "Will you stop or will you
21 continue as is?" Mr. Allen is saying it would effect
22 the decisions of the Company, it would effect the
23 financial incentives of the Company, you know,
24 implying that it's relevant, but it wouldn't
25 necessarily dictate a yes-or-no answer on whether

1 they would stop or stay the same. It's a reasonable
2 response to the question.

3 EXAMINER SEE: I'm going to allow the
4 witness's answer to stand.

5 MR. HEALEY: I have nothing else, Your
6 Honor.

7 MR. NOURSE: Your Honor, can we request
8 a short break after you check with the other parties?
9 Apologize. I jumped the gun. I jumped the gun.

10 EXAMINER SEE: I tell you what, we can
11 take a 10-minute recess now.

12 MR. NOURSE: Thank you, Your Honor.

13 EXAMINER SEE: We're off the record.

14 (Recess taken.)

15 EXAMINER SEE: Let's go back on the
16 record.

17 Mr. Healey had just concluded his
18 cross-examination of this witness, and we are on to
19 Mr. McNamee.

20 MR. McNAMEE: Who has no questions.

21 EXAMINER SEE: Okay. Any redirect,
22 Mr. Nourse?

23 MR. NOURSE: Yes, Your Honor, briefly.
24 Thank you.

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REDIRECT EXAMINATION

BY MR. NOURSE:

Q. Mr. Allen, do you recall questions from Mr. Healey asking you in connection with settlements and Commission orders from 2011 forward in SEET cases about the basis for the 1.64 standard deviation adder?

A. I do, I recall those.

Q. And do you recall and are you familiar with the Commission decision, the predecessor to those cases and those settlements and orders?

A. I do. It would have been the SEET case relating to AEP Ohio's 2010 SEET earnings.

Q. And that was a fully litigated case?

A. Yes, it was.

MR. HEALEY: Your Honor, I'd object to this line of questioning as outside the scope of direct. We didn't discuss those cases, and they're not mentioned in his supplemental testimony in the context that I was asking the questions about the other cases.

MR. NOURSE: Well, Your Honor, first of all, some of the settlements do reference the 2010 order. And I just established the foundation for why I'm asking it was his questions trying to zero in on

1 one component of the subsequent cases, and so I asked
 2 Mr. Allen about the Commission, you know, precedent
 3 leading up to that, which is a -- again, that was a
 4 fully litigated case as you well recall.

5 EXAMINER SEE: The objection is
 6 overruled. Mr. Allen can answer the question -- or
 7 had you completed your question, Mr. Nourse?

8 MR. NOURSE: Let me try to continue,
 9 Your Honor.

10 BY MR. NOURSE:

11 Q. So, Mr. Allen, you referenced the 2010
 12 SEET case in the Commission decision as it relates to
 13 the standard deviation 1.64 adder, is that what you
 14 said?

15 A. Yes.

16 Q. And so do you recall in that case what
 17 the Commission decided?

18 A. There was significant debate in that
 19 case about what the appropriate adder should be, and
 20 the Commission determined that a 1.64 standard
 21 deviation -- or 1.64 multiplier to the standard
 22 deviation would be the appropriate adder to the mean
 23 ROE, and, in fact, that's the value that's used in
 24 the testimony of Staff Witness Duann as well -- or
 25 OCC Witness Duann as well.

1 Q. Okay. So that same method continues
2 today to be used at least by the Company and the
3 Staff and in this case OCC?

4 A. That's correct.

5 Q. All right. Thank you.

6 MR. NOURSE: That's all I have, Your
7 Honor.

8 EXAMINER SEE: Mr. Healey.

9 MR. HEALEY: I have nothing further,
10 Your Honor.

11 EXAMINER SEE: Okay. Mr. McNamee.

12 MR. McNAMEE: No questions.

13 - - -

14 EXAMINATION

15 BY EXAMINER SEE:

16 Q. Mr. Allen --

17 A. Yes.

18 Q. -- did you participate in the
19 negotiations between -- did you participate in the
20 negotiations between the parties to reach the
21 settlement?

22 A. I provided guidance to our counsel in
23 what offers could be made, and counsel made those
24 offers on behalf of the Company.

25 Q. So were there in-person meetings between

1 the parties, all three parties?

2 A. Not that I recall, no.

3 Q. To your knowledge, was -- were the
4 offers made by way of email -- email or other written
5 communications shared between the parties?

6 A. I recall the offers that were made. I
7 don't recall the format that they were provided,
8 whether it was an email or through telephone
9 communication with the parties.

10 Q. But the offers were shared with both OCC
11 and Staff?

12 A. Oh, most definitely.

13 Q. Do I recall correctly that you admit
14 that the stipulation in Case No. 15-20- -- I'm sorry --
15 -1022 and 16-1105 was filed with the Commission but
16 not adopted?

17 A. That's correct.

18 Q. And just for clarification, that would
19 be in -- Case No. 15-1022 would be in relation to
20 revenues collected for the 2014 year -- 2014 revenues
21 and --

22 A. Yes, it would. The 15-1022 is for 2014
23 earnings and 16-1105 is for 2015 earnings.

24 Q. And a few minutes ago you answered --
25 you discussed the case with your counsel about 2010.

1 A. Yes.

2 Q. Do you recall -- what revenue year was
3 that in relation to?

4 A. That would have been related to 2010
5 revenues. The two cases that were fully litigated
6 and didn't result in any settlements were the 2009
7 SEET year, which would be 2009 earnings, and the 2010
8 earnings. The 2010 result is what set the stage for
9 the methodology that was utilized in subsequent SEET
10 cases.

11 Q. Thank you, Mr. Allen.

12 MR. NOURSE: Your Honor, I'd renew my
13 motion to admit AEP Ohio Exhibit 5 -- oh, I'm sorry,
14 4 and 5. Thank you.

15 EXAMINER SEE: Okay. Are there any
16 objections to the admission of AEP Exhibits 4 and 5,
17 the direct and supplemental testimony of Mr. Allen?

18 MR. McNAMEE: No objection from the
19 Staff.

20 MR. HEALEY: Not other than the motions
21 to strike that have already been addressed, Your
22 Honor.

23 EXAMINER SEE: AEP Exhibits 4 and 5 is
24 admitted into the record.

25 (EXHIBITS ADMITTED INTO EVIDENCE.)

1 MR. NOURSE: Thank you, Your Honor.

2 EXAMINER SEE: Mr. Nourse, did you
3 intend to move for the admission of Joint Exhibit 1?

4 MR. NOURSE: I did move for it already,
5 but I was going to wait until after Mr. Buckley
6 testified to renew that request, Your Honor.

7 EXAMINER SEE: Okay.

8 MR. HEALEY: Your Honor, I'd move right
9 now for the admission of OCC Exhibits 1 and 2.

10 EXAMINER SEE: Are there any objections
11 to the admission of OCC Exhibits 1 and 2?

12 MR. NOURSE: No.

13 EXAMINER SEE: Mr. McNamee?

14 MR. McNAMEE: No, no objection.

15 EXAMINER SEE: OCC Exhibits 1 and 2 are
16 admitted into the record.

17 (EXHIBITS ADMITTED INTO EVIDENCE.)

18 EXAMINER SEE: Did either party have any
19 objection to us going to Mr. Buckley before taking a
20 break?

21 MR. McKENNEY: We can do Mr. Buckley.

22 MR. NOURSE: No.

23 EXAMINER SEE: Okay. Mr. McNamee.

24 MR. McNAMEE: Your Honor, at this time
25 Staff would call Joseph Buckley.

1 EXAMINER SEE: Before we get started,
2 there's an outstanding motion to accept the testimony
3 of Mr. Buckley after the due date for testimony.
4 There were no memorandum contra to that motion, and
5 the Bench takes -- the Bench grants Staff's motion to
6 accept.

7 MR. McNAMEE: Thank you, Your Honor.

8 EXAMINER SEE: Mr. Buckley, if you would
9 please raise your right hand. Do you affirm that the
10 information you're about to give is true?

11 THE WITNESS: I do.

12 (Witness placed under oath.)

13 EXAMINER SEE: Thank you. Have a seat.
14 Mr. McNamee.

15 MR. McNAMEE: Thank you, Your Honor.

16 - - -

17 JOSEPH P. BUCKLEY,
18 being first duly sworn, as hereinafter certified,
19 deposes and says as follows:

20 DIRECT EXAMINATION

21 BY MR. McNAMEE:

22 Q. Mr. Buckley, would you state and spell
23 your name for the record, please?

24 A. My name is Joseph Buckley, J-o-s-e-p-h
25 B-u-c-k-l-e-y.

1 Q. By whom are you employed and in what
2 capacity?

3 A. The Public Utilities Commission of Ohio,
4 and I'm a Utilities Specialist 3.

5 Q. And what is your business address?

6 A. 180 East Broad Street, Columbus, Ohio
7 43215.

8 MR. McNAMEE: Your Honor, at this time
9 I'd ask to have marked for identification as Staff
10 Exhibit 1 the prefiled testimony of Joseph P.
11 Buckley.

12 EXAMINER SEE: So marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 BY MR. McNAMEE:

15 Q. Mr. Buckley, do you have what's been
16 marked for identification as Staff Exhibit 1 in front
17 of you?

18 A. I do.

19 Q. What is it?

20 A. It's my prefiled testimony.

21 Q. Was that prepared by you or under your
22 direction?

23 A. It was.

24 Q. Are the contents of it true, to the best
25 of your knowledge and belief?

1 A. They are.

2 Q. Do you have any changes or corrections
3 that you need to make to that document today?

4 A. Not at this time.

5 Q. Do you adopt this as your direct
6 testimony in the case?

7 A. I do.

8 MR. McNAMEE: With that, Your Honor, the
9 witness is available for cross.

10 EXAMINER SEE: Okay. Mr. Nourse.

11 MR. NOURSE: No questions, Your Honor.

12 EXAMINER SEE: Mr. McKenney.

13 MR. McKENNEY: Yes.

14 - - -

15 CROSS-EXAMINATION

16 BY MR. McKENNEY:

17 Q. Good morning, Mr. Buckley. How are you?

18 A. Good.

19 Q. I think it's going to be easiest, you
20 have at the end of your testimony a chart there. If
21 you turn to that.

22 A. I do.

23 Q. Mr. Buckley, if we look at the first top
24 of that chart, you average the return on average
25 common equity for the companies listed there and

1 arrived at 5.71 percent; is that correct?

2 A. I did.

3 Q. But due to the significant variability
4 in the return on average common equity, as well as
5 the net incomes of those companies, you calculated an
6 adder of 34 percent; is that correct?

7 A. That was the calculation that flows out
8 of the methodology that I've used in the past; so
9 that is the result, correct.

10 Q. Result in an earnings threshold of 39.7
11 percent, correct?

12 A. Correct.

13 Q. Safe to say that's quite a bit higher
14 than anything that's ever been approved before?

15 A. Correct.

16 Q. So to reduce that variability, you had
17 to remove companies from that list; is that right?

18 A. Very reluctantly I did. One of the big
19 goals of this whole test is transparency. I wanted
20 to be as transparent as possible so there's no
21 surprises. So very reluctantly I felt that that was
22 just a -- too high of a threshold; so I tried to
23 remove what I determined were outliers.

24 Q. The outliers you chose were AES
25 Corporation, NRG Energy, and FirstEnergy Corporation,

1 right?

2 A. Correct.

3 Q. So if we look at the net incomes, you
4 see there are four companies actually that have
5 negative net incomes, aren't there?

6 A. There are.

7 Q. FirstEnergy Corp., negative 6 billion in
8 income; Entergy Corp., negative 583 million; AES
9 Corp., negative 1.13 billion; and NRG, negative 774
10 million; is that right?

11 A. Correct.

12 Q. But you only removed three of those
13 companies from your analysis, right?

14 A. Correct. I didn't feel like -- I'm
15 trying to determine -- I didn't feel like Entergy was
16 enough of an outlier to remove.

17 Q. There are also only four companies that
18 had negative returns on average common equity,
19 though, right?

20 A. Correct.

21 Q. And similarly, you only removed three of
22 them; FirstEnergy, AES, and NRG Energy?

23 A. As stated earlier, I didn't feel like
24 Entergy's earnings or their return on equity was an
25 outlier. Some companies lose money, some companies

1 don't. The other companies, the magnitude of their
2 losses I felt were -- caused them to be outliers in
3 this year's evaluation.

4 Q. But subject to check, if Entergy were
5 excluded from the comparable group, the equity
6 weighted average ROE of the companies would be 9.13
7 percent with a standard deviation of 3.3 percent?

8 A. Subject to check.

9 Q. So only subject to check this would
10 result in a SEET ROE threshold of 14.53 percent, does
11 that sound about right?

12 A. The math calculation I can't make up
13 here, but subject to check I assume that those
14 numbers are correct.

15 Q. Did you read OCC Witness Daniel Duann's
16 testimony?

17 A. I did.

18 Q. And did you see that he also excluded
19 Entergy Corporation -- or he excluded Entergy
20 Corporation from this list?

21 A. I don't recall the specifics, and I
22 don't want to speak to it because I don't know
23 exactly what he did or didn't do. I did read it.
24 I'd have to go back to verify whether that was the
25 case or not. I don't -- I don't want to state that

1 he did or not, because I'm not sure.

2 Q. But if you were to remove -- I'll
3 rephrase.

4 If Entergy were considered an outlier
5 and were to be removed, it would lower the standard
6 deviation of the comparable group, wouldn't it?

7 A. I believe it would.

8 Q. Arriving at a ROE threshold of 14.53
9 percent, which is the same as proposed by OCC Witness
10 Daniel Duann?

11 A. I can't make that calculation. I don't
12 have a calculator up here. I don't know whether
13 that's correct or not.

14 Q. I understand.

15 MR. McKENNEY: No further questions,
16 Your Honor.

17 - - -

18 EXAMINATION

19 BY EXAMINER SEE:

20 Q. Mr. Buckley, on Page 4 of your
21 testimony, at Line 5 and Line 12, you make reference
22 to a Staff Exhibit 1 and a Staff Exhibit 1a. Clarify
23 what that reference is to, please.

24 A. Those are the two charts at the end of
25 the testimony.

1 Q. So that would be in reference to Page 8
2 of your testimony?

3 A. Correct.

4 Q. And we have also marked your entire
5 testimony as Staff Exhibit 1; so could we rename --
6 let's rename the charts on Page 8 at your testimony
7 to something different.

8 A. If I may --

9 Q. Go ahead.

10 A. If I may suggest Staff Exhibit 1A and
11 1B.

12 Q. Staff Exhibit 1 is your entire
13 testimony.

14 MR. HEALEY: How about Buckley 1?

15 EXAMINER SEE: I'm going to direct that
16 it be JPB Attachment 1 and Attachment 1A. So if you
17 could clarify and tell us where 1A begins and where
18 JPB Attachment 1 -- clarify where Attachment 1 is and
19 Attachment 1A would be.

20 THE WITNESS: So the top one would be 1
21 and the bottom one would be 1A.

22 EXAMINER SEE: Mr. McNamee, any
23 redirect?

24 MR. McNAMEE: No. Staff would move for
25 the admission of what's been marked for

1 identification as Staff Exhibit 1.

2 EXAMINER SEE: Any objections to
3 Staff -- to the admission of Staff Exhibit 1?

4 MR. NOURSE: No, Your Honor.

5 MR. McKENNEY: No, Your Honor.

6 EXAMINER SEE: With that, Staff
7 Exhibit 1A is admitted -- I'm sorry, Staff Exhibit 1
8 is admitted into the record.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 EXAMINER SEE: Thank you, Mr. Buckley.

11 Let's go off the record for a minute.

12 (Discussion held off the record.)

13 EXAMINER SEE: Let's go back on the
14 record.

15 Mr. Michael.

16 MR. MICHAEL: OCC calls Dr. Daniel
17 Duann.

18 EXAMINER SEE: Mr. Duann, if you would
19 raise your right hand. Do you affirm that the
20 information you're about to give is true?

21 THE WITNESS: Yes, I do.

22 (Witness placed under oath.)

23 EXAMINER SEE: Thank you. Have a seat.

24 MR. MICHAEL: Your Honor, we'd like to
25 have marked as OCC Exhibit 3 the testimony of Daniel J.

1 Duann in opposition to the stipulation.

2 EXAMINER SEE: Exhibit is so marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 - - -

5 DANIEL J. DUANN, Ph.D.,
6 being first duly sworn, as hereinafter certified,
7 deposes and says as follows:

8 DIRECT EXAMINATION

9 BY MR. MICHAEL:

10 Q. Can you state your name and business
11 address, please?

12 A. Daniel J. Duann, 65 East State Street,
13 7th Floor, Columbus, Ohio 43215.

14 Q. And we have in front of you, Dr. Duann,
15 what was previously marked as OCC Exhibit 3. Can you
16 identify that document, please?

17 A. Yes. That's my testimony in opposition
18 to the stipulation filed on March 23rd, 2018.

19 Q. And was that testimony prepared by you
20 or at your direction?

21 A. Yes.

22 Q. And do you have any changes to that
23 testimony?

24 A. Yes, I do. On Page 8, Line 11, in the
25 middle of that line, the word "higher" should be

1 changed to "lower." So it should read "It is
2 considerably lower than the 2016 SEET-adjusted
3 ROE..."

4 I have on Page 20, Line 19, 20, 21, on
5 Line 19 there's a Footnote 31, that footnote should
6 be deleted. Following that, the whole sentence
7 should be deleted. So the sentence originally read
8 as "My calculation would indicate an average ROE of
9 10.30 percent, a standard deviation of 2.65 percent,
10 and a SEET ROE threshold of 14.65 percent," that
11 whole line should be deleted.

12 EXAMINER SEE: So that line should be
13 deleted as well as the footnote or --

14 THE WITNESS: After the footnote, yeah,
15 and the footnote also will be deleted.

16 On Page 21, Line 2, 14.65 percent, that
17 should be changed to 14.59 percent.

18 Also to the attachment, the Attachment
19 DJD-1, which is my direct testimony, but which is
20 included here, and for that attachment, Page 4,
21 Line 13, once again, the 14.70 percent should be
22 changed to 14.59 percent.

23 EXAMINER SEE: Okay. One more time. We
24 are in Attachment DJD-1?

25 THE WITNESS: Yes.

1 EXAMINER SEE: What page of the
2 attachment?

3 THE WITNESS: Page 4, Line 13, and that
4 line should read "...and to the SEET ROE Threshold of
5 14.59 percent...", that's the only correction I have.
6 BY MR. MICHAEL:

7 Q. Okay. With those corrections --

8 EXAMINER SEE: So we are actually on
9 Page 6 of the attachment, correct, 4 of your direct
10 testimony?

11 MR. MICHAEL: Yes, correct, Page 6 of
12 48.

13 THE WITNESS: Yes. Sorry, yeah, Page 6
14 of the 48, but it's Page 4 of my original direct
15 testimony. I apologize for that, yeah.

16 EXAMINER SEE: What is the correction on
17 that page?

18 THE WITNESS: The page -- 14.7
19 percent -- 14.70 percent on Line 13, that should be
20 changed to 14.59 percent.

21 EXAMINER SEE: Okay.

22 BY MR. MICHAEL:

23 Q. With those corrections, Dr. Duann, if I
24 were to ask you the same questions as what appears in
25 OCC Exhibit 3, will your answers be the same?

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A. Yes.

MR. MICHAEL: I move for admission of
OCC Exhibit 3, Your Honor, subject to cross.

EXAMINER SEE: Mr. McNamee.

MR. McNAMEE: I have no questions.

EXAMINER SEE: Ms. Blend.

MS. BLEND: Thank you, Your Honor.

Before I begin my cross-examination,
Your Honor, I just wanted to note that Dr. Duann's
previously filed direct testimony, which has now been
identified as Attachment DJD-1, itself included an
Attachment DJD-1, which was Dr. Duann's previous
testimony. For clarity of the record, could we
remark that document, the list of previous testimony,
as Attachment DJD-1A?

MR. MICHAEL: We could.

EXAMINER SEE: So you want to pull the
direct testimony in DJD-1A?

MS. BLEND: No, Your Honor. I'll
clarify. At the end of what is currently marked
Attachment DJD-1A, which is Dr. Duann's direct
testimony, after Page 27 there was an internal
attachment to that direct testimony that itself was
designated Attachment DJD-1 previously, which is the
list of testimonies that Dr. Duann has previously

1 filed before the PUCO. So our suggestion would be
2 just to relabel the list of testimonies filed before
3 the PUCO Attachment DJD-1A.

4 EXAMINER SEE: Okay. Go ahead.

5 MS. BLEND: Thank you, Your Honor.

6 - - -

7 CROSS-EXAMINATION

8 BY MS. BLEND:

9 Q. Good afternoon, Dr. Duann.

10 A. Good afternoon.

11 Q. Dr. Duann, are you aware of settlement
12 discussions that occurred in connection with this
13 proceeding between AEP Ohio, the Office of the Ohio
14 Consumers' Counsel, and the Commission Staff?

15 A. Yes, I'm aware, yes.

16 Q. So you would agree that settlement
17 discussions between the three parties to this case,
18 in fact, occurred?

19 A. Yes.

20 Q. And you would agree that OCC
21 participated in those settlement discussions?

22 A. I cannot speak for OCC, but I -- the OCC
23 counsel from time to time would send me an email and
24 indicate at least the offer from AEP Ohio.

25 Q. Without getting into specifically what

1 the offers or counteroffers were that were discussed,
2 would you agree that OCC received offers in
3 connection with settlement discussions in this case?
4 I believe you just testified to that.

5 MR. MICHAEL: Objection, asked and
6 answered.

7 BY MS. BLEND:

8 Q. Dr. Duann, did OCC respond to settlement
9 offers that it received in this case?

10 A. I respond internally to the counsel.

11 Q. Thank you. Dr. Duann, you've provided
12 testimony in several cases involving the application
13 of the Significantly Excessive Earnings Test,
14 correct?

15 A. Yes.

16 Q. Okay. Is it appropriate to count the
17 same income in two different years' SEET ROE
18 calculations?

19 A. I think that it depends on the specific
20 circumstance. I think, you know, if we are talking
21 about the financial statement, if we're talking about
22 the per-book earning, I think it would be
23 inappropriate, and it probably violate the law if you
24 counted the same income twice. But regarding the
25 SEET, I think I will have to look at it -- the

1 specific facts of individual case.

2 Q. With regard to -- you're aware that in
3 calculating the adjusted ROE for purposes of the SEET
4 test, AEP Ohio has made three adjustments to the
5 per-book's ROE, correct?

6 A. Yes.

7 Q. Okay. And you agree with AEP Ohio's
8 first proposed adjustment to remove the 17.9 million
9 net of tax loss associated with the global
10 settlement, correct?

11 A. Yes.

12 Q. And that adjustment has the effect of
13 increasing the Company's 2016 SEET earnings, correct?

14 A. Because I think that adjustment was
15 treated as a loss in their per-book earning, and so
16 to arrive for the earning for SEET purpose it was
17 added back, and I agree with that.

18 Q. And by adding back the adjustment for
19 purposes of calculating SEET earnings, the adjustment
20 had the effect of increasing SEET earnings above
21 per-book earnings, correct?

22 A. For that particular adjustment, that's
23 correct.

24 Q. Okay. And, Dr. Duann, you also agree
25 that it was appropriate for AEP Ohio to remove its

1 estimated pretax 2016 SEET provision for a potential
2 refund in order to determine 2016 SEET earnings,
3 correct?

4 A. As I say, you know, I think it is
5 probably the same because AEP -- AEP Ohio decided to
6 make -- to set aside a part of its earnings and
7 anticipated that it will make a SEET refund, 58
8 million or something like that. So the purpose of
9 setting up this SEET refund will reduce its 2016
10 per-book earning, and for -- to arrive the earning
11 for SEET purpose and, once again, I agree that this
12 pretax 58.6 and, you know, after you adjust that
13 should be added back to arrive at the 2016 SEET
14 earning.

15 Q. So you agree that that adjustment was
16 appropriate?

17 A. I support that adjustment.

18 Q. Removing the 2016 SEET provision has the
19 effect of counting the amount of that \$58.3 million
20 provision in 2016 earnings, correct, for purposes of
21 SEET?

22 A. Yeah, for purposes of SEET.

23 Q. And, Dr. Duann, you offered testimony in
24 AEP Ohio's 2014 SEET case as well, correct, Case
25 No. 15-1022-EL-UNC?

1 A. Yes.

2 Q. And you are aware, correct, that in that
3 case AEP Ohio removed a 2014 SEET provision for a
4 refund from -- in order to determine 2014 SEET
5 earnings in that case?

6 A. Yes. I remember Mr. Mitchell added back
7 that, yes.

8 Q. So you agree that the 2014 SEET
9 provision was counted in the 2014 SEET earnings in
10 the 2014 SEET case?

11 A. No. That's what AEP filed and that's
12 not what the Commission decided. I think we have
13 gone over that, and Mr. Ross already admitted the
14 Commission made no decision regarding the 2014 or
15 2015. I think AEP continued to refer that -- say
16 that is part of the global settlement. It has
17 nothing to do with the global settlement.

18 MS. BLEND: Your Honor, I'd move to
19 strike everything after "No" as not responsive to my
20 question.

21 MR. MICHAEL: Your Honor has given
22 witnesses the ability to explain their answers in a
23 complicated case involving complicated economic and
24 financial analysis, and it would break with the
25 Bench's rulings thus far in this proceeding not to

1 allow Dr. Duann to do the exact same thing that the
2 AEP witnesses did. So I think it's completely
3 appropriate to give Dr. Duann the ability to explain
4 his answers.

5 EXAMINER SEE: And the motion to strike
6 is denied.

7 BY MS. BLEND:

8 Q. Dr. Duann, you testified previously that
9 you offered direct testimony in the 2014 AEP Ohio
10 SEET case, correct?

11 A. Yes.

12 Q. And in that testimony, you calculated
13 what you believed should be the 2014 SEET earnings
14 that should be used by the Commission in its analysis
15 of the Significantly Excessive Earnings Test for that
16 year, correct?

17 A. I did file direct testimony in that
18 proceeding, and in that proceeding I did calculate
19 what I believe would be appropriate level of earning.
20 And in my calculation, I did include the -- I did
21 support the AEP's -- the inclusion of the \$20
22 million, but I also -- in that case I think the main
23 issues is really what the Commission should do about
24 a 12 percent threshold.

25 Once again, I think my answer would be

1 the same, what I file, what AEP file regarding 2014
2 doesn't really matter here, because the Commission
3 did not make a decision on the 2014 level of earning,
4 did not make a decision on the level of ROE, did not
5 make a decision on the threshold. So there's no
6 argument on that. I think AEP tried to -- repeatedly
7 tried to say that already been counted, which is
8 simply not true.

9 Q. Dr. Duann, you're familiar with the
10 Company's ESP II proceeding, Case Nos. 11-346-EL-SSO,
11 et al., correct?

12 A. I will be hesitant to use the word
13 "familiar" because that case was, like, five, six,
14 seven years ago and it involved a lot of items and I
15 did not participate in every item in that case, but I
16 will try my best to answer whatever question you
17 have.

18 Q. Thank you. You're aware that in that
19 case the Commission established a 12 percent ROE SEET
20 threshold for AEP Ohio?

21 A. Because the Commission based its
22 decision by, you know, grade by giving AEP Ohio a
23 rate stabilization rider; so the Commission
24 established a 12 percent threshold for SEET, yes.

25 Q. Do you agree that the 2014 SEET

1 provision that the Company recorded in 2014 reflected
2 estimated 2014 earnings above that 12 percent SEET
3 threshold?

4 A. Sorry. Can you repeat the question?

5 Q. Sure. The 2014 -- you were talking
6 earlier about the 2014 SEET provision that the
7 Company recorded as you'll recall. Do you agree that
8 that provision reflected estimated 2014 earnings
9 above the 12 percent SEET threshold established in
10 the ESP II case?

11 A. Actually I -- I don't understand your
12 question. Can you maybe break down a little bit?

13 Q. Sure. What was the basis for the
14 adjustment that we discussed earlier regarding the
15 2014 SEET provision?

16 A. Okay. In 2014 the Commission -- the --
17 AEP Ohio decided in preparing its per-book earning,
18 saying there's a possibility that we'd have to give
19 some refund, and the estimate or refund is, like,
20 20.4 million. So I think that's what the AEP Ohio
21 decided. And in the 2014 filing they say, "We need
22 to add this back," and so I think that's what
23 happened. So I don't -- does that answer your
24 question?

25 Q. Do you know how the \$20 million SEET

1 provision was calculated in 2014?

2 A. My recollection is -- is -- is
3 Mr. Mitchell calculated that SEET ROE for that year
4 around 12.75 percent or something like that, which is
5 higher than the 12 percent; so it estimated amount of
6 potential refund.

7 Q. And it was the estimated amount of
8 potential refund above the 12 percent threshold,
9 right?

10 A. Above -- above the -- above what the
11 threshold that the Company expected it to be, and at
12 that time expect to be 12 percent, yes.

13 Q. Dr. Duann, you agree that the earnings
14 that were the subject of the 2014 SEET provision
15 occurred in 2014?

16 A. Can you repeat the question?

17 Q. In other words, the earnings that were
18 the subject of the SEET provision, the 2014 SEET
19 provision didn't occur at some point in the future
20 after 2014, they occurred in 2014.

21 A. When -- when you -- when Company -- when
22 you look at the -- since you always start with the
23 Company's per-book earning, you know, that's what the
24 Company determined what's the most likely
25 circumstance. So they determine that, and I think

1 then based on the Commission's rules or cases or
2 anything that has been litigated or settled or
3 discussed, then you make adjustment. So I think the
4 purpose of the SEET is to look at the earning that
5 you earned in 2014 --

6 Q. The --

7 A. -- and then you make whatever proper
8 adjustment that should be made, yeah. That's
9 generally the case.

10 But, once again, as I stated at
11 beginning, you know, you have to look at the
12 individual facts and, you know, maybe does the
13 Commission have a prior stipulation which has any --
14 approve a prior stipulation which has very peculiar
15 requirement, for example, I think in side case the
16 Commission say the refund you made in subsequent year
17 can be reduced from your earning, and in other case
18 the refund you make it cannot. So I thought, once
19 again, it depends on the individual, you look at
20 individual facts, but, generally, yeah, you look at
21 what you earn in that year.

22 EXAMINER SEE: Dr. Duann, I'm sorry,
23 just a minute. Could you reread the question posed
24 for me?

25 (Record read back as requested.)

1 EXAMINER SEE: Okay.

2 BY MS. BLEND:

3 Q. Dr. Duann, you are aware that the Ohio
4 Supreme Court reversed the portion of the
5 Commission's ESP II decision establishing the 12
6 percent SEET threshold, correct?

7 A. I -- I do not necessarily -- you know,
8 I'm not an attorney and I do not necessarily agree
9 with the word "reverse." But my understanding is
10 that case was sent back to the Commission and let the
11 Commission decide what's the proper way to deal with
12 that.

13 Q. You agree that AEP Ohio reversed its
14 2014 SEET provision after that Ohio Supreme Court
15 decision in June 2016, correct?

16 A. I think it's -- sequentially I think
17 that's what happened, but I don't know what went into
18 AEP Ohio's decision.

19 Q. I was just asking factually, you agree
20 the Company reversed the 2014 SEET provision in June
21 2016 after the Ohio Supreme Court's ESP II decision?

22 A. If that's what you asked -- I -- I don't
23 think that's what you asked before, but if that's
24 what you asked, I agree with that, that's a factual.

25 Q. And you agree that AEP Ohio's June 2016

1 reversal of the 2014 SEET provision was a matter of
2 public knowledge?

3 MR. MICHAEL: Objection, speculation.
4 Dr. Duann can't possibly know whether or not that was
5 a matter of public knowledge.

6 MS. BLEND: I'm happy to rephrase, Your
7 Honor.

8 BY MS. BLEND:

9 Q. Dr. Duann, do you --

10 A. I don't know.

11 Q. -- were you aware of the --

12 EXAMINER SEE: There's no question
13 before you, Dr. Duann.

14 BY MS. BLEND:

15 Q. Dr. Duann, were you aware of the June
16 2016 reversal of the 2014 SEET provision?

17 A. I was not aware at that time on June
18 2016, and probably not aware maybe until I read the
19 annual report in 2017.

20 Q. Are you aware that AEP Ohio -- or AEP
21 reported the reversal of the 2014 SEET provision in
22 AEP's 10-Q for the quarterly period ended June 30th,
23 2016?

24 A. I don't know. I did not -- I'm
25 interested in AEP Ohio, but I did not follow the SEC

1 filing every day.

2 Q. You review -- as you testified a moment
3 ago, you review AEP Ohio's SEC filings, correct?

4 A. I didn't say that.

5 Q. You reviewed AEP Ohio's 10-K for 2016?

6 A. I say I'm made aware of this reversal
7 when I review AEP's annual report probably in the
8 beginning of 2017, that's what I say. Then I went on
9 to say that I do not review the AEP Ohio's SEC filing
10 every day.

11 Q. Do others at OCC review AEP Ohio's SEC
12 filings?

13 MR. MICHAEL: Objection, calls for
14 speculation.

15 THE WITNESS: Right. I don't know.

16 MS. BLEND: Your Honor, I was simply
17 asking based on Dr. Duann's personal knowledge
18 whether others at OCC review AEP Ohio's SEC filings.

19 EXAMINER SEE: And I'll allow the
20 question. Mr. Duann, you need to wait until there is
21 a question asked of you to answer, and if there is an
22 objection outstanding you need to wait until I rule.
23 Okay.

24 THE WITNESS: Okay.

25 EXAMINER SEE: Go ahead.

1 THE WITNESS: Okay. I don't know.

2 MS. BLEND: Your Honor, may I approach?

3 EXAMINER SEE: Yes.

4 MS. BLEND: Thank you.

5 BY MS. BLEND:

6 Q. Dr. Duann, I'm handing you AEP's 10-Q
7 for the quarter ended June 30th, 2016. On the -- on
8 Page 3 of American Electric Power Company, Inc. and
9 subsidiary company's management's discussion and
10 analysis of financial condition and results of
11 operations, you'll agree that AEP reported --
12 publicly reported its reversal of the 2014 SEET
13 provision?

14 EXAMINER SEE: Ms. Blend, do you happen
15 to have another copy with you?

16 MS. BLEND: I do not, Your Honor. I
17 apologize.

18 EXAMINER SEE: I couldn't hear that,
19 Miss.

20 MS. BLEND: I do not, Your Honor. I
21 apologize.

22 EXAMINER SEE: Okay.

23 THE WITNESS: I didn't see it here. Can
24 you show me where it is?

25 BY MS. BLEND:

1 Q. Sure. Dr. Duann, there's a highlighted
2 in gray highlight paragraph on Page 3. Could you
3 just read that out loud?

4 A. It didn't say AEP reversed its SEET
5 provision, it has nothing to do with that.

6 Q. Dr. Duann, would you please read the
7 portion of Page 3 that's been highlighted in gray?

8 MR. MICHAEL: Your Honor, I'm going to
9 object at this point in time. I've given counsel a
10 little leeway to try to prove what point I'm not
11 entirely sure, but the document apparently is an SEC
12 document that Dr. Duann has said he hasn't seen
13 before. I don't see any benefit of having Dr. Duann
14 quote language out of it.

15 If they want to try to move for
16 administrative notice of an SEC filing, that would be
17 one thing, but to have Dr. Duann talk about it I
18 think is a waste of this process's time, and he's
19 already said it doesn't say what counsel represents
20 she says it says. So I think we need to move on.

21 MS. BLEND: Your Honor, Dr. Duann
22 challenged the idea that there was public notice of
23 the Company's reversal, the 2014 SEET provision. He
24 also testified that he reviews SEC filings but that
25 he doesn't do them every day. I don't believe he

1 ever testified he hadn't reviewed this SEC filing. I
2 was simply trying to establish that, in fact, the
3 Company publicly reported that the SEET reversal --
4 2014 SEET provision reversal had occurred.

5 MR. MICHAEL: Well, he didn't challenge
6 whether there was public notice, I objected to it,
7 and you withdrew your question, Point No. 1.

8 Point No. 2, I think Dr. Duann said he
9 hadn't read this specifically.

10 EXAMINER SEE: Okay. Why don't you see
11 if there's a foundation that you can lay for this
12 particular document.

13 BY MS. BLEND:

14 Q. Dr. Duann, have you previously reviewed
15 the document that's before you?

16 A. No.

17 Q. Okay.

18 A. And I say when I review it, it did not
19 say Ohio Power -- at least one that you highlight, it
20 did not say Ohio Power reversed its SEET provision,
21 it simply did not say.

22 MS. BLEND: Your Honor, I would ask
23 either that Dr. Duann's answer after "No" be stricken
24 or that he be directed to read into the record the
25 highlighted portion of Page 3, which he's now

1 mischaracterized in the transcript.

2 MR. MICHAEL: Your Honor, I mean, as I
3 said earlier, I think I know where counsel is trying
4 to go. I think there's a way she can get there, but
5 has chosen not to get there for some particular
6 reason, but the way to get there is not to put a
7 document that a witness has never seen, can't
8 identify, and read out of it. The document says what
9 it says.

10 MS. BLEND: Your Honor, if OCC is
11 offering to stipulate to administrative notice of
12 this document, I have -- I can wrap up these
13 questions.

14 MR. MICHAEL: We would so stipulate.

15 MS. BLEND: Great. Thank you.

16 EXAMINER SEE: Done.

17 MR. MICHAEL: To the admissibility, not
18 about any assertions about what it says or anything,
19 but yeah.

20 BY MS. BLEND:

21 Q. Dr. Duann, you're familiar with the
22 global settlement, correct?

23 A. I'm -- I understand what the -- what the
24 Commission considered when it adopt a settlement,
25 yes, I have a general understanding on that.

1 Q. OCC was a party to the global
2 settlement, correct, a signatory party?

3 A. OCC did not sign the settlement -- you
4 mean the global settlement?

5 Q. Yes.

6 A. Yes. Yes.

7 Q. So just for clarity of the record, OCC
8 was a party to the global settlement?

9 A. Yes.

10 Q. Okay. And the global settlement was
11 filed December 21st, 2016?

12 A. Yes.

13 Q. And in the global settlement, OCC agreed
14 that the global settlement resolved the Ohio Supreme
15 Court's reversal of the 12 percent SEET threshold in
16 the ESP II case, correct?

17 A. I don't have the global settlement in
18 front of me. I'll be more happy to answer it if I
19 can read it.

20 MS. BLEND: May we approach, Your Honor?

21 EXAMINER SEE: Yes.

22 MS. BLEND: For purposes of
23 identification, Your Honor, we'd like to mark this as
24 AEP Ohio Exhibit 6.

25 EXAMINER SEE: Okay. And you're marking

1 the global settlement stipulation --

2 MS. BLEND: That's correct.

3 EXAMINER SEE: -- itself?

4 MS. BLEND: The stipulation, itself,
5 Your Honor, that's correct.

6 MR. McNAMEE: What was the number?

7 MS. BLEND: AEP Ohio Exhibit 6.

8 EXAMINER SEE: Just for clarity, you
9 want to give us a more pinpoint reference to the
10 global settlement that we're all referring to?

11 MS. BLEND: Yes, Your Honor. It's the
12 settlement -- the joint stipulation and
13 recommendation in 18 cases before the Commission
14 including Case No. 10-2929-EL-UNC.

15 EXAMINER SEE: Okay. Thank you.

16 BY MS. BLEND:

17 Q. Dr. Duann, would you please turn to
18 Page 11 of AEP Ohio Exhibit 6?

19 A. Yes.

20 Q. Section C.1.a. --

21 A. Yes.

22 Q. -- on Page 11 states that the global
23 settlement resolves the Supreme Court's reversal of
24 the Commission on the SEET threshold on the ESP II
25 remand, correct?

1 A. That's what it say, yes.

2 Q. And if you'll turn to Page 12,
3 Section C.1.c. at the top of Page 12 states that the
4 global settlement resolves the Company's 2014 SEET
5 proceeding, correct?

6 A. Yes, that's what it said.

7 Q. Dr. Duann, is it a normal occurrence for
8 the Ohio Supreme Court to reverse the Commission's
9 imposition of a SEET ROE threshold?

10 MR. MICHAEL: Objection to form, and I
11 think the degree to which Dr. Duann is opining on
12 SEET threshold, knows about how frequently the
13 Supreme Court reverses the PUCO, is questionable at
14 best.

15 MS. BLEND: Your Honor, Dr. Duann
16 testifies that -- or criticizes AEP Ohio's witness's
17 position that the June 2016 reversal of the 2014 SEET
18 provision was a special nonrecurring extraordinary
19 event; so I'm simply trying to probe that opinion.

20 MR. MICHAEL: Well, then I'm not quite
21 sure why counsel asked him how frequently the Supreme
22 Court reverses the PUCO then, that's a different
23 question.

24 MS. BLEND: I asked whether it was a
25 normal occurrence, Your Honor.

1 EXAMINER SEE: Okay. Let's try the
2 question again then, Ms. Blend.

3 MS. BLEND: Sure.

4 BY MS. BLEND:

5 Q. Dr. Duann, is the Ohio Supreme Court's
6 reversal of the Commission's imposition of a SEET ROE
7 threshold a normal occurrence?

8 A. Yeah, pretty normal. The Supreme Court
9 reverse the PUCO's decision all the time.

10 Q. Has the -- when -- has the Supreme Court
11 ever reversed the imposition of a SEET ROE threshold
12 other than in AEP Ohio's ESP II case?

13 A. Well, because I think this is the first
14 case come up, that doesn't mean it's not normal. I
15 mean, there's always any proceeding, any -- there
16 will always be a first. So I don't see why it's not
17 normal.

18 Q. Dr. Duann, at Page 11 of your
19 supplemental testimony --

20 A. You mean my testimony in opposition?

21 Q. Yes, OCC Exhibit 3.

22 A. Okay.

23 Q. Page 11.

24 A. Yes.

25 Q. Beginning on Line 18 of Page 11 --

1 A. Yes.

2 Q. -- and continuing on to Page 12, Line 2,
3 you opine regarding the effect of the stipulation on
4 state electric policies, correct?

5 A. Yes.

6 Q. Is it your position, Dr. Duann, that the
7 Company's adjustment to the reversal of the 2014 SEET
8 provision violates state policy regarding the
9 availability to consumers of adequate, reliable,
10 safe, efficient, nondiscriminatory, and reasonably
11 priced retail electric service?

12 A. That's -- I didn't say that. I only
13 said the proposed settlement, which you look at the
14 total settlement which is -- is the customer will get
15 zero instead of they will get \$53 million, I find
16 that settlement violates the state policy.

17 Q. So it is not your testimony that
18 Adjustment 2 violates that state policy that we were
19 just discussing?

20 A. I -- I would say I didn't specifically
21 address that issue.

22 Q. So your testimony is not that Adjustment 2
23 violates the state policy regarding the availability
24 of reliable, safe, efficient, nondiscriminatory, and
25 reasonably priced retail electric service?

1 MR. MICHAEL: Objection, asked and
2 answered.

3 MS. BLEND: Your Honor, I don't believe
4 he actually has answered my question.

5 EXAMINER SEE: The objection is
6 overruled.

7 THE WITNESS: Well, as I said, I find
8 that the proposed settlement, the proposed
9 settlement, which is the customer would not get any
10 refund, and I find that, you know, that violates
11 state policy on regarding adequate, reliable, safe,
12 efficient, nondiscriminatory, and reasonably priced
13 retail electric service, and also hurt the at-risk
14 population, and also increase the burden on
15 industrial and commercial customers served by AEP
16 Ohio, and it does reduce the effectiveness in the
17 global economy.

18 I did not specifically express any
19 opinion -- any specific element, you know, in --
20 regarding -- regarding what's in the stipulation. I
21 don't think the stipulation, itself, even deal with
22 the reversal of the 2014 SEET provision; so I don't
23 see how you can jump to that conclusion.

24 BY MS. BLEND:

25 Q. Your -- you are not testifying in this

1 case that Adjustment 2 violates any of the state
2 policies on Pages 11 or 12 of your testimony,
3 correct?

4 A. No.

5 Q. And you're not testifying that any --
6 that Adjustment 3 regarding the PIRR equity carrying
7 charge violates any of the state policies on Pages 11
8 or 12 of your testimony, correct?

9 A. No. I already explained those in my
10 direct testimony, those adjustment are unreasonable
11 and they should not be made. I already explained
12 that.

13 For my direct testimony, I'm regarding
14 the proposed settlement -- and this proposed
15 settlement, they require a different set of standard,
16 and I'm just -- here I'm talking about applying those
17 standard to the total settlement.

18 Q. So you'd agree that Attachment DJD-1 to
19 OCC Exhibit 3 is just -- is your litigation position
20 and not your position on the settlement?

21 MR. MICHAEL: Objection. I object to
22 form. I'm not sure what she means by "litigation
23 position." It's the direct testimony filed in
24 response to the application, it is what it is.

25 MS. BLEND: He just testified this was

1 without regard to the stipulation.

2 THE WITNESS: Well, how can I -- sorry.

3 EXAMINER SEE: The objection is
4 overruled. You can answer the question.

5 THE WITNESS: How can I address the
6 stipulation when I file the direct testimony? At
7 that time there's no stipulation. So what are you
8 talking about?

9 BY MS. BLEND:

10 Q. Dr. Duann, you agree that the global
11 settlement, of which OCC was a signatory party, also
12 resolved the Ohio Supreme Court's reinstatement of
13 the PIRR equity carrying charge in Case
14 Nos. 11-4920-EL-RDR and 11-4921-EL-RDR, correct?

15 A. Are you referring to the Page 10 of the
16 stipulation?

17 Q. I am, Section B.

18 A. Okay. Section B, yeah, that's what it
19 say here.

20 Q. And Section B.1. says that the global
21 settlement resolves the Supreme Court's reversal of
22 the Commission on carrying charges and the PIRR order
23 proceeding?

24 A. Yes, that's what it says.

25 Q. And as part of the global settlement,

1 OCC agreed to withdraw its application for rehearing
2 regarding the reinstatement of the equity carrying
3 charges, correct?

4 A. I don't think OCC will need to file a
5 formal report or anything. What I -- you know, I'm
6 not an attorney, but what I read here was will it
7 become moot and it should be considered to be
8 withdrawn. So I don't know whether we actually
9 withdraw it or not. That, I don't know.

10 Q. Dr. Duann, would you agree that
11 residential customers received significant benefits
12 as a result of the global settlement?

13 A. I don't quite understand the word
14 "significant" here. I know that we signed -- we
15 signed the global settlement.

16 Q. Do you agree that residential customers
17 benefited from the global settlement?

18 A. Yes.

19 Q. Residential customers received a \$100
20 million FAC refund as part of the global settlement,
21 correct?

22 A. Which page you are referring to?

23 MR. MICHAEL: Your Honor, I'm going to
24 object to this line of questioning. Again, I let
25 counsel go down this road a little bit, but it's a

1 document that was filed at the Commission, it says
2 what it says. Counsel has established no foundation
3 about Dr. Duann's level of participation in that
4 case. It's a legal document drafted between lawyers,
5 and counsel's asking an economics witness about the
6 meaning of different provisions of it.

7 If they want to try to introduce it into
8 the record, the Commission has a long history of
9 allowing such documents into the record and we can
10 fight about it on brief. But it's just gone on too
11 far, and I think Your Honor should put a stop to it
12 and, therefore, I object to any further questions
13 like this.

14 MS. BLEND: Your Honor, Dr. Duann's
15 testimony relates to and discusses the global
16 settlement. OCC was a signatory party to the global
17 settlement. I believe Dr. Duann provided testimony
18 in numerous of the cases that were resolved in the
19 global settlement.

20 MR. MICHAEL: None of which are relevant
21 to her walking through and asking him to interpret
22 what the legal document says --

23 MS. BLEND: That's not what I was doing,
24 Your Honor.

25 MR. MICHAEL: -- and its implications.

1 MS. BLEND: I was simply -- I was asking
2 Dr. Duann about the components of the global
3 settlement, which as a package significantly benefit
4 customers in which OCC was a signatory party to and
5 which included a \$100 million customer refund and a
6 \$20 million SEET refund.

7 MR. MICHAEL: Case closed, objection.

8 EXAMINER SEE: The objection is
9 overruled.

10 THE WITNESS: Well, I -- you know, I --
11 once again, I -- I think you mischaracterize my
12 testimony. My testimony is not about a global
13 settlement. My testimony related the global
14 settlement is only related to the 2014 and 2015 SEET
15 case, and we have gone over that so many times. The
16 Commission did not make a decision on those two
17 cases.

18 BY MS. BLEND:

19 Q. So --

20 A. And, you know, whether the customer
21 received any benefit or anything, you know, I didn't
22 address that. The only thing I addressed related to
23 global settlement is global settlement has provision
24 related to the 2014 and the 2015 SEET case. The
25 Company specifically in that case said there should

1 not be any precedent associated. The Company does
2 not want to even say that -- even say that -- even
3 admit in 2014 they have significant excessive
4 earnings. Even they agree to give the customer 20.3
5 million. That's just a total package. The Company
6 give the 20.3 million here and then they get it from
7 other place.

8 So I think that you totally
9 mischaracterized my testimony. I'm not talking about
10 a global settlement. I'm talking about the 2014 and
11 the 2015 SEET, and is those SEET related to the
12 global settlement. So if you want to ask me how the
13 global settlement related to those two cases, I will
14 be glad to answer that.

15 MS. BLEND: Your Honor, I move to strike
16 Dr. Duann's entire answer after you directed him to
17 respond to the question posed, and also request that
18 you direct him to answer the question that I asked.

19 EXAMINER SEE: Let's go back to the
20 question.

21 (Record read back as requested.)

22 THE WITNESS: Can you show me where --

23 MR. MICHAEL: Don't answer any questions
24 yet, the Attorney-Examiner hasn't directed you to do
25 anything.

1 THE WITNESS: Okay.

2 EXAMINER SEE: He can answer that
3 question.

4 THE WITNESS: Before I answer the
5 question, I need to know which page you are referring
6 to.

7 BY MS. BLEND:

8 Q. Page 12, Section D.2.a.

9 A. The Company will -- yes, in that
10 paragraph the Company will provide a refund of --
11 \$100 million FAC refund as a remedy for the case
12 enumerated in Section D.1.c., and to return a portion
13 of the amount that were paid by standard service
14 offer customer from August 2012 through May 2014
15 (sic) for OVEC/Lawrenceburg purchase, SSO refund
16 customer.

17 Q. Thank you, Dr. Duann.

18 A. My answer is the -- the Company will
19 provide a refund of \$100 million, that's it. I do
20 not consider that to be a benefit to customer.

21 Q. Dr. Duann, turning back to Adjustment 3,
22 to the adjusted ROE for the purposes of the 2016 SEET
23 test, you agree that the -- you agree that Adjustment 3
24 relates to the PIRR equity carrying charge income,
25 correct?

1 A. Adjustment -- I only agree that
2 Adjustment 3 is related to the PIRR adjustment.

3 Q. Right.

4 A. Yeah.

5 Q. Okay. Wanted to make sure we're on the
6 same page.

7 Those -- the income that's at issue with
8 regard to the PIRR equity carrying charge is income
9 for the years 2012 to 2015, correct?

10 A. I did not make that characterization
11 myself; so I cannot answer that question.

12 Q. Do you dispute whether that income is
13 income related to the years 2012 to 2015?

14 A. As I say, I have not made the
15 calculation myself; so I -- I either dispute it or I
16 do not dispute it and I do not support it.

17 Q. Can you please turn to Attachment DJD-2
18 to Attachment DJD-1 of OCC Exhibit 3?

19 A. Yes.

20 EXAMINER SEE: You said DJD-2?

21 MS. BLEND: Yes. It's the table
22 Calculation of Average -- titled "Calculation of
23 Average ROE and Standard Deviation of Utilities
24 Selector Sector SPDR," and on Page 1 of the
25 attachment there's a parenthetical "28 Companies."

1 EXAMINER SEE: Thank you.

2 BY MS. BLEND:

3 Q. Dr. Duann, can you please turn to Page 2
4 of Attachment DJD-2?

5 A. Yes.

6 Q. You do not discuss the -- you'd agree
7 that on Page 2 of 3 of Attachment DJD-2, at the
8 bottom there's an OCC -- at the bottom line is OCC
9 SEET Threshold 1, 14.81 percent. Do you see that?

10 A. Yes.

11 Q. That SEET threshold of 14.81 percent is
12 not discussed elsewhere in your testimony, correct?

13 A. No.

14 Q. Why was this page -- why was this
15 included in your testimony?

16 A. Because it's not needed.

17 Q. You included the SEET threshold of 14.81
18 percent in your Attachment DJD-2, correct?

19 THE WITNESS: Can I have the question
20 read back, please?

21 (Record read back as requested.)

22 THE WITNESS: Yeah. That's what it is
23 showing in my attachment, yes, but I did not discuss
24 it in my testimony.

25 BY MS. BLEND:

1 Q. On Pages 18 and 19 of your direct
2 testimony, Attachment DJD-1 to OCC Exhibit 3, you
3 discuss what you call OCC Modification 1, correct,
4 beginning -- Page 18, Line 12, through Page 18, Line 7.

5 A. That's from my direct testimony. Yes, I
6 see the OCC Modification 1, yes, I saw that.

7 Q. Okay. Leaving aside which companies
8 should or should not be included or excluded from the
9 comparable risk group, do you agree that the
10 methodology the Company used to calculate its
11 proposed 2016 SEET threshold is reasonable?

12 A. The Company's proposal included in
13 Mr. Allen's testimony?

14 Q. Correct.

15 A. No, it's not reasonable.

16 Q. You used the same methodology with a
17 different comparable risk group to calculate your OCC
18 Modification 1 discussed on Pages 18 and 19 of your
19 direct testimony, correct?

20 A. And I also used a different average ROE.

21 Q. The -- so is your answer no, you did not
22 use the same methodology as Mr. Allen for calculating
23 your OCC Modification 1?

24 A. No.

25 Q. The --

1 A. It's a similar, but it's different.

2 Q. The difference is the companies that
3 were included in the comparable risk group, correct?

4 A. And also the -- Mr. Allen just used the
5 simple average ROE and I used the equity weighted
6 ROE.

7 MS. BLEND: Could you please read that
8 answer back?

9 (Record read back as requested.)

10 THE WITNESS: Equity weighted ROE,
11 sorry.

12 BY MS. BLEND:

13 Q. Dr. Duann, would you please refer to
14 Page 19, Lines 5 and 6 of your direct testimony?
15 There you state "See Attachment DJD-2, Page 2 of 2,"
16 correct, for the resulting SEET threshold of 14.65
17 percent?

18 Can you please turn to Attachment DJD-2
19 and the table that corresponds with that SEET
20 threshold result. Is it Attachment DJD-2, Page 3 of
21 3?

22 A. Uh-huh.

23 Q. Looking at Attachment DJD-2, Page 3 of
24 3, do you see three-quarters of the way down the page
25 there's a line that says "Total"?

1 A. Yes.

2 Q. The line immediately under that line
3 reflects that the average ROE is an unweighted
4 average ROE.

5 A. Right.

6 Q. So other than using a different
7 comparable group of companies, you used the same
8 methodology as AEP Ohio Witness Allen to calculate
9 OCC Modification 1, correct, including an
10 unweighted -- using an unweighted average ROE?

11 A. No. I used the weighted average, I used
12 the one above, 10.30 percent. On the same DJD-2,
13 Page 3 out of 3, and then on the line "Total," on the
14 right-hand side there's a 10.30 percent, that's the
15 one I used. So that's different from Mr. Allen's
16 unweighted average ROE.

17 Q. Does the methodology that you used to
18 calculate OCC Modification 1 violate any important
19 regulatory policy or principle?

20 A. My methodology, no.

21 Q. If you'll please turn to Page 21 of your
22 direct testimony, you discuss your OCC Modification 2,
23 correct?

24 A. Oh, 21 of my direct testimony?

25 Q. Yes. Which is Attachment DJD-1 to OCC

1 Exhibit 3. On Pages 20 and 21 of that testimony, you
2 discuss the methodology that Staff Witness Buckley
3 used in calculating his proposed 2016 SEET threshold
4 in your OCC Modification 2, correct?

5 A. Yes.

6 Q. Leaving aside the companies that should
7 or should not be included or excluded from the
8 comparable risk group, do you agree that the
9 methodology that Staff Witness Buckley used to
10 calculate the -- his proposed 2016 SEET threshold is
11 reasonable?

12 A. Well, because I think the Staff did not
13 exclude all those outlier companies; so I don't
14 consider the results to be reasonable.

15 Q. Let me try my question again. Leaving
16 aside which companies were or were not included or
17 excluded from the comparable risk group, I understand
18 you disagree with Staff Witness Buckley on that
19 point, leaving that aside, do you agree that the
20 methodology that Staff used -- Staff Witness Buckley
21 used to calculate his proposed 2016 SEET threshold is
22 reasonable?

23 A. I would not agree, because I think
24 there's -- another issue is the -- is he used the net
25 income, which the net income could potentially

1 include a lot of -- a lot of unusual and a large
2 amount of charge which could make the result
3 unreasonable.

4 Q. Dr. Duann, you agree that you used the
5 same methodology as Staff Witness Buckley with a
6 different comparable risk group to calculate OCC
7 Modification 2, correct? I'll refer you to
8 Attachment DJD-4, Page 2 of 2, to your direct
9 testimony.

10 A. Yes.

11 Q. Are you aware that the 16.8 percent SEET
12 threshold that Staff proposed in this case Staff also
13 proposed in FirstEnergy's 2016 SEET case?

14 A. Yes.

15 Q. OCC did not oppose a 16.8 percent SEET
16 threshold in FirstEnergy's SEET case, correct?

17 MR. MICHAEL: Objection, relevance.

18 MS. BLEND: Your Honor, Dr. Duann
19 discusses -- discusses the FirstEnergy SEET
20 threshold. He -- one of his attachments actually
21 refers to FE Witness Savage's SEET threshold
22 calculation.

23 EXAMINER SEE: Are you talking about in
24 his direct testimony?

25 MS. BLEND: In his direct testimony.

1 EXAMINER SEE: On what page did you see
2 that reference?

3 MS. BLEND: Attachment DJD-3 to his
4 direct testimony, and then on Page 20 of his direct
5 testimony, beginning at Line 10, he discusses being --
6 on Line 13, Page 20 of his testimony, the analysis
7 done by PUCO Staff in the 2016 FirstEnergy SEET
8 application.

9 MR. MICHAEL: The fact that he
10 references it doesn't mean that it's relevant as to
11 whether or not we opposed or didn't oppose whatever
12 the SEET threshold was in that case. He's made very
13 clear that each case is fact intensive and must stand
14 on its own.

15 MS. BLEND: I -- he -- Dr. Duann raised
16 the issue of the SEET threshold used in that case,
17 and so I believe it's fair to ask him about it and
18 about the positions OCC took in that case or didn't
19 take.

20 EXAMINER SEE: I'm going to allow the
21 question to stand. You can answer the question,
22 Mr. Duann.

23 THE WITNESS: Well, I think OCC did not
24 intervene in that case.

25 BY MS. BLEND:

1 Q. You agree, Dr. Duann -- well, so, no,
2 OCC did not oppose the 16.8 percent SEET threshold in
3 the FE case?

4 A. Well, I didn't say that. What I know
5 the fact is OCC did not intervene in that case.

6 Q. And you agree, Dr. Duann, as you stated
7 on Page 19, Line 15 of your direct testimony, that
8 the result of the analysis by PUCO Staff in the 2016
9 FirstEnergy SEET case is relevant to this proceeding?

10 A. Well, yeah, I -- I reference in my
11 testimony, yeah. So it's -- it is right, but we did
12 not intervene in that case and, you know, we -- we --
13 at least for the OCC, itself, has not formulated what
14 position we are going to take.

15 Q. Dr. Duann, do you agree that utilities
16 can have negative earnings in a given year?

17 A. I don't -- I don't see -- I don't see
18 how can I agree or not agree. Are you saying is that
19 a factual statement or what?

20 Q. Yes.

21 A. Yeah. I mean, they report it; so they
22 must have a negative earning, yeah.

23 Q. Is it your position that companies that
24 face comparable business and financial risk can't
25 have both some companies with positive earnings and

1 other companies with negative earnings?

2 A. I think when you are looking at a
3 comparable group, I think the issue is not really
4 earnings, the issue is really look at what -- what
5 the -- what the business and the financial risk. In
6 order to do that, you just try to -- to find the
7 normal -- what's the normal level of earnings so
8 if -- in any particular year, and this same company
9 with significant restructuring, then you probably
10 should exclude those.

11 Q. So whether a company has negative
12 earnings in a year does not automatically make that
13 company not comparable for purposes of the SEET test?

14 A. I will usually exclude those company. I
15 will consider that company for that particular year
16 is not a good example to -- to be considered in the
17 comparable group.

18 Q. Because it has negative earnings in that
19 year?

20 A. Yes, especially a very significant
21 amount of negative, 500 million, 600 million, 700
22 million, I would not consider that to be comparable.

23 Q. Okay. Thank you, Dr. Duann.

24 MS. BLEND: No further questions.

25 EXAMINER SEE: Mr. Michael, any redirect

1 of the witness?

2 MR. MICHAEL: No, Your Honor.

3 EXAMINER SEE: Mr. Michael.

4 MR. MICHAEL: Yes, Your Honor.

5 EXAMINER SEE: Did you already move for
6 the admission of OCC Exhibit 3?

7 MR. MICHAEL: Indeed I did, subject to
8 cross-examination.

9 EXAMINER SEE: Okay. Are there any
10 objections to the admission of OCC Exhibit 3?

11 MR. McNAMEE: No objection from Staff.

12 MS. BLEND: No, Your Honor.

13 EXAMINER SEE: OCC Exhibit 3 is admitted
14 into the record.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 EXAMINER SEE: Ms. Blend, were you going
17 to move AEP Exhibit 6?

18 MS. BLEND: No, Your Honor. We marked
19 that simply for purposes of identification. Thank
20 you.

21 MR. NOURSE: But, Your Honor, I will
22 renew the motion to admit Joint Exhibit 1, the
23 stipulation.

24 EXAMINER SEE: Okay. Thank you. Thank
25 you, Mr. Duann.

1 THE WITNESS: Okay.

2 EXAMINER SEE: And with that, are there
3 any objections to the admission of Joint Exhibit 1?

4 MR. McNAMEE: Certainly not from Staff.

5 MR. McKENNEY: No, Your Honor.

6 EXAMINER SEE: Joint Exhibit 1 is
7 admitted into the record.

8 (EXHIBIT ADMITTED INTO EVIDENCE.)

9 EXAMINER SEE: Let's go off the record
10 for a moment.

11 (Discussion held off the record.)

12 EXAMINER SEE: Let's go back on the
13 record.

14 The parties have proposed that initial
15 briefs be due May 1st and reply briefs due May 22nd,
16 and the Bench is agreeable to that schedule.

17 MR. NOURSE: Thank you, Your Honor.

18 EXAMINER SEE: With that, if there's
19 nothing further.

20 MR. McNAMEE: Nothing further from
21 Staff.

22 MR. McKENNEY: Nothing further, Your
23 Honor.

24 EXAMINER SEE: Hearing is adjourned.
25 Thank you.

(Thereupon, the hearing was
concluded at 1:25 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, April 10,
2018, and carefully compared with my original
stenographic notes.

Carolyn D. Ross

Carolyn D. Ross,
Registered Professional
Reporter and Notary
Public in and for the
State of Ohio.

My commission expires April 3, 2019.
(CDR-86604)



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Case No(s). 17-1230-EL-UNC

Summary: Transcript In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test Pursuant to R.C. 4928.143(F) and Ohio Administrative Code 4901:1-35-10, hearing held on April 11, 2018. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Ross, Carolyn D.