

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In The Matter of the :
Application of Cobra :
Pipeline Company, Ltd. To : Case No. 16-1725-PL-AIR
Amend Its Rates and :
Charges. :
:

In The Matter of the :
Application of Cobra :
Pipeline Company, LTD for : Case No. 18-1549-PL-AEM
An Emergency Increase in :
Its Rates and Charges :
:

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PROCEEDINGS

Before Sarah Parrot and Nick Walstra, Attorney
Examiners, at the Public Utilities Commission of
Ohio, 180 East Broad Street, Room 11D, Columbus,
Ohio, called at 10:00 a.m. on Thursday, January 10th,
2019.

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On behalf of Northeast Ohio Natural Gas
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Gas Corp.

- - -

1	INDEX		
2	- - -		
3	COMPANY'S CASE		
4	WITNESSES:		PAGE
5	Jessica Carothers		
6	Direct Examination by Mr. Justin Dortch		7
7	Cross-Examination by Mr. Alexander		15
8	Cross-Examination by Mr. Margard		57
9	Redirect Examination by Mr. Justin Dortch		68
10	Recross-Examination by Mr. Alexander		71
11	Examination by Examiner Parrot		75
12	Carolyn Coatoam		
13	Direct Examination by Mr. Justin Dortch		82
14	Cross-Examination by Mr. Alexander		92
15	Cross-Examination by Mr. Margard		147
16	STAFF'S CASE		
17	Matthew Snider		
18	Direct Examination by Mr. Margard		169
19	Cross-Examination by Mr. Alexander		171
20	Cross-Examination by Mr. Michael Dortch		186
21	Redirect Examination by Mr. Margard		217
22	Recross-Examination by Mr. Michael Dortch		219
23	- - -		
24	COMPANY EXHIBITS	IDENTIFIED	ADMITTED
25	A - Direct Testimony of Jessica Carothers	8	80
26	****WITH CONFIDENTIAL EXHIBITS****		
27	B - Direct Testimony of Carolyn Coatoam	82	167
28	NEO EXHIBITS	IDENTIFIED	ADMITTED
29	A - Application For An Emergency Increase In Rates And Charges	18	80
30	B - Email chain	31	80
31	C - Quit Claim Deed for 2412 Newton Falls Road, LLC	41	80

INDEX

- - -

NEO EXHIBITS	IDENTIFIED	ADMITTED
D - Cobra Pipeline Company, LTD.'s Responses to Orwell Natural Gas Company, Northeast Ohio Natural Gas Corp, and Brainard Gas Corp's Second Set of Interrogatories and Requests for Production of Documents	42	80
E - Cobra Pipeline Co., LTD Churchtown/Markwest 1/3/2019 ****CONFIDENTIAL****	46	80
F - 2018 Transport Revenue Summary	94	168
G - Summary of Cobra Excise Tax	118	168

STAFF EXHIBITS	IDENTIFIED	ADMITTED
A - Quit Claim Deed for Marietta Land Properties, LLC	69	81
B - Washington County, Ohio Property Record Card Parcel 360093036000	60	81
C - Property Information Property Number: 51-082-0-003.00-P	62	81
D - State of Ohio Certificate	62	81
E - Finding and Order Case No. 05-1558-PL-ATA	159	--
F - Application Case No 05-1559-PL-ATA	159	--
G - Review and Recommendation Case No. 18-1549-PL-AEM	168	220
H - Matthew Snider, Testimony in In Support of the Staff letter	168	220

- - -

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2
3
4
5
6
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8
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Thursday Morning Session,
January 10, 2019.

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EXAMINER PARROT: Let's go on the
record. The Public Utilities Commission of Ohio has
called for hearing at this time and place, Case No.
18-1549-PL-AEM, being captioned In The Matter of the
Application of Cobra Pipeline Company, Ltd., for an
Emergency Increase in its Rates and Charges, which
has been consolidated with Case No. 16-1725-PL-AIR,
which was captioned In the Matter of the Application
of Cobra Pipeline Company, LTD, for an Increase in
its Rates and Charges.

Good morning everyone. My name is Sarah
Parrot. With me is Nick Walstra. We are the
Attorney Examiners assigned by the Commission to hear
both of these cases.

Let's begin with appearances, starting
with the company, and work our way down.

MR. JUSTIN DORTCH: Thank you, your
Honors. My name is Justin Dortch. And next to me is
co-counsel Michael Dortch. We're from the law firm
of Kravitz, Brown & Dortch, 65 East State Street,
Columbus, Ohio, Suite 200, 43215.

We represent Cobra Pipeline Company.

1 Representing the company today is Jessica Carothers
2 and Carolyn Coatoam.

3 EXAMINER PARROT: Thank you,
4 Mr. Dortch. Staff.

5 MR. MARGARD: Thank you, your Honor. On
6 behalf of the Staff of the Public Utilities
7 Commission of Ohio, Mike DeWine, Ohio Attorney
8 General, William Wright, Section Chief, Public
9 Utilities Section, by Assistant Attorney General
10 Warner L. Margard, 30 East Broad Street, 16th Floor,
11 Columbus, Ohio.

12 EXAMINER PARROT: Mr. Alexander.

13 MR. ALEXANDER: Good morning. Trevor
14 Alexander and Mark Keaney from the law firm of
15 Calfee, Halter & Griswold, here representing
16 Northeast Ohio Natural Gas, Brainard Natural Gas, and
17 Orwell Natural Gas.

18 EXAMINER PARROT: I would just note for
19 the record that Stand Energy is also a party to both
20 of these proceedings. Is there anyone present on
21 behalf of Stand?

22 Let the record reflect that we have no
23 one present from Stand Energy.

24 Any preliminary matters before we get
25 started?

1 MR. JUSTIN DORTCH: None from the
2 company, your Honor.

3 EXAMINER PARROT: Mr. Dortch, you may
4 call your first witness.

5 MR. JUSTIN DORTCH: Thank you. The
6 company calls Jessica Carothers to the stand, please.

7 EXAMINER PARROT: Please raise your
8 right hand. Do you swear or affirm the testimony
9 you're about to give will be the truth?

10 MS. CAROTHERS: Yes.

11 EXAMINER PARROT: Please have a seat.

12 - - -

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

16 DIRECT EXAMINATION

17 By Mr. Justin Dortch:

18 Q. Mrs. Carothers, would you state your
19 name, and spell it for the Court Reporter, please?

20 A. Jessica Carothers, C-a-r-o-t-h-e-r-s.

21 Q. Thank you. And by whom are you employed
22 and what is your capacity?

23 A. I'm employed by Cobra Pipeline Company,
24 and my title is accounting manager. I, in essence,
25 work as the general manager for the company, office

1 manager type of tasks.

2 Q. Thank you. Did you prepare and cause to
3 be filed written direct testimony in this proceeding?

4 A. Yes, I did.

5 MR. JUSTIN DORTCH: Your Honor, I ask
6 that Ms. Carothers' testimony be admitted as
7 Exhibit A.

8 EXAMINER PARROT: It will be marked as
9 Exhibit A.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 MR. JUSTIN DORTCH: May I approach, your
12 Honor?

13 EXAMINER PARROT: You may. I would just
14 note for the record at this time that the parties
15 have agreed to designate exhibits in this portion of
16 the hearing using letters versus numbers, to provide
17 clarity to the record.

18 By Mr. Justin Dortch:

19 Q. Ms. Carothers, would you please take
20 some time to review Exhibit A? When you're ready,
21 please let us know if this is your prefiled direct
22 testimony.

23 A. Yes, it is.

24 Q. And it was prepared by you or under your
25 direction?

1 A. Correct.

2 Q. And do you have any changes, additions,
3 or corrections you would like to make to the
4 testimony at this time?

5 A. No.

6 Q. And if you were to be asked the same
7 questions under oath today, would your answers be the
8 same?

9 A. Yes.

10 MR. JUSTIN DORTCH: Your Honors, I would
11 move for the admission of Exhibit A subject to
12 cross-examination.

13 EXAMINER PARROT: Thank you, Mr. Dortch.

14 MR. ALEXANDER: Your Honor, may I ask
15 counsel, are you seeking to also admit the exhibits
16 to Ms. Carothers' testimony?

17 MR. JUSTIN DORTCH: We are. I have
18 provided each -- the exhibits are attached in the
19 CD-ROM that are provided. They are quite lengthy.
20 And I don't know if the parties intend to -- other
21 parties intend to use a specific page. If so, we
22 will try our best to provide --

23 EXAMINER PARROT: Let's go off the
24 record.

25 (Discussion off the record.)

1 EXAMINER PARROT: Let's go back on the
2 record.

3 MR. ALEXANDER: Your Honor, when we were
4 off the record we discussed Ms. Carothers' exhibits,
5 which I understand are going to be separately marked
6 at a later point. But would now be a convenient time
7 for the Court to hear a motion to strike?

8 EXAMINER PARROT: Yes, we can. I don't
9 know that we need to separately mark the exhibits,
10 though. I'm sorry, did I misunderstand, was that
11 what others were proposing as well?

12 MR. MARGARD: I understand that they are
13 attachments to the testimony.

14 EXAMINER PARROT: So I think they are
15 just part of what has been marked as Exhibit A.
16 Thank you. But yes, motion to strike. Please
17 proceed.

18 MR. ALEXANDER: Thank you, your Honor.
19 This motion to strike begins with page 16, line 3,
20 and goes through the remainder of Ms. Carothers'
21 testimony.

22 The grounds for the motion are this
23 portion of Ms. Carothers' testimony speaks
24 exclusively to the 2016 rate case proceeding, Case
25 No. 16-1725.

1 And while I understand these proceedings
2 have been consolidated, this portion of
3 Ms. Carothers' testimony seeks to improperly
4 supplement the record of a case which has been fully
5 litigated and briefed, and is awaiting Commission
6 decision.

7 Examples of that include page 16,
8 line 13, she asked the Commission to adopt Cobra's
9 legal position in that case; page 16, line 17, she
10 requests the Commission to use Cobra's 2018 expenses
11 instead of the expenses which were presented in that
12 case; page 18, line 6, Cobra actually makes a
13 settlement offer regarding its rate of return, which
14 varies from its litigation position in that case;
15 page 19, Cobra again makes a settlement offer
16 regarding depreciation, which was an issue
17 extensively briefed and argued in the last case;
18 page 20, line 5, Cobra now varies from the emergency
19 rate, which we're here to set today, to the
20 calculation of a new permanent rate, which it asked
21 the Commission to establish; and then page 20,
22 line 15, Cobra's willingness to make a refund order
23 as part of the 2016 rate case.

24 These are all issues which were
25 extensively addressed, briefed, argued, and are

1 awaiting Commission decision.

2 In addition, I think that this section
3 of Ms. Carothers' testimony violates Ohio law. We
4 have rules regarding notice to the public for rate
5 cases to give customers the opportunity to be
6 informed of rate increases that could be permanently
7 imposed, and to participate in Commission proceedings
8 if they choose to.

9 All of this portion of Ms. Carothers'
10 testimony avoids that process, avoiding the Staff
11 Report process, and due process for customers.

12 As a result, I would ask that from
13 page 16, line 3, to the conclusion of Ms. Carothers'
14 testimony be stricken.

15 MR. MARGARD: Your Honor, Staff would --

16 EXAMINER PARROT: Just a second.
17 Mr. Alexander, you said through the end of her
18 testimony. You're not proposing to strike page 21
19 though, I presume, nor the exhibits?

20 MR. ALEXANDER: I apologize, your Honor.
21 That is correct, yes.

22 EXAMINER PARROT: So through the end of
23 page 20.

24 MR. ALEXANDER: That is correct. The
25 exhibits were not stricken.

1 EXAMINER PARROT: Mr. Margard.

2 MR. MARGARD: Thank you, your Honor.
3 Staff fully supports the motion. The company here is
4 attempting essentially to reopen the record in the
5 fully litigated and closed case.

6 They didn't request leave to do so.
7 They haven't provided any new information that wasn't
8 available at the time of that litigation, there's no
9 good cause, so to do so here is clearly improper to
10 include it in this case. We would join the company
11 in its motion.

12 MR. JUSTIN DORTCH: Your Honor, one of
13 the things that is going to be discussed here today,
14 to put a finer point on it, is that one of owners was
15 continually taking money out of the company, and that
16 is one of the reasons why the company is not able to
17 meet its obligations.

18 These are simply the company accepting
19 Staff's recommendations from the previous case, as
20 going forward to a -- to demonstrate that this is
21 simply not the case in this matter, that even as you
22 take -- even as you take everything true that Staff
23 proposed in the 2016 rate case, that even accepting
24 all those, just what they are saying, that the money
25 is being taken out of the company is not accurate.

1 Regarding -- excuse me for a second.

2 The other circumstance why these are
3 relevant to this matter, is all of these demonstrate
4 that the company's current financial situation is
5 deteriorated to a point that it can no longer meet
6 its obligation. They are simply foundational in
7 nature to show how significant that is.

8 MR. ALEXANDER: Your Honor, just briefly
9 in response. Mr. Dortch said that the purpose of
10 this testimony was that even if Staff's 2016 rate
11 case recommendations were accepted, there was still a
12 need for emergency funds.

13 I don't think that's accurate, and just
14 two quick examples. This portion of Ms. Carothers'
15 testimony addresses depreciation issues, it takes
16 issues with Staff's recommendation in that case.

17 It addresses the expenses Staff
18 recommended in that case, and ask they both be
19 changed.

20 So I do not think this portion of the
21 witness' testimony can be correctly described as
22 accepting Staff's recommendations for from the rate
23 case.

24 EXAMINER PARROT: Anything else?

25 (Pause.)

1 EXAMINER PARROT: Thank you, everyone.
 2 We are going to deny the motion to strike this
 3 portion of Ms. Carothers' testimony. We are going to
 4 allow the Commission to determine whether it was
 5 properly offered at this stage of the proceedings,
 6 and if so, how much weight to afford to it.

7 MR. ALEXANDER: Should I proceed with
 8 cross-examination?

9 EXAMINER PARROT: If you are ready.

10 - - -

11 CROSS-EXAMINATION

12 By Mr. Alexander:

13 Q. Good morning, Ms. Carothers.

14 A. Good morning.

15 Q. The Commission has previously ordered
 16 Cobra to pay approximately \$500,000 in refunds to
 17 customers; is that right?

18 A. That is correct.

19 Q. Cobra has not made such refunds to
 20 customers at this point, correct?

21 A. That is correct.

22 Q. And you do not believe that Cobra has an
 23 obligation to issue a refund to customers as of
 24 today?

25 A. As of today, no.

1 Q. And Cobra believes it must issue the
2 customer refund as soon as its 2016 rate case is
3 final?

4 MR. JUSTIN DORTCH: Objection. Calls
5 for a legal conclusion.

6 THE WITNESS: I just know that --

7 EXAMINER PARROT: Ms. Carothers, just a
8 moment.

9 THE WITNESS: I'm sorry.

10 EXAMINER PARROT: I'm sorry, calls for a
11 legal conclusion?

12 MR. JUSTIN DORTCH: Yes.

13 EXAMINER PARROT: Ms. Carothers, are you
14 testifying today as an attorney?

15 THE WITNESS: No.

16 EXAMINER PARROT: With that
17 clarification to the record, I will allow the
18 question. So go ahead and please answer.

19 THE WITNESS: I know that the final
20 judgment in the 2016 case will impact the amount that
21 has to be returned to customers. Beyond that, I'm
22 not sure about the timeline.

23 By Mr. Alexander:

24 Q. You're the individual tasked with
25 ensuring that Cobra complies with all nonsafety

1 related Commission orders, correct?

2 A. Yes.

3 Q. Also at Cobra, you're the individual
4 responsible for ensuring that Cobra's payments to
5 Huntington Bank are timely made?

6 A. Yes.

7 Q. And Cobra is current on its payments to
8 Huntington Bank?

9 A. Yes.

10 Q. And Huntington Bank is Cobra's only
11 lender?

12 A. Yes.

13 Q. And Cobra has entered into a series of
14 forbearance agreements with Huntington Bank?

15 A. Correct.

16 Q. And those forbearance agreements are
17 renewed every 6 to 12 months?

18 A. From my knowledge, yes.

19 Q. And as part of those forbearance
20 agreements, Huntington charges Cobra for legal
21 expenses?

22 A. Correct.

23 Q. And Huntington charges Cobra for legal
24 expenses every time one of those forbearance
25 agreements is -- are drafted?

1 A. Correct.

2 Q. And they are drafted every 6 to 12
3 months?

4 A. Correct.

5 Q. Are you one of the witnesses responsible
6 for preparing Cobra's application in this emergency
7 rate proceeding?

8 A. It was done under my review, yes.

9 MR. ALEXANDER: Your Honor, at this
10 point I'd like to have marked for identification the
11 public version of the application, the emergency
12 application, filed by Cobra in this proceeding.

13 MR. KEANEY: Your Honor, may I approach?

14 EXAMINER PARROT: You may. I believe we
15 used the designation previously of NEO. This will be
16 NEO Exhibit B -- I'm sorry, A.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 By Mr. Alexander:

19 Q. Ms. Carothers, could you please turn to
20 what's been marked as NEO Exhibit A, and then within
21 that exhibit -- Exhibit A, the income statement
22 prepared by Cobra.

23 A. Okay. I'm there.

24 Q. And before we get started on the
25 numbers, is this a true and accurate copy of the

1 emergency application filed by Cobra in this
2 proceeding?

3 A. It appears to be, yes.

4 Q. And you were personally responsible for
5 the review and approval of this application?

6 A. Yes.

7 Q. Okay. So if you could focus your
8 attention at this point on the legal expenses
9 included under expenses on Exhibit A.

10 A. Where it says "Professional Services -
11 Legal"?

12 Q. Correct.

13 A. Yes.

14 Q. Does this line item include -- Strike
15 that.

16 The Huntington forbearance agreement
17 legal expenses are not included in this line item?

18 A. That is correct.

19 Q. In the last five years Cobra has not
20 made any investments to expand service to serve
21 additional load, correct?

22 A. No.

23 Q. No, I'm incorrect?

24 A. No, you're correct. No, they haven't,
25 and you're correct in your statement.

1 Q. There are three competitors of Cobra,
2 East Ohio, Spellman, and North Coast, correct?

3 A. Those are competitors in the sense that
4 our customers are able to redirect gas through those
5 pipelines; don't run parallel to our system, but in
6 certain instances they are able to redirect gas
7 through those pipelines.

8 Q. And those are the three pipelines
9 through which customers can redirect gas away from
10 Cobra?

11 A. That is correct.

12 Q. Now, you and I have previously discussed
13 the phrase "death spiral", correct?

14 A. Yes.

15 Q. And if Cobra's rates were increased, you
16 would agree that a rate increase would amplify the
17 incentives for customers to divert their load on to
18 Cobra's competitors?

19 A. Yes.

20 Q. And if that happened, would you agree
21 that Cobra's volumes would decrease even more?

22 A. To a point, yes. There is some volumes
23 that are captive to our system. Honestly, I believe
24 that as much that can be redirected already has,
25 without additional pipeline extensions and things

1 like that.

2 Q. Ms. Carothers, do you recall being
3 deposed in this proceeding?

4 A. Yes.

5 Q. And do you recall that the deposition --
6 actually, let me be more clear.

7 Do you recall being deposed in this
8 proceeding on Friday, June 4, 2018?

9 A. Yes.

10 Q. And do you recall a Court Reporter being
11 present at that deposition?

12 A. Yes.

13 Q. And do you recall swearing an oath to
14 tell the truth at that deposition?

15 A. Yes.

16 MR. MICHAEL DORTCH: Your Honor, excuse
17 us a moment. May we go off the record?

18 EXAMINER PARROT: Yes.

19 (Discussion off the record.)

20 EXAMINER PARROT: Let's go back on the
21 record.

22 By Mr. Alexander:

23 Q. Ms. Carothers, could you please turn to
24 page 30 of that deposition?

25 MR. JUSTIN DORTCH: Objection, your

1 Honor. It's my understanding that depositions going
2 to be used for testimony must be filed beforehand
3 with the Commission.

4 MR. ALEXANDER: Your Honor, I'm not
5 offering this deposition as testimony, I'm offering
6 this deposition for impeachment purposes.

7 EXAMINER PARROT: Overruled.

8 By Mr. Alexander:

9 Q. Ms. Carothers, could you please turn to
10 page 30 of that deposition, starting at line 13?

11 A. Okay. I'm there.

12 Q. And did I ask you during that
13 deposition, quote, And would that have the effect of
14 further decreasing Cobra's volumes? Answer: Yes.
15 Did I read that correctly?

16 A. Yes.

17 MR. ALEXANDER: Your Honor, may we go
18 off the record for just a moment?

19 EXAMINER PARROT: Yes.

20 (Discussion off the record.)

21 EXAMINER PARROT: Let's go back on the
22 record.

23 MR. ALEXANDER: I'm ready whenever you
24 are, your Honor.

25 EXAMINER PARROT: Please proceed.

1 By Mr. Alexander:

2 Q. Ms. Carothers, if you could turn your
3 attention to the emergency application and you have
4 Exhibit A, Exhibit H within that, the 2016 and '17
5 income statements.

6 A. Exhibit A?

7 Q. H as in horse.

8 A. Okay. I'm there.

9 Q. And, Ms. Carothers, you've been given
10 Exhibit H as a separate one?

11 EXAMINER WALSTRA: I think it's on the
12 right-hand side.

13 MR. MICHAEL DORTCH: The problem is it
14 happens to bear Exhibit F as a title, because it was
15 filed in the 2016, I think.

16 MR. JUSTIN DORTCH: No, it's just -- at
17 the top.

18 MR. MICHAEL DORTCH: So it looks like a
19 different exhibit.

20 MR. JUSTIN DORTCH: You need to look at
21 the bottom right-hand corner.

22 MR. MICHAEL DORTCH: The bottom
23 right-hand corner is where it is marked as Exhibit H.

24 By Mr. Alexander:

25 Q. Okay. So if you could, please, in

1 Exhibit H, turn your attention to the line item
2 titled Rev Interrupt Commod Chg HV. Do you see that?

3 A. I do.

4 Q. Now, HV stands for Holmesville?

5 A. That is correct.

6 Q. And in 2016, Cobra reported
7 approximately \$699,000 in revenue for that line item?

8 A. 669,000.

9 Q. And in 2017, Cobra reported \$857,000 in
10 revenue for that line item?

11 A. Correct.

12 Q. And the approximately \$150,000 increase
13 in revenue was attributable to Cobra charging higher
14 rates in 2017?

15 A. The majority of that I would assume
16 would be.

17 Q. Now, turning to Exhibit A of the
18 emergency application for that same line item, Cobra
19 reported \$488,000 in revenue?

20 A. Correct.

21 Q. When you created the revenue estimates
22 for the period from September 1st, 2018 to
23 December 31st, 2018, you based those estimates on
24 2017 volumes multiplied by the current rate, less
25 certain adjustments, correct?

1 A. No. I used the -- is it okay if I tell
2 you what it should be?

3 I used the -- my revenue sheet, and I
4 deducted by month if there was -- for 2017, I
5 deducted any -- if there was any rate change, I took
6 out Mason producing, because they were no longer
7 using transport on Cobra, and any other volumes that
8 are no longer included, either they have been shut in
9 or they have been moved to the utility's
10 transportation invoice -- I'm sorry.

11 Originally if we had a marketer that was
12 moving production and shipping it on to Columbia,
13 they would be charged for that transport.

14 The utility has taken on some of that
15 on-system production. We can't charge the customer
16 twice, so it only shows up as their received volumes
17 on the utility.

18 So I deducted any of the revenues that
19 would have been generated from those volumes from
20 that to get to my projected volumes.

21 Q. Let's take this step-by-step. So your
22 starting point was the 2017 volume, correct?

23 A. The 2017 revenues by customers.

24 Q. Okay. Please turn to page 39 of your
25 deposition starting at line 14.

1 A. Okay.

2 Q. I asked a question, "And it's my
3 understanding from your earlier testimony, and please
4 correct me if I'm wrong, that you created the revenue
5 estimates for the 9-1 to 12-31 period based on 2017
6 volumes times the current rate, less the adjustments
7 you testified to earlier?"

8 Answer, "The volumes, not the revenue
9 figure?" Question: "Correct." Answer: "Yes, I
10 agree with you."

11 Did I read that correctly?

12 A. You did.

13 Q. So the rate which was applicable to the
14 period from 9-1-2018 through 12-31-2018, per your
15 calculations was 50 cents per dekatherm?

16 A. Yes.

17 Q. But the 2017 income statement was not
18 something created based on projections or estimates,
19 correct?

20 A. The 2017 is off of actuals.

21 Q. When you say "off of actuals", you mean
22 off of actual revenues earned during 2017?

23 A. Revenues and volumes.

24 Q. So part of the decrease from the 2017
25 revenues shown on Exhibit H, to the 2018 projected

1 revenues shown on Exhibit A, is explained by the
2 change in rate between those two periods?

3 A. Can you ask it again? I'm sorry.

4 Q. The decrease from the 2017 revenue shown
5 in Exhibit H, to the 2018 projected revenue shown in
6 Exhibit A, is partially explained by the change in
7 the rate between those two periods?

8 A. Correct.

9 Q. Because the rate charged in 2017 was --
10 for part of the year, was 95 cents per dekatherm?

11 A. Correct. The part that I had to project
12 was at the higher rate. I don't remember exactly
13 when it was put into place.

14 I think it was -- I had to project, I
15 think it was September through the end of the year.
16 So when I'm looking at the last year's number, it
17 would have been at the higher rate. I agree with
18 you.

19 Q. I think you might have misheard my
20 question. So 2017, during part of that year,
21 customers were billed at 95 cents per dekatherm,
22 right?

23 A. Right.

24 Q. 2018, for the first part of the year
25 where we have actual revenues, customers were billed

1 partially at 95 cents, and then partially at 50
2 cents, correct?

3 A. That is correct.

4 Q. And then for the period you projected
5 from 9-1 of 2018 through 12-31 of 2018, your
6 projections anticipate 50 cents per dekatherm?

7 A. Correct.

8 Q. Now I'd like to change our topic to the
9 stripping station.

10 A. Okay.

11 Q. You previously testified that the
12 Churchtown stripping station had to be shut in due to
13 high liquid content beginning in November of 2017?

14 A. That is correct.

15 Q. Are you familiar with the acronym TCO?

16 A. Correct. Yes.

17 Q. And what is that acronym?

18 A. I don't know what -- I know it's
19 TransCanada -- I don't know, but it's for Columbia,
20 another way to refer to the pipeline that we have
21 connection with.

22 Q. Okay. And when you say, "we have
23 connection with", you mean the Cobra pipeline at
24 Churchtown interconnects with the TCO pipeline?

25 A. That is correct.

1 Q. And so if I use the TCO reference,
2 you'll understand what I'm talking about?

3 A. I will.

4 Q. Okay. Now, TCO has shut in production
5 at the Churchtown stripping station prior to November
6 of 2017, correct?

7 A. Yes, it happened before.

8 Q. And in fact, the Churchtown Cobra
9 stripping station has been shut in by TCO in most
10 locations?

11 A. Well, it's not specifically the
12 stripping station, it's just the interconnects.

13 Q. I'll rephrase the question.

14 And so the Cobra Churchtown line had
15 been shut in by TCO on multiple occasions?

16 A. I don't know how many times. I recall
17 one other time specifically.

18 Q. Cobra purchased the Churchtown line from
19 Columbia, correct?

20 A. That is correct.

21 Q. And Cobra has owned the Churchtown line
22 for more than ten years?

23 A. Yes.

24 Q. And the equipment Cobra uses at the
25 stripping station has aged ten years since Cobra

1 purchased it?

2 A. Yes.

3 Q. And you believe the stripping station
4 today does not run as efficiently as it did ten years
5 ago when Cobra purchased it?

6 A. In the current market that we're
7 operating in.

8 Q. And as a result, more liquids have been
9 getting through the Churchtown line on to the TCO
10 line?

11 A. Due to market conditions, yes.

12 Q. You were the individual at Cobra
13 responsible for corresponding with TCO about the
14 shut-in?

15 A. Yes.

16 Q. And after TCO shut in the Churchtown
17 line, you corresponded with TCO to try and end the
18 shut-in and make the Churchtown intersection
19 operational again?

20 A. Yes.

21 (Pause.)

22 MR. ALEXANDER: Your Honor, could we go
23 off the record for just a moment?

24 EXAMINER PARROT: Yes.

25 (Discussion off the record.)

1 EXAMINER PARROT: Let's go back on the
2 record.

3 By Mr. Alexander:

4 Q. Ms. Carothers --

5 MR. ALEXANDER: Your Honor, may I have
6 this document marked for identification as Exhibit B,
7 NEO Exhibit B?

8 EXAMINER PARROT: So marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 By Mr. Alexander:

11 Q. Ms. Carothers, you've just been handed
12 what's been marked for identification as NEO
13 Exhibit B.

14 While we were off the record we had a
15 discussion with your counsel, and the lawyers agree
16 this document does not need to be designated as
17 confidential. And so with that explanation, have you
18 ever seen this document before?

19 A. Yes.

20 Q. And is it a true and accurate copy of an
21 email chain produced by Cobra in discovery in this
22 proceeding?

23 A. Yes.

24 Q. And you are the recipient of these
25 emails?

1 A. Yes.

2 Q. So focusing on your communications with
3 TCO, could you turn your attention to the email in
4 this chain dated January 12th to Lori Shaffer from
5 TransCanada?

6 A. Okay.

7 Q. And TransCanada is TCO, correct?

8 A. Correct.

9 Q. And in your email to Ms. Shaffer you
10 told TCO that Cobra was in the process of "making
11 further upgrades on our equipment."

12 A. Correct.

13 Q. And TCO responded on January 19th,
14 stating they would like to schedule another test?

15 A. That would be --

16 Q. I'm sorry, I misspoke. On
17 February 1st -- I looked at the wrong email in the
18 chain there -- TCO responded and asked you to
19 identify, quote, what upgrade you completed on the
20 equipment, end quote?

21 A. That is correct.

22 Q. Now, based on that correspondence, TCO
23 is concerned that Cobra needs to upgrade its
24 equipment?

25 A. No, I don't think it was -- in my

1 opinion, I think it was more they didn't want to
2 waste time if we hadn't done anything.

3 I don't think it was necessarily of the
4 opinion that we had to do upgrades to the equipment.
5 They didn't want to come out if we hadn't changed
6 anything, is how I took that email.

7 MR. ALEXANDER: I hate to do this again.
8 Your Honor, can we go off the record again?

9 EXAMINER PARROT: Yes.

10 (Discussion off the record.)

11 EXAMINER PARROT: Back on the record.

12 MR. KEANEY: May I approach?

13 EXAMINER PARROT: You may.

14 By Mr. Alexander:

15 Q. Ms. Carothers, you previously testified
16 in the 2016 base rate case proceeding initiated by
17 Cobra?

18 A. Yes.

19 Q. You've just been handed an exhibit from
20 that proceeding which was marked as NEO Exhibit 1,
21 captioned, "Small Company Application for an increase
22 in its rates and charges." Have you ever seen that
23 document before?

24 A. Yes.

25 Q. And is that a true and accurate copy of

1 Cobra's application in the 2016 base rate case?

2 A. Appears to be.

3 Q. Okay. If you could please turn your
4 attention to Exhibit 9 of that document, the list of
5 the property used and useful.

6 A. Okay. I'm there.

7 Q. And at page 1 there is a listing of
8 property with the CT designation. Does CT refer to
9 Churchtown?

10 A. It does.

11 Q. And so the first two entries on the page
12 reference Land-TCO Churchtown and then Land Right-TCO
13 Churchtown. Do you see that?

14 A. I do.

15 Q. I guess let's take a step back before we
16 get into the numbers.

17 This list contains all the property
18 which Cobra claimed was used and useful as of
19 December 31st, 2015?

20 A. That is correct.

21 Q. Okay. So the Land-TCO Churchtown at the
22 top of the page includes the Washington County
23 property which Cobra transferred to Marietta Land
24 Properties, LLC for no consideration?

25 A. Correct.

1 Q. And the next line item Land Right-TCO
2 Churchtown also includes the Washington County
3 property which was transferred?

4 A. I think so, yes.

5 Q. Now, skipping down to the section
6 referencing Compressor Structures-TCO Churchtown. Do
7 you see that?

8 A. I do.

9 Q. The total acquisition costs of those
10 four line items was \$1,526,000?

11 A. Yes.

12 Q. And those line items refer to the
13 stripping station located on the Washington County
14 property which was transferred?

15 A. Yes.

16 Q. And the acquisition cost for the
17 Washington County property was \$123,000?

18 A. Which line item did you say?

19 Q. The Washington County property at the
20 top of the page.

21 A. Yes. I'm sorry.

22 Q. Now, moving further down the page to the
23 line item Stripping Plant Rebuild. Do you see that?

24 A. I do.

25 Q. Now, that line item also relates to the

1 stripping plant located on the Washington County
2 property?

3 A. It does.

4 Q. And the acquisition cost for the
5 stripping plant rebuild was \$133,000?

6 A. Correct.

7 Q. Now I'd like you to turn back to the
8 emergency application filed by Cobra in this
9 proceeding, and focus your attention on Exhibit D as
10 in dog, Schedule 2.

11 Now, Cobra's emergency application,
12 Exhibit B, Schedule 2, also includes a list of
13 property used and useful, but this time it's as of
14 8-31-2018?

15 A. Correct.

16 Q. And this exhibit includes property used
17 and useful, actual basis as of 8-31-2018, and on a
18 projected basis as of 12-31-2018?

19 A. That is correct.

20 Q. And there are no differences in the
21 acquisition costs of the plant under either column?

22 A. Correct.

23 Q. The first line item here is titled "Land
24 and Land Rights CT". Do you see that?

25 A. I do.

1 Q. Has an acquisition cost of is \$123,000?

2 A. Yes.

3 Q. And is that a reference to the
4 Washington County property transferred to Marietta
5 Land Holdings?

6 A. Yes.

7 Q. Moving down the list at the line item
8 entitled "Compressor Statement Equip-CT", with a
9 value of \$1,526,000. Do you see that?

10 A. I do.

11 Q. That refers to the stripping station
12 located on the Washington County property?

13 A. Correct.

14 Q. And moving further down, there is a line
15 item titled "Other Equipment-CT", which has an
16 acquisition value of \$133,000?

17 A. Yes.

18 Q. And that would be the stripping plant
19 rebuild located on the transferred Washington County
20 property?

21 A. That is correct.

22 Q. You first learned that Cobra had
23 transferred the Washington County property to
24 Marietta Land Properties, LLC in September of 2018
25 during the hearing on the 2016 rate case?

1 A. Correct.

2 Q. Mr. Osborne never told you about that
3 transfer prior to that hearing?

4 A. No, he did not.

5 MR. ALEXANDER: Ms. Carothers, you've
6 just handed you what's been -- your Honors, may I
7 have this document marked for identification as NEO
8 Exhibit C?

9 EXAMINER PARROT: I think this is
10 probably another one that's already admitted in the
11 record; it looks to me like Staff Exhibit No. 2; is
12 that correct?

13 MR. MARGARD: That is correct, your
14 Honor.

15 EXAMINER PARROT: So it's already been
16 marked and admitted.
17 By Mr. Alexander:

18 Q. Ms. Carothers, you've been handed a
19 document which was previously marked and admitted as
20 Staff Exhibit 2. Have you ever seen that document
21 before?

22 A. I have.

23 Q. And is that a true and accurate copy of
24 the Quit Claim Deed transferring the Washington
25 County property?

1 A. Yes, it appears to be.

2 Q. And it was recorded in Washington County
3 on October 6th, 2016?

4 A. Yes.

5 Q. And Cobra has not received any
6 consideration from Marietta Land Properties, LLC in
7 exchange for this land?

8 A. No.

9 Q. You're not aware of any real estate
10 contract or agreement between Cobra and Marietta Land
11 Properties, LLC relating to this property?

12 A. No, I'm not.

13 Q. And you do not know why Cobra, via
14 Richard Osborne, transferred this real estate to
15 Marietta?

16 A. No, I don't.

17 Q. And Cobra has continued to buy insurance
18 on this property even after it was transferred to
19 Marietta?

20 A. That is correct.

21 Q. And you don't know whether Cobra has any
22 property interest in the Washington County property
23 today?

24 MR. JUSTIN DORTCH: Objection. Calls
25 for a legal conclusion.

1 EXAMINER PARROT: Overruled.

2 THE WITNESS: In the property,
3 specifically?

4 By Mr. Alexander:

5 Q. Yes.

6 A. Not in the property, just in the
7 equipment.

8 Q. You're not aware of any easement
9 allowing Cobra to keep its pipeline on the Washington
10 County property, correct?

11 A. I don't know of any easements on that
12 property.

13 Q. And you're not aware of any right-of-way
14 Cobra may have on the Washington County property?

15 A. No, I'm not.

16 Q. And Cobra does not have a lease for the
17 Washington County property?

18 A. Not that I am aware of.

19 Q. And you're not aware of any sale or
20 leaseback arrangement for the Washington County
21 property?

22 A. No.

23 Q. And you don't know whether Cobra has
24 used the Washington County property as collateral for
25 any loans?

1 A. If Cobra has?

2 Q. Uh-huh.

3 A. Not for -- I mean, other than the
4 Huntington -- I'm assuming it's part of the
5 Huntington -- I don't -- I don't know of any -- can I
6 start over?

7 I don't know of any specifically.

8 Q. So I'll reask the question just so the
9 record is clear.

10 You don't know whether Cobra has used
11 the Washington County property as collateral for any
12 loans?

13 A. That is correct.

14 Q. And you don't know whether Mr. Osborne
15 has used the Washington County property for any
16 loans?

17 A. I don't know.

18 MR. ALEXANDER: Your Honor, may I have
19 this document marked as NEO Exhibit D as in dog --
20 sorry, C, because I did the wrong thing?

21 EXAMINER PARROT: The document shall be
22 marked NEO Exhibit C.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 By Mr. Alexander:

25 Q. Ms. Carothers, have you ever seen this

1 document before?

2 A. I have.

3 Q. And is this a true and accurate copy of
4 a Quit Claim Deed issued by Cobra to an entity known
5 as 2412 North Newton Falls Road, LLC?

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

7 Q. And in this Quit Claim Deed Cobra
8 transferred real estate to that entity?

9 A. Yes.

10 Q. And Cobra received no consideration for
11 that transfer?

12 A. Correct.

13 Q. And 2412 Newton Falls Road, LLC is an
14 entity solely owned by Richard Osborne?

15 A. I don't know if the -- the makeup of
16 that. From what I understand, it is.

17 MR. ALEXANDER: Your Honor, may I have
18 this document marked for identification as NEO
19 Exhibit D?

20 EXAMINER PARROT: NEO Exhibit D is so
21 marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 By Mr. Alexander:

24 Q. Ms. Carothers, I've handed you a
25 document marked for identification as NEO Exhibit D.

1 Have you ever seen that document before?

2 A. I have.

3 Q. And is that a true and accurate copy of
4 Cobra's responses to discovery requests issued in
5 this case?

6 A. Yes.

7 Q. Could you please turn your attention to
8 discovery response to Request for Production 1-4?

9 A. Okay.

10 Q. In that response Cobra includes an
11 objection, and then replies, "The September Deed was
12 executed by RMO and it transferred a piece of
13 property previously owned by Cobra to a limited
14 liability company entitled 2412 North Newton Falls
15 Road, LLC. It is Cobra's understanding that 2412
16 North Newton Falls Road, LLC is owned solely by RMO.
17 The only additional document or communication related
18 to, referencing, or otherwise concerning the
19 September Deed is an email, dated September 12, 2018,
20 between Cobra and its legal counsel in which Cobra
21 provides its counsel a copy of the September Deed."

22 Did I read that response correctly?

23 A. Yes.

24 Q. Okay. So does seeing Cobra's response
25 as to the ownership of Newton Falls Road, LLC refresh

1 your recollection that it is owned by Mr. Osborne
2 solely?

3 MR. JUSTIN DORTCH: Objection,
4 mischaracterization. It says Cobra's understanding.
5 That is not a stated fact.

6 EXAMINER PARROT: Overruled. You may
7 answer.

8 THE WITNESS: That's what I was going to
9 say. That's what I said in my testimony, is my
10 understanding of what I testified to today.

11 I represent -- it's my understanding
12 that its owned by Rick Osborne, but I've never seen
13 anything as far as like legal documentation to say if
14 there's anybody else that's a part of the company.
15 But it's my understanding that Rick owns it on his
16 own.

17 By Mr. Alexander:

18 Q. Ms. Carothers, this discovery response
19 was issued by Cobra the entity, correct?

20 A. Right.

21 Q. And Mr. Osborne is the managing member
22 of Cobra, correct?

23 A. Right.

24 Q. And so --

25 Now, there's ongoing litigation

1 involving Mr. Osborne's transfers of property between
2 his various entities, correct?

3 A. Yes.

4 Q. Now, turning back to the Churchtown
5 shut-in. Prior to the TCO shut-in, Cobra received
6 revenue for its sale of extracted product from
7 Churchtown?

8 A. Yes.

9 Q. And that extracted product was sold to a
10 third party named Markwest?

11 A. Correct.

12 Q. And Cobra did not sell its extracted
13 products to any other customers beside Markwest?

14 A. No.

15 Q. No, it did not sell to any others?

16 A. That's -- Cobra did not sell to anyone
17 other than Markwest.

18 Q. And any revenue that Cobra earned from
19 selling its extracted product to Markwest would be
20 identified in the line item in the income statement
21 labeled "Sales of Extracted Product-CT"; is that
22 correct?

23 A. That is correct.

24 Q. And so turning our attention to
25 Exhibit H of NEO Exhibit A, the 2016 to 2017 income

1 statements.

2 A. Yep.

3 Q. In that document Cobra indicates it
4 obtained \$104,455.51 in revenue in 2017 for sales of
5 extracted properties to Markwest?

6 A. That is correct.

7 MR. ALEXANDER: Your Honor, I would ask
8 that this document be marked as NEO Confidential
9 Exhibit E.

10 EXAMINER PARROT: So marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 By Mr. Alexander:

13 Q. Ms. Carothers, I've just handed you
14 what's been marked for identification as NEO
15 Confidential Exhibit E. Have you ever seen this
16 document before?

17 A. Yes.

18 Q. And you're the individual that created
19 this document?

20 A. I am.

21 Q. And this document reflects the total
22 revenues received from Markwest for the Churchtown
23 line?

24 A. Correct.

25 Q. Now, this document includes confidential

1 information, it has been marked as confidential, and
2 I'm not planning on asking you any questions about
3 the specific numbers in the exhibit.

4 If you feel a full and accurate answer
5 would require you to get into confidential
6 information, please just let us know and we'll go
7 into the confidential portion of the record, okay?

8 A. Okay.

9 Q. So turning your attention to the bottom
10 right-hand corner of the first page of Exhibit E,
11 does that give the sum of the 2017 revenues from
12 Markwest for extracted product?

13 A. Yes.

14 Q. Okay. Now, that number is different
15 from the 2017 income statement revenue for Markwest
16 of \$104,000, correct?

17 A. That is correct.

18 Q. Now turning to the second page -- I
19 apologize.

20 While you have the second page of
21 Confidential Exhibit E in front of you, if you could
22 turn your attention back to the emergency
23 application, Exhibit H as in horse, the 2016 income
24 statement.

25 A. Yes.

1 Q. Now, in the 2016 income statement
2 identified as Exhibit H, Cobra reports \$85,895.02 in
3 sales of extracted product to Markwest?

4 A. Correct.

5 Q. Now turning to second page of
6 Confidential Exhibit E, does the sum in the bottom
7 right-hand corner of this page show the total revenue
8 for extracted product received from Markwest in the
9 year 2016?

10 A. Yes.

11 Q. The sum in the bottom right-hand corner
12 does not match the sum of \$85,895 purported on the
13 income statement, does it?

14 A. That is correct.

15 Q. And in fact, there's a material
16 difference between the income statement number and
17 this document?

18 A. Yes.

19 Q. And you don't know why the income
20 statements attached to the emergency application are
21 incompatible with these Markwest spreadsheets?

22 A. We discussed it during my deposition
23 last Friday, and since then I asked the bookkeeper at
24 Cobra to look into it. And she had researched it and
25 she said that it's a timing, because if you look at

1 the date of the pickup date versus the date paid,
2 it's a considerable time frame change.

3 And if you were to look at it and total
4 them out and compare it to and include 2015 and 2014,
5 it's usually the last -- anything that was paid
6 beyond the calendar year will roll over into the
7 next.

8 So she logged it as in date paid rather
9 than the pickup date. And if you total everything
10 from my spreadsheets versus everything from her
11 income statements for the life of the company, it
12 matches up, it's just a timing issue.

13 Q. So I guess first, Ms. Carothers, you
14 don't have personal knowledge of any of that, you're
15 relying on Ms. Coatoam?

16 A. No, the bookkeeper at the company. And
17 she showed me printouts to show that it was -- that
18 it matched.

19 Q. So it's not Ms. Coatoam?

20 A. No.

21 Q. Okay. If you could turn your attention
22 to the first page, the 2017 values. The pickup dates
23 are all in 2017?

24 A. Right.

25 Q. Now, if you could turn your attention to

1 the date paid information.

2 A. Yes.

3 Q. The dates paid for this account are all
4 in 2017 as well?

5 A. She showed me the -- how it totalled
6 out. I know I'm not making sense, but it was based
7 on a timing issue. Well, no, because it says 1 --
8 that should say 1-20-17 on the second page, not
9 1-20-16.

10 Q. Ms. Carothers, I'm asking you about the
11 first page, the 2017 values.

12 A. Yes.

13 Q. The pickup dates are all in 2017?

14 A. That is correct.

15 Q. And the dates paid are all in 2017?

16 A. That is correct.

17 Q. So at minimum, the value shown in the
18 bottom right-hand corner should show up in the 2017
19 income statement, correct?

20 A. Yes.

21 Q. And you don't know why that value does
22 not show up in the 2017 income statement at a
23 minimum?

24 A. I don't --

25 Q. Okay. Turning your attention to OS-AIR.

1 Mr. Osborne instructed you to write checks to OS-AIR
2 and label them as management, correct?

3 A. Correct.

4 Q. And Mr. Osborne dictated how and to whom
5 the checks would be written?

6 A. Correct.

7 Q. Mr. Osborne dictated the amounts of the
8 checks?

9 A. Correct.

10 Q. And Mr. Osborne dictated the timing
11 under which the management fees would be paid?

12 A. Correct.

13 Q. And you're unaware of any services that
14 OS-AIR provided to Cobra in 2018?

15 A. That's a true statement.

16 Q. Ms. Carothers, I've just handed you
17 what's been previously marked for identification and
18 admitted as Cobra Exhibit 5. Have you ever seen that
19 document before?

20 A. I have.

21 Q. And does this document include Cobra's
22 income statements for the years 2008 to 2017?

23 A. Yes.

24 Q. Now, looking under expenses, is there an
25 expense line item for administrative management fee?

1 A. Yes.

2 Q. There are only two years in which Cobra
3 paid an administrative management fee, 2010 and 2011,
4 correct?

5 A. Yes.

6 Q. And although you were employed by Cobra
7 in 2010 and 2011, you do not know to whom those
8 administrative management fees were paid?

9 A. No, I don't.

10 Q. Cobra, turning to a different topic, is
11 not paying any rent for its administrative offices,
12 correct?

13 A. Correct.

14 Q. And Cobra has never paid any rent for
15 its administrative offices, correct?

16 A. Correct.

17 Q. You believe Cobra is currently providing
18 safe and reliable service?

19 A. I do.

20 Q. And Cobra has not put off making needed
21 safety expenditures to its system because of the
22 financial problems?

23 A. No.

24 Q. In your prefiled testimony previously
25 marked as Cobra Exhibit A, page 15 --

1 A. My testimony? Say it again.

2 Q. Page 15.

3 A. Okay.

4 Q. Now, at page 15, line 15 you reference
5 Hearthstone's eagerness to engage in litigation with
6 any entity owned by Richard M. Osborne? Do you see
7 that?

8 A. I do.

9 Q. And by Hearthstone, you're referring to
10 my clients, Northeast Ohio, Brainard, and Orwell?

11 A. Yes.

12 Q. You understand that the only litigation
13 between those three entities, since they were
14 purchased by Hearthstone Utilities, and any entity
15 owned by Mr. Osborne, are these consolidated rate
16 cases?

17 A. Yes.

18 Q. And my clients are the largest customer
19 of Cobra?

20 A. Yes.

21 Q. You're not familiar with the Ohio rules
22 regarding how utility gas rates are established,
23 correct?

24 A. Not specifically, no.

25 Q. And you don't know of any authority

1 allowing the Commission to make adjustments for items
2 occurring more than 12 months after the end of the
3 test period?

4 MR. JUSTIN DORTCH: Objection. Calls
5 for legal conclusion.

6 MR. ALEXANDER: Her testimony asks the
7 Commission to make adjustments for 12 months after.

8 THE WITNESS: Can you ask me again?
9 By Mr. Alexander:

10 Q. Sure. You're not aware of any authority
11 allowing the Commission to make adjustments for items
12 occurring more than 12 months after the end of the
13 test period, correct?

14 A. No, I don't know the specifics of that.

15 Q. And you understand the utility rates are
16 not set based on income statement expenses, correct?

17 A. No, I'm not familiar.

18 Q. Cobra has not provided any notice to its
19 customers of its emergency rate increase request?

20 A. No.

21 Q. No, they have not provided a notice?

22 A. No, we have not provided a notice.

23 Q. Cobra has not sent a letter to the
24 Mayors and Municipal Clerks in its service territory
25 notifying them of this emergency rate increase

1 request?

2 A. No, we have not.

3 Q. Cobra has not run any advertisements in
4 local newspapers to notify customers of the emergency
5 rate increase request?

6 A. No, we have not.

7 Q. I'd like to talk about your calculation
8 of Cobra's needed rate as a result of Cobra's
9 application.

10 The way you calculated the rate was to
11 add up the total of Cobra's expenses and divide it by
12 the volume Cobra delivered in 2018 to determine the
13 rate which would need to be applied?

14 A. Correct.

15 Q. So if the Commission adjusted Cobra's
16 projected 2018 expenses -- I might have misspoken, so
17 I'm going to repeat that question.

18 If the Commission adjusted Cobra's 2018
19 expenses, that would lower the revenue requirement
20 under your calculation?

21 A. If they were to lower the expenses, it
22 would lower the rate.

23 Q. And under your calculation of the needed
24 rate, you assume that all customers pay the same
25 rate? And by "all customers", I mean firm and

1 interruptible customers.

2 A. Yes, that's correct -- it's not
3 including firm.

4 Q. And your calculation of revenues
5 excludes all other sources of revenue other than the
6 interruptible volumetric charge?

7 A. That is correct.

8 Q. So for example, you do not include any
9 revenue from firm service customers?

10 A. That is correct.

11 Q. And you do not include any telemetering
12 charges?

13 A. That is correct.

14 Q. And you do not include interruptible
15 commodity charges?

16 A. That is correct.

17 Q. And you do not include firm demand
18 charges?

19 A. Correct.

20 Q. And you do not include firm overrun
21 charges?

22 A. Correct.

23 Q. And your revenue estimate does not
24 include any sales from extracted products?

25 A. That is correct.

1 Q. You agree that failing to include those
2 sources of revenue has the effect of decreasing the
3 revenue that Cobra would receive under any given
4 volume?

5 A. Yes.

6 Q. And I understand Cobra has withdrawn its
7 request that depreciation be included, but would you
8 agree that if the Commission wanted to look at
9 depreciation, its calculation would be affected by
10 the amount of plant in rate base as of any given
11 date?

12 A. I know it would effect it, yes.

13 MR. ALEXANDER: Nothing further, your
14 Honor.

15 EXAMINER PARROT: Mr. Margard?

16 MR. MARGARD: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Margard:

20 Q. Good morning, Ms. Carothers.

21 A. Hi.

22 Q. You began in your testimony by
23 describing the three different systems in Cobra's
24 service territory, correct?

25 A. Yes.

1 Q. Churchtown, Holmesville, North Trumbull.

2 A. Right.

3 Q. And you indicate that the Churchtown
4 system provided transportation to Noble and
5 Washington Counties?

6 A. Correct.

7 Q. Any others?

8 A. Churchtown -- no.

9 Q. Okay. And Holmesville provides
10 transportation service to Holmes and Wayne Counties?

11 A. Yes.

12 Q. And North Trumbull to Ashtabula,
13 Columbiana, Geauga, Mahoning, and Trumbull?

14 A. Yes.

15 Q. Does Cobra provide transportation
16 service in any other counties in the State of Ohio?

17 A. We have a small amount of direct taps
18 from Columbia to just a hand full of customers. I
19 don't know all of the counties.

20 There's two that are in western Ohio,
21 and then a few others that are on the -- I don't know
22 which counties they are. I think that there's 11 all
23 together that are direct tap customers. Most of the
24 time they feed grain dryers. I think, eight.

25 Q. Those are located throughout the State?

1 A. Yes.

2 Q. Okay. You were asked a number of
3 questions about the parcel on which the stripping
4 plant sits. Is Cobra paying property taxes, by the
5 way, on that parcel?

6 A. Yes.

7 Q. Still?

8 A. Yes.

9 Q. Now, it's your understanding that that's
10 the only piece of property that Cobra owns in
11 Washington County?

12 A. Yes.

13 Q. And did you inquire whether there was
14 other properties?

15 A. To my knowledge, that's the only one
16 that there is.

17 Q. And you were shown a discovery response
18 regarding property transfers. Were you responsible
19 for that response?

20 A. Yes.

21 Q. And what investigation did you make
22 before responding?

23 A. The person that had filed it for
24 Mr. Osborne, he's on the deed as the notary, he's on
25 our payroll. I asked him what other transfers that

1 he had made, and I asked Mr. Osborne if he had made
2 any other transfers as well.

3 Q. And that's when you learned about the
4 Newton Falls transfer?

5 A. Yes.

6 Q. But none others?

7 A. There -- there was something that was
8 transferred to Cobra, but nothing else that was out
9 of Cobra.

10 Q. Okay. Just to be clear, you didn't make
11 any investigation yourself personally; is that
12 correct? You didn't check property records in the
13 various counties?

14 A. No.

15 MR. MARGARD: May I approach, your
16 Honor?

17 EXAMINER PARROT: You may.

18 (EXHIBITS MARKED FOR IDENTIFICATION.)

19 By Mr. Margard:

20 Q. Ms. Carothers, I've handed you a couple
21 of documents marked for purposes of identification as
22 Staff Exhibit A and B.

23 EXAMINER PARROT: So marked.

24 MR. MARGARD: Your Honor, I will
25 represent that these documents were obtained from the

1 Washington County Auditor's Office and are public
2 records.

3 By Mr. Margard:

4 Q. Have you seen either of these documents
5 before?

6 A. No.

7 Q. These documents indicate that Cobra owns
8 a piece of property on Mill Street in Washington
9 County.

10 A. I don't even know where Mill Street is.

11 Q. Were you aware that Cobra owned this
12 property?

13 A. No.

14 Q. And you were unaware that it had
15 transferred this property at the same time it
16 transferred the stripping plant?

17 A. Correct.

18 Q. But as far as you know, there's no other
19 property that's been transferred?

20 A. I didn't even know that this property
21 existed under Cobra prior. And as I had said before,
22 I was unaware of any other properties that have
23 changed ownership.

24 Q. Okay. But you're not familiar with this
25 parcel, you don't know what's on it?

1 A. No.

2 Q. There's a pole barn on it. You don't
3 know what, if anything, may be contained in the pole
4 barn?

5 A. I -- I would have to look at it to know.
6 The only thing that I can think of is it's next to
7 the other property. But I don't know it without
8 looking into it. I have no idea. I've never even
9 heard of Mill Street.

10 Q. I will represent to you that it's not
11 near the other property.

12 A. Well, then I didn't know.

13 Q. You were informed, however, about the
14 Newton Falls property, correct?

15 A. Correct.

16 (Pause.)

17 MR. MARGARD: May I approach, your
18 Honor?

19 EXAMINER PARROT: You may.

20 (EXHIBITS MARKED FOR IDENTIFICATION.)

21 By Mr. Margard:

22 Q. Ms. Carothers, I've handed you two
23 documents for purposes of identification as Staff C
24 and D.

25 MR. MARGARD: Your Honor, I will

1 represent that Staff Exhibit C is a property card
2 record provided by the Mahoning County auditor's
3 office, and that Staff Exhibit D is a business record
4 provided by the Ohio Secretary of State's office.

5 EXAMINER PARROT: The documents have
6 been marked Staff Exhibit C and D respectively.

7 By Mr. Margard:

8 Q. Ms. Carothers, have you seen either of
9 these documents before?

10 A. No.

11 Q. So does Staff Exhibit C describe the
12 property that was described in Newton Falls?

13 A. Yes.

14 Q. And I ask you to take a moment, if you
15 would, to review Staff Exhibit D, which would
16 indicate that this LLC was created by Mr. Osborne.

17 A. Yes, I see that.

18 Q. And that the certificate was issued just
19 a couple of days prior to the transferred property?

20 A. Correct.

21 Q. Do you know how much -- or can you tell
22 from the record how much Cobra paid for that
23 property?

24 A. I don't believe -- how much Cobra paid
25 for it?

1 Q. Yes.

2 A. Does it say?

3 Q. I don't know that it says. I was
4 wondering if you knew?

5 A. I'm sorry.

6 Q. You don't know how much?

7 A. No, I don't know.

8 Q. But to the best of your knowledge, they
9 received no compensation from the North Newton Road,
10 LLC for this property?

11 A. That is correct.

12 Q. Do you know what is on this property, or
13 what services Cobra used the property for?

14 A. There's two shops on the property, and
15 some fencing.

16 Q. And is Cobra continuing to pay property
17 taxes on this as it does for the Washington County
18 property?

19 A. I believe so, yes.

20 Q. Do you know why?

21 A. Well, honestly, because none of us knew
22 about it prior, and we thought that we were still
23 responsible for doing it.

24 And we would -- honestly, we would
25 continue to do so, because especially in the case of

1 the Marietta property that we had spoken of, it's
2 believed that our personal property is on that land,
3 so we wanted to make sure that that was protected.

4 Q. That would be personal property tax
5 liability. But you're also paying real estate
6 property taxes, correct?

7 A. I understand, yes.

8 Q. Now, in your testimony you proposed an
9 emergency rate of 87 cents?

10 A. Correct.

11 Q. That's different than the company
12 proposed in its application, isn't it? Do you know
13 what the company proposed in its application?

14 A. There's a lot of different numbers.

15 Q. There are a lot of different numbers.
16 That's part of why I'm asking. I'm trying to figure
17 out exactly what it is the company is proposing.

18 MR. JUSTIN DORTCH: Objection. Asked
19 and answered. It's in her written testimony for her
20 rationale for why the number should be reduced.

21 EXAMINER PARROT: Overruled.

22 THE WITNESS: The emergency increase
23 states \$1.05.

24 By Mr. Margard:

25 Q. And that's \$1.05 on interruptible

1 volumes and fixed demand charges?

2 A. Correct.

3 Q. And you're proposing 87 cents on an
4 entirely volumetric basis?

5 A. Correct.

6 Q. You also indicate that your proposed
7 rate doesn't include distributions to the owners?

8 A. Correct.

9 Q. Is Cobra committing that the owners
10 should not receive distributions while an emergency
11 rate, if any, is approved, is in effect?

12 A. I'm not sure how to answer that.

13 Q. Is the difficulty in the definition of
14 distribution?

15 A. No. I understand that we wouldn't be
16 allowed to -- that those rates wouldn't be allowed
17 to -- I don't know what the answer is. I don't know
18 what to do when you don't know the answer.

19 Q. Say, "I don't know."

20 A. I don't know.

21 Q. I'm not trying to tell you what the
22 answer is, but if you don't know --

23 A. Yeah, I don't know what the answer is.

24 Q. You're aware that Ms. Coatoam, in her
25 testimony, is proposing that riders be approved as

1 part of this emergency application?

2 A. Yes.

3 Q. But you don't support those riders in
4 your testimony, do you?

5 A. Not my testimony.

6 Q. Mr. Alexander asked you some questions
7 about the legal expenses, and particularly litigation
8 with the Hearthstone companies. Do you recall those
9 questions? It's on page 15 of your testimony.

10 A. Yes.

11 Q. And you also indicate possible
12 litigation regarding retroactive remand. To what are
13 you referring to when you refer to retroactive
14 remand.

15 MR. JUSTIN DORTCH: Objection. Calls
16 for legal conclusion and confidential --
17 attorney/client --

18 MR. MARGARD: It's right there in the
19 testimony.

20 EXAMINER PARROT: Overruled. But,
21 Ms. Carothers, I will say I'm not asking you to
22 divulge anything. You can discuss confidentiality
23 issues with your counsel.

24 THE WITNESS: Can you direct me to a
25 page so I can review it real quick?

By Mr. Margard:

Q. Absolutely. Page 15, line 16 and 17.

A. Okay. Ask again.

Q. Sure. To what are you referring to when you refer to retroactive ratemaking?

A. If we were approved a higher rate, we believe that Hearthstone would engage in further litigation having to pay during the time that the other customers pay -- is that confidential? I don't want to say anything --

Q. You're referring to the -- that period of time when the company put rates into effect and was subsequently told to remove them?

A. Yes.

Q. Is that what you're referring to?

A. Yes.

Q. Thank you.

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

EXAMINER PARROT: Any redirect?

MR. JUSTIN DORTCH: Just a second, your Honor.

- - -

REDIRECT EXAMINATION

By Mr. Justin Dortch:

1 Q. Ms. Carothers, during your -- during the
2 cross-examination you referenced market conditions
3 when discussing the TCO shutdown of the Churchtown
4 location. Do you remember that?

5 A. I do.

6 Q. Can you explain what those market
7 conditions currently are?

8 A. There's a number of things that are
9 resulting in our issue with the shutting of TCO.

10 First of all, the gas prices for
11 producers has dropped in that area for what they can
12 be paid for off of the market that we have access to
13 compared to Dominion.

14 Dominion -- the majority of the
15 shippers, especially the large -- the majority of the
16 producers in the area, especially the larger
17 producers, have the ability for dual feeds to access
18 either Culver pipelines, give them access to
19 Columbia, or access to Dominion.

20 From what I understand, Dominion is
21 paying more at this time, and has been for the last
22 couple of years. So in that, we don't have the
23 volumes to move through the compression stripping
24 station to have it operate at its highest efficiency.

25 Q. Is that leading -- is that the cause

1 of -- the lack of volume, is that the leading cause
2 of the liquid going through in the gas?

3 A. The liquid in the gas is from the
4 production volumes. The efficiency of the compressor
5 and stripping station into the running at its highest
6 efficiency is because of the lack of volumes.

7 Q. Because of this shutdown, you're not
8 able to get gas through to the TCO system, correct?

9 A. Currently, yes.

10 Q. Are there any measures that Cobra has
11 taken recently to try to open that?

12 A. Yes. We have purchased a dryer that
13 hopefully would remove any excess liquids from the
14 gas.

15 We're waiting for that to be -- we have
16 to have approved contractors and -- that meet our on
17 standards on the pipeline, and -- to have that
18 installed. And then hopefully we'll be able to start
19 with TCO soon, and if things are doing well, then
20 we'll be able to move forward.

21 But I don't believe that those volumes
22 are there to show any -- any of the volumes that had
23 been there before in prior years.

24 MR. DORTCH: Thank you. Just a moment.

25 (Pause.)

1 MR. JUSTIN DORTCH: I believe that's it,
2 your Honor.

3 EXAMINER PARROT: Thank you. Any
4 recross, Mr. Alexander?

5 MR. ALEXANDER: Yes, your Honor.

6 - - -

7 RECROSS-EXAMINATION

8 By Mr. Alexander:

9 Q. I guess last things first. In your last
10 response to Mr. Dortch you referenced a dryer that
11 Cobra purchased. Do you recall that?

12 A. Yes.

13 Q. When was that dryer purchased?

14 A. Sometime during the summer, I think. I
15 don't know exactly. It was this year.

16 Q. I couldn't hear you. Did you say the
17 summer, or December?

18 A. This summer.

19 Q. And so turning back to the emergency
20 application, Exhibit -- emergency application,
21 Exhibit D as in dog, Schedule 2. Is that dryer
22 reflected --

23 A. Hang on. Okay. Schedule 2?

24 Q. Yes, Exhibit B, Schedule 2, the plant
25 equipment owned by Cobra.

1 A. I don't think it would be included in
2 plant yet. It would have been included -- I don't
3 know the exact titling of the -- the account, but I
4 think it would be included in -- we have, like
5 operations for each of the systems, and it would have
6 been included into the Churchtown account. I don't
7 know the exact title on it.

8 Q. So the dryer is not included on the
9 statement of plant?

10 A. No.

11 Q. Okay. And with what funds did Cobra
12 purchase the dryer?

13 A. With the funds that we had at that time.

14 Q. Did Cobra write a check for the dryer?

15 A. Yes.

16 Q. Is the dryer installed at this point?

17 A. It hasn't been installed, which I
18 believe that's the reason why it's not in plant yet.
19 I think it's titled under CT operations.

20 Q. And why hasn't the dryer been installed
21 if it was purchased in the summer of 2018?

22 MR. JUSTIN DORTCH: Objection, asked and
23 answered. She already explained why it had not been
24 installed yet, during her redirect.

25 EXAMINER PARROT: Overruled.

1 THE WITNESS: It was purchased in the
2 summer. They had to build it. And I'm not sure
3 exactly when it was delivered; I know it was fall.

4 So there -- there was a time frame
5 between when it was actually purchased and when it
6 was delivered. And then we have to have qualified
7 people that meet our OQ program to install it, and
8 that's been more difficult than we had planned to
9 find.

10 By Mr. Alexander:

11 Q. And then Mr. Dortch also asked you about
12 market conditions, and specifically your answer
13 referenced the volumes being shipped on Cobra. Do
14 you recall that conversation?

15 A. I do.

16 Q. And you believe that the volumes are
17 part of the reason why there's been liquid being
18 transmitted onto the TCO line?

19 A. I do.

20 Q. Did the Cobra stripping station operate
21 with sufficient volumes to operate properly in 2017?

22 A. The -- I want to say like 2016, 2017 is
23 when the Churchtown production volumes had really
24 dropped.

25 A lot of the market conditions had

1 changed as far as producers switching over to
2 Dominion. And honestly, I don't know what Cobra
3 would have tested at the TCO point, had we been
4 tested at that time.

5 I just know that once TCO did test our
6 point, we were shut in then. So I'm not sure what we
7 would have tested that, like prior.

8 Q. So you don't know if Cobra had
9 sufficient volumes in 2016 for the stripping station
10 to operate?

11 A. I know that it was operating. I don't
12 know if we would have met TCO's testing
13 qualifications at that time.

14 Q. And so if I asked you whether there were
15 sufficient volumes from any year from 2010 to 2018,
16 would you be able to answer?

17 A. I know that we had been tested
18 periodically through them -- through then, and had
19 met their standards. But I don't know specifically
20 the time before this testing that shut us in, I don't
21 know the exact time frame since the last one.

22 Q. Okay. So let's maybe start further
23 back. Were there sufficient volumes in 2010 for the
24 stripping station to operate?

25 A. As far as I know, yes.

1 Q. And were there sufficient volumes in
2 2011 for the striping station to operate?

3 A. As far as I know, yes. I would have to
4 look at the exact times that we had discussed that
5 was prior that we had shut in. I should have looked
6 at the dates.

7 But I know that every so often they go
8 in and test everything, but I don't know if there
9 were times before -- from that last time that we had
10 discussed that we had been shut in, to the shut in in
11 November of 2017.

12 Q. Okay. So would I be correct that
13 outside of the one that you can't remember the date,
14 you believe there were sufficient volumes to operate
15 the stripper until approximately 2017 when, in
16 November of that year, Cobra was shut in?

17 A. Yes, I agree with that statement.

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

20 MR. MARGARD: No questions. Thank you.

21 - - -

22 EXAMINATION

23 By Examiner Parrot:

24 Q. Ms. Carothers, I have just a few
25 references in your testimony to discuss with you a

1 little bit. So if we could start on page 12, line
2 No. 7.

3 A. Okay.

4 Q. And that sentence that begins there,
5 it's kind of got two parts to it, so I want to break
6 it down and start at the beginning there.

7 You state that, "Cobra has actually lost
8 three (3) operators of its pipelines this year..."

9 And so if you could, I'd like to know
10 more about the circumstances of that, when that was,
11 why that was. So if you could just elaborate on that
12 part, and then I'll move on to the second part of
13 your sentence.

14 A. Sure thing. We originally had four
15 employees that were specifically operators of the
16 pipeline. We had one in North Trumbull, two at
17 Holmesville, and one at Churchtown. So that's as of
18 beginning of 2018 who we had employed.

19 We have what's known as operator
20 qualifications that have to be met for the PUCO and
21 our program, and the operator that we had employed in
22 Holmesville had every qualification that was
23 necessary, and he got his CDL and took employment in
24 other areas.

25 The other operator for that system

1 didn't have as many qualifications, and got very
2 upset when he found out that the other one was
3 leaving. He was an older gentleman and didn't want
4 the responsibility of managing the entire pipeline,
5 and he just quit the same day that he found out the
6 other guy was leaving.

7 And then the other operator in our
8 Churchtown area left and went to work for the Ohio
9 Utility. So that was it. So that's what happened
10 with those.

11 Q. So the timing of that was -- was that
12 after we had the hearing in the rate case in
13 September?

14 A. No, they were both prior.

15 Q. So that was before that. So then at
16 some point Cobra has contracted with UPL, you go on
17 to state.

18 A. The same date that we found out of them
19 leaving -- we have a very good working relationship
20 with UPL. We contacted them immediately and asked
21 for them to enter an agreement with us where they
22 would supplement our operations.

23 I still have an operator in North
24 Trumbull, and then our operations manager, Elliott
25 Duley, covers the entire system wherever needed, and

1 then UPL supplements us in emergency call outs,
2 cleaning any tickets, and then we go through anything
3 that needs to be done, like compliance or work that's
4 going to be done on the pipeline, deal with that
5 prior to it actually happening, and negotiate costs
6 as we go.

7 But they are always on call. And they
8 get all of our emergency calls as well. So we're
9 still covering the pipeline, but it has to be with
10 the supplement of UPL.

11 Q. Okay. So are the expenses associated
12 with this arrangement you have with UPL, are those
13 reflected in the income statement that you attached
14 to the emergency rate application? And if so, do you
15 know where they are reflected?

16 A. They are. I can't remember if they are
17 included in -- I don't remember which account they
18 are in included in, but they are.

19 Q. Okay. So then on the next page, the
20 bottom of page 13, you also mention that UTI has
21 charged Cobra approximately \$29,000 as of
22 August 31st. So you're also contracting with UTI?

23 A. That is correct.

24 Q. And what is UTI doing then that's
25 different than what UPL is doing?

1 A. UTI is with our IMP and DIMP plans.
2 Cobra is a very small company, we have very small
3 staff, and it's a much bigger project than what we
4 can handle. And they have been helping us update
5 those programs and get compliant with the PUCO for
6 some time now, actually.

7 Q. Same question then with respect to UTI.
8 The expenses associated with that arrangement are
9 reflected in the income statement, but you're not
10 sure where, but they are?

11 A. That one I am sure of. That one is
12 included in the regulatory expenses.

13 Q. Okay. And then the terms of the
14 contract that Cobra has with UPL, do you know what
15 the nature of that agreement is in terms of the
16 month-to-month type of arrangement that you have? Do
17 you know any specifics of that?

18 A. It is month-to-month as far as the
19 emergency call out and the tickets being cleared.
20 And then anything that is beyond that is -- they
21 draft a letter stating exactly what they are going to
22 be working on, give us a proposed amount, and then we
23 sign it as we go.

24 So every -- everything that they do
25 that's above and beyond just the regular operation is

1 negotiated as we go.

2 EXAMINER PARROT: Okay. Thank you very
3 much. You're excused. Actually, hold tight for just
4 a second. Let's deal with the exhibits first.
5 Mr. Dortch?

6 MR. JUSTIN DORTCH: Your Honor, we move
7 to move Cobra Exhibit A, Jessica Carothers' testimony
8 and its exhibits, into the record.

9 EXAMINER PARROT: Any objections?

10 (No response.)

11 EXAMINER PARROT: Company Exhibit A is
12 admitted.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 MR. ALEXANDER: Your Honor, NEO moves
15 Exhibits -- NEO Exhibits A through D, public version,
16 and then Confidential Exhibit E, with the
17 confidential designation.

18 EXAMINER PARROT: Any objections?

19 MR. JUSTIN DORTCH: No.

20 EXAMINER PARROT: NEO Exhibits A
21 through E are admitted.

22 (EXHIBITS ADMITTED INTO EVIDENCE.)

23 EXAMINER PARROT: Mr. Margard.

24 MR. MARGARD: Thank you. I would
25 respectfully move Exhibits A through D.

1 EXAMINER PARROT: Any objections?

2 MR. JUSTIN DORTCH: No, your Honor.

3 EXAMINER PARROT: Staff Exhibits A
4 through D are also admitted.

5 (EXHIBITS ADMITTED INTO EVIDENCE.)

6 EXAMINER PARROT: Thank you very much,
7 Ms. Carothers.

8 (Witness excused.)

9 EXAMINER PARROT: Let's go off the
10 record.

11 (Discussion off the record.)

12 EXAMINER PARROT: Let's go back on the
13 record. At this point we're going to -- we will
14 adjourn for lunch break. We will reconvene at 1:00
15 p.m. Thanks.

16 (Lunch recess from 12:10 to 1:00.)

17 EXAMINER WALSTRA: We'll go back on the
18 record. You may call your next witness.

19 MR. JUSTIN DORTCH: Thank you, your
20 Honor. The company would like to call Carolyn
21 Coatoam to the stand, please.

22 EXAMINER WALSTRA: Raise your right
23 hand. Do you swear to tell the truth, the whole
24 truth?

25 MS. COATOAM: Yes.

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Carolyn Coatoam,
being first duly sworn, as prescribed by law, was
examined and testified as follows:

DIRECT EXAMINATION

By Mr. Justin Dortch:

Q. Ms. Coatoam, would you state your name,
and spell it for the Court Reporter, please?

A. Carolyn Coatoam, C-o-a-t, as in Tom,
o-a-m, as in Mary.

Q. Thank you. And whom are employed by?

A. Cobra Pipeline Company.

Q. And what is your capacity at Cobra
Pipeline?

A. Controller. I'm basically the head
accountant.

Q. And did you prepare and cause to be
filed written direct testimony in this proceeding?

A. Yes.

Q. And, Ms. Coatoam, I'm going to hand you
an Exhibit entitled Cobra Exhibit B.

MR. JUSTIN DORTCH: May I have it marked
as Exhibit B?

EXAMINER WALSTRA: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

1 MR. JUSTIN DORTCH: May I approach?

2 EXAMINER WALSTRA: You may.

3 MR. JUSTIN DORTCH: Exhibit B contains
4 all the nonconfidential exhibits. The confidential
5 exhibit was included in the disk that was provided to
6 everyone earlier, your Honor.

7 By Mr. Justin Dortch:

8 Q. Ms. Coatoam, would you review Exhibit B?
9 After you've done so, please let me know if this
10 is -- if this is your written direct prefiled
11 testimony.

12 A. Yes, it is.

13 Q. And it was prepared by you or under your
14 direction?

15 A. Yes.

16 Q. And do you have any changes, additions,
17 or corrections you would like to make to the
18 testimony at this time?

19 A. No.

20 Q. And if you were -- if I were to ask you
21 the same questions under oath today, would you --
22 your answers would be the same?

23 A. Yes.

24 MR. JUSTIN DORTCH: Your Honor, I move
25 for the admission of Exhibit B subject to

1 cross-examination.

2 EXAMINER WALSTRA: Thank you.

3 Mr. Alexander?

4 MR. ALEXANDER: Mr. Margard --

5 MR. MARGARD: I have several. I do have
6 some motions to strike, your Honor.

7 EXAMINER WALSTRA: Sure.

8 MR. MARGARD: Let's begin. I would
9 begin on page 8, beginning -- let's see, beginning on
10 line 4 and proceeding through page 10, line 7.

11 This is testimony that purports to be
12 supporting a permanent rate. Obviously the purpose
13 of an emergency case is to support a temporary rate
14 until the emergency has abated.

15 The contents of this testimony relates
16 to depreciation expense, which was fully litigated in
17 2016 rate case record, a record which is closed.

18 We don't have a request to open that
19 record. We don't have any new evidence, this is
20 information that could have been litigated at that
21 time. It's inappropriate to include this at this
22 point.

23 MR. ALEXANDER: Your Honor, the
24 companies would join. But I add page 11, line 7. I
25 actually had the same motion. Is that a proper

1 reference?

2 MR. MARGARD: I have more that go that
3 far.

4 MR. ALEXANDER: We'll join as to that.

5 EXAMINER WALSTRA: Okay.

6 MR. MARGARD: As a further basis, your
7 Honor, with respect to the question and answer at the
8 bottom of page 9, beginning at line 13, this is
9 interesting testimony.

10 It's not based on personal knowledge,
11 and it's based on a complete misunderstanding of the
12 Commission's regulatory process and jurisdiction,
13 suggesting that TCO somehow had rates that were
14 approved by the Commission.

15 Clearly, this is not based on any
16 personal knowledge on the part of this witness and
17 should also be stricken for that reason.

18 EXAMINER WALSTRA: Response?

19 MR. JUSTIN DORTCH: Your Honor, in
20 regard to the first matter, the underlying issue in
21 the consolidated case is still pending, whether or
22 not we should be considering the most recent
23 information going forward.

24 That seems very relevant to that matter,
25 that the most recent information be provided. That

1 case has not been adjudicated yet, we're still
2 proceeding in that matter, and it has been
3 consolidated with this case.

4 EXAMINER WALSTRA: And you want to
5 address the --

6 MR. JUSTIN DORTCH: The second matter,
7 your Honor, reading through the testimony, this
8 portion of it merely states that Ms. Coatoam -- as it
9 states later on, Ms. Coatoam has gone now through
10 every case, and she is providing her personal opinion
11 upon what that rate case is and why she believes that
12 TCO must have gone through that with its rate as
13 well.

14 EXAMINER WALSTRA: Regarding both
15 motions to strike, consistent with the Bench's
16 previous ruling, I think the Commission can give it
17 the proper weight it deserves.

18 MR. MARGARD: My second motion to
19 strike, your Honor, would be from page 10, beginning
20 at line 8, through page 11, line 7.

21 The witness at this point is proposing a
22 rider mechanism, again, to address the depreciation
23 issue.

24 As I said before, and while I realize
25 the Bench has previously ruled, this has already been

1 fully litigated in a closed record, and there's been
2 no request to open this record.

3 But I further object that this is
4 testimony that's proposing an additional rider. It's
5 not based on anything that was contained in the
6 company's application. There were no riders proposed
7 in the application. This is inconsistent with that
8 application and should be struck for that reason as
9 well.

10 MR. ALEXANDER: Companies join, your
11 Honor.

12 MR. MICHAEL DORTCH: And I'm sorry,
13 Vern, may I have the reference again?

14 MR. MARGARD: Page 10, line 8, through
15 page 11, line 7.

16 MR. MICHAEL DORTCH: Thank you. And if
17 I may have a moment to review the testimony.

18 EXAMINER WALSTRA: Sure.

19 MR. JUSTIN DORTCH: Your Honor, first,
20 this amount -- this discussion was addressed in the
21 2016 rate case. This is merely Ms. Coatoam's -- this
22 is merely Mrs. Coatoam's position on how she believes
23 it should be addressed due to the financial
24 situation, current financial situation of the
25 company.

1 It is in the broad -- as every party
2 here knows, granting an emergency rate case, an
3 emergency rate, the Commission is allowed to give
4 broad consideration in all things, that there really
5 are no predetermined -- and the Commission is able to
6 consider all items that it deems relevant.

7 Explaining why the depreciation rate --
8 how it would affect the financial situation of the
9 company seems very relevant to that argument.

10 EXAMINER WALSTRA: Thank you. For the
11 same reasons I'll deny the motion to strike.

12 MR. MARGARD: My next motion, your
13 Honor, would be beginning on page 11 at line 8
14 through page 13, line 11.

15 This relates to the \$400,000
16 plant-in-service that the company is unable to
17 document. We raised this issue in the rate case,
18 indicated it was not able to document it then it,
19 would keep looking. It was not able to document it
20 at the time of hearing, and here is the same
21 testimony again.

22 Your Honors, this is virtually the
23 identical testimony that was presented in the case
24 that's already been fully litigated. There's
25 absolutely nothing new here. Completely

1 inappropriate to be raising it at this time in this
2 application.

3 MR. JUSTIN DORTCH: Again, your Honor,
4 we're demonstrating that these are the effects that
5 would occur in an emergency case, that -- the
6 financial magnitude of that \$400,000 in question.

7 EXAMINER WALSTRA: I'll deny the motion.

8 MR. MARGARD: My next motion, your
9 Honor, is on page 14, the sentence beginning on
10 line 12, and concluding on line 14. Here we have
11 testimony that's being offered on behalf of
12 Mr. Osborne by Ms. Coatoam.

13 Mr. Osborne, as the principal of this
14 company, is certainly capable of coming and
15 testifying before this Commission. The company has
16 chosen not to offer him.

17 It cannot offer his testimony through
18 another witness. This is clearly hearsay and
19 inadmissible, and we'd ask that it be struck.

20 MR. ALEXANDER: Your Honor, I join that
21 motion, but I would change the reference starting
22 point to begin with the word "and" in the first
23 sentence.

24 And the reason why is, in deposition
25 Ms. Coatoam had no personal knowledge as to the

ownership structure of Marietta Land Properties, LLC, and actually had no personal knowledge of the ownership structure of that entity, and was completely reliant on Mr. Osborne's statements to her regarding the ownership of that entity. It's similarly hearsay as the rest of the portion identified by Mr. Margard.

MR. JUSTIN DORTCH: Can you please repeat the part you're adding?

MR. ALEXANDER: Sure. It's the first sentence starting with the word "and".

MR. JUSTIN DORTCH: What line?

MR. ALEXANDER: Page 14, line 11.

MR. MARGARD: Next to the word "grantor"?

MR. ALEXANDER: Correct.

MR. JUSTIN DORTCH: Your Honor, once again, I believe Mrs. Coatoam will testify that Mr. Osborne has made this representation to herself about -- regarding the real property.

As far as the ownership -- yeah, as far as the ownership, we have deeds. We also have been -- submitted the information regarding who owns, I believe, Marietta Land from the Secretary of State.

MR. ALEXANDER: Your Honor, may we be

1 heard on the Marietta Land property? The
2 incorporator of Marietta Land Properties, LLC, may
3 not be the current landowner of Marietta Land
4 Properties, LLC.

5 For example, law firms routinely create
6 entities for their clients. Those ownership
7 interests are transferred, assigned, used as
8 collateral, on a regular basis.

9 So you can't use the corporation
10 information as something to establish that
11 Mr. Osborne owned Marietta Land Properties, LLC,
12 continues to own an interest in it, and what that
13 interest may be as far as a portion, and the witness
14 has no personal knowledge of any of those facts.

15 EXAMINER WALSTRA: I'll deny the motion,
16 and you can explore that on cross-examination for the
17 record.

18 MR. MARGARD: Both motions you're
19 denying, your Honor?

20 EXAMINER WALSTRA: Yes.

21 MR. MARGARD: My final motion to strike
22 is page 16, line 1, through page 23, line 13. These
23 all relate to a series of riders, all of which were
24 proposed in one form or another in the '16 rate case,
25 gainfully litigated, none of which were included in

1 the company's application for emergency rates, and
2 all of these are efforts to, once again, litigate
3 issues that have been fully litigated in the 2016
4 rate case.

5 MR. ALEXANDER: The companies join, your
6 Honor.

7 EXAMINER WALSTRA: Through what page,
8 23?

9 MR. MARGARD: 23, line 13.

10 MR. JUSTIN DORTCH: Again, your Honor,
11 we're just acknowledging the proposed changes that
12 were made, and the impact they would have on the
13 company, as stated previously.

14 EXAMINER WALSTRA: Being consistent,
15 I'll deny that motion as well.

16 MR. MARGARD: Thank you, your Honor.

17 MR. ALEXANDER: I have no additional
18 motions to strike.

19 EXAMINER WALSTRA: Whenever you're
20 ready.

21 MR. ALEXANDER: Thank you, your Honor.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Alexander:

25 Q. Ms. Coatoam, you're familiar with the

1 emergency application filed by Cobra in this
2 proceeding?

3 A. Yes.

4 Q. And you are the individual who prepared
5 the income statements included in Exhibit A and
6 Exhibit H of that application?

7 A. Yes.

8 Q. You prepared those income statements
9 based on -- in part, on information provided to you
10 by Ms. Carothers?

11 A. Yes.

12 Q. Now, those income statements, and all
13 Cobra income statements, are created on the accrual
14 basis, correct?

15 A. Yes.

16 Q. And the income statements attached to
17 the emergency application therefore don't reflect
18 actual cash transactions in the year 2016, 2018?

19 A. No, they don't.

20 Q. So, for example, looking at the
21 emergency application, Exhibit A, the personal
22 property taxes are identified as \$523,539.73. Do you
23 see that?

24 A. Yes. Yes, I do.

25 Q. Now, Cobra did not actually pay that

1 amount for personal property taxes in 2018, correct?

2 A. No, it did not.

3 Q. And in fact, Cobra has not made any
4 payment of personal property taxes in 2018?

5 A. That is correct.

6 Q. And similarly, if Cobra earned revenue
7 in 2017, but did not receive that revenue until 2018,
8 that revenue would not show up in Cobra's 2018 income
9 statement?

10 A. That is correct.

11 Q. And if an expense was incurred in a
12 prior year and paid in 2018, that would also not be
13 reflected in the 2018 income statement?

14 A. Only if it was exactly the same amount.

15 MR. ALEXANDER: Can we go off the record
16 Again, your Honor?

17 EXAMINER WALSTRA: Sure.

18 (Discussion off the record.)

19 EXAMINER WALSTRA: Go back on the
20 record.

21 MR. ALEXANDER: Your Honor, may I have
22 this document marked for identification as NEO
23 Exhibit F?

24 EXAMINER WALSTRA: So marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 By Mr. Alexander:

2 Q. Mrs. Coatoam, I just handed you what's
3 been marked for identification as NEO Exhibit F,
4 which I will represent to you is the first page of
5 the document filed as confidential Exhibit B to the
6 emergency application filed by Cobra in this
7 proceeding.

8 While we were off the record I had a
9 discussion with your counsel, and we agreed that the
10 first page of confidential Exhibit B is not
11 confidential, and so it has been marked for
12 identification as NEO Exhibit F.

13 So with that representation, have you
14 ever seen this document before?

15 A. Yes.

16 Q. And this document includes Cobra's
17 projected revenue in 2018 by month for gas
18 transportation service?

19 A. Yes.

20 Q. I'd like to direct your attention to the
21 first column titled "CT Firm." Do you see that?

22 A. Yes.

23 Q. Now, the total 2018 projected revenue
24 for that column is \$161,675; is that right?

25 A. Apparently, yes.

1 Q. Okay. Now let's direct your attention
2 back to the 2018 income statement in this proceeding,
3 Exhibit A.

4 A. Okay.

5 Q. That income statement also includes
6 projected 2018 revenue by category, correct?

7 A. Yes.

8 Q. And under that line item, Cobra projects
9 \$171,462 for the same line item in 2018, correct?

10 A. That's what it looks like, yes.

11 Q. And you do not know why there's a
12 difference between the revenue projections in
13 Exhibit A to the emergency application, and the
14 revenue projections in Exhibit B to the emergency
15 application?

16 A. Well, both of them are projections, done
17 at separate times, different times. So I don't know
18 the answer to that necessarily. I don't know what --
19 how this was prepared and -- you know. It's \$10,000.

20 Q. Okay. I direct your attention again
21 back to NEO Exhibit F. Now, the Column "HV Firm."
22 Do you see that?

23 A. Yes.

24 Q. And the projected 2018 revenue for that
25 line item is \$406,884?

1 A. Okay.

2 Q. Did I read that correctly?

3 A. Yes.

4 Q. And now turn our attention back to
5 Exhibit A. Cobra estimates 2018 revenue for that
6 line item to be \$431,612.50.

7 A. Yes.

8 Q. And you do not know why there is that
9 difference in those two line items?

10 A. No, I don't.

11 Q. Cobra, as part of its preparation in the
12 emergency application in this case, did not create a
13 new set of comprehensive financial documents,
14 correct?

15 A. I'm sorry. Could you repeat that?

16 Q. Sure. As part of its preparation of the
17 financial statements included with the emergency
18 application, Cobra did not create a whole new set of
19 projected financial documents that are interrelated,
20 correct?

21 A. No, not necessarily.

22 Q. Okay. So instead, Cobra created the
23 exhibits separately?

24 A. Yes.

25 Q. And as a result, there may be

1 discrepancies between the numbers in the various
2 exhibits?

3 A. Yes, there might.

4 Q. Now let's turn your attention back to
5 the 2018 income statement, Exhibit A. I'd like to
6 focus your attention specifically on the expenses
7 line items.

8 A. All right.

9 Q. First, please look at the line for wages
10 and salaries.

11 A. Yes.

12 Q. Cobra projects, in 2018, an expense of
13 \$499,722.67.

14 A. Yes.

15 Q. Now, that does not reflect the amount
16 that Cobra actually spent on salaries in 2018,
17 correct?

18 A. No.

19 Q. And instead, this estimate includes
20 salaries and wages for three additional employees who
21 have not yet been hired?

22 A. That's true.

23 Q. So you have added \$40,000 to the actual
24 projected expenses for this line item to account for
25 those three employees?

1 A. Yes.

2 Q. And Cobra was formerly affiliated with
3 an entity known as Orwell Trumbull Pipeline?

4 A. Yes.

5 Q. Orwell Trumbull Pipeline has
6 subsequently been taken over by a receiver?

7 A. Yes.

8 Q. Cobra employees therefore now work
9 exclusively for Cobra and do no longer share their
10 time with Orwell Trumbull Pipeline?

11 A. That is correct.

12 Q. Now, if you could please focus your
13 attention on Exhibit H to the emergency application,
14 the 2016/2018 income statement.

15 A. Wait. Where -- is that the one I have
16 to flip black and forth to get to?

17 Q. There should be a separate copy of
18 Exhibit H on the stand to help you from having to
19 flip back and forth.

20 MR. MICHAEL DORTCH: May I approach,
21 your Honor?

22 THE WITNESS: Where did it go? This is
23 it. Sorry. It got stuck to another one.

24 By Mr. Alexander:

25 Q. So for this next series of questions it

1 would probably help if you had Exhibit A and
2 Exhibit H both open. So we'll start with Exhibit H,
3 the expense line item labeled "Admin Support X Other
4 Purchase". Do you see that?

5 A. Yes.

6 Q. In 2016, that line item indicates
7 \$175,739.73 in expenses?

8 A. Yes.

9 Q. And in 2017 for that line item, the it
10 rises to \$397,134.36?

11 A. Yes.

12 Q. And you do not know the cause of that
13 increase?

14 A. Not specifically.

15 Q. Okay. Now turning your attention to
16 Exhibit A, the 2018 income statement.

17 A. Yes.

18 Q. For the same line item "Admin Support X
19 Other Purchase". Do you see that?

20 A. Yes.

21 Q. For the -- for 2018, Cobra projects that
22 line item to be \$284,998.56?

23 A. Yes.

24 Q. On the stand there should be a copy of a
25 document which was admitted in the 2016 rate case as

1 Cobra Exhibit 5, which has income statements from
2 2008 to 2017.

3 A. I saw it. Okay.

4 Q. Did you find it?

5 A. Yes.

6 Q. Okay. So you were the individual who
7 created Company Exhibit 5, correct?

8 A. Yes.

9 Q. And Company Exhibit 5, I was correct,
10 covers the years 2008 to 2017?

11 A. Yes.

12 Q. Now, if you could turn your attention to
13 the expenses, you will see "Admin Support Expense
14 Other" about halfway down the page.

15 A. Yeah, I see it.

16 Q. Okay. Those numbers range from a low of
17 approximately 137,000 in 2008 to a high of 240,000 in
18 2015?

19 A. Okay.

20 Q. And starting in 2017, the line item
21 jumps dramatically to 397,000, but you don't know the
22 cause of that increase?

23 A. I can't -- I can't give the amounts that
24 would cause that to increase at this point.

25 Q. Okay. Staying on Company Exhibit 5,

1 approximately halfway down the expense line item
2 there's an expense for Admin Management Fee. Do you
3 see that?

4 A. Yes.

5 Q. And Cobra only paid the admin management
6 fee in 2010 and 2011?

7 A. That's true.

8 Q. And 2010, the administrative management
9 fee was 719,000?

10 A. I see that, yes.

11 Q. And in 2011, the administrative
12 management fee was 133,000?

13 A. That's -- yeah, that's the right number.

14 Q. And you do not know what the
15 administrative management fee was for?

16 A. No, I don't.

17 Q. But you do know that Cobra paid that
18 administrative management fee to Mr. Osborne, or an
19 entity controlled by Mr. Osborne?

20 A. I believe it did. I wasn't -- I wasn't
21 working for Cobra at the time, so I don't have
22 personal knowledge who it was paid to.

23 Q. Ms. Coatoam, do you recall being deposed
24 in this proceeding?

25 A. Yes.

1 Q. During that deposition do you recall
2 swearing an oath to tell the truth?

3 A. Yes.

4 Q. Do you recall a Court Reporter being
5 present to take down my questions and your answers at
6 this deposition?

7 A. Yes.

8 Q. Could you turn to page 35, line 22 of
9 your deposition?

10 A. 35?

11 Q. Ms. Coatoam, look at the page numbers at
12 the top corner, not the one at the bottom.

13 MR. JUSTIN DORTCH: Objection, the point
14 of impeaching with a deposition is when you get an
15 inconsistent answer. This is not an inconsistent
16 answer.

17 EXAMINER WALSTRA: Let him go through
18 it.

19 THE WITNESS: I've got it.
20 By Mr. Alexander:

21 Q. Let's start at, actually, line 15, just
22 to give more context.

23 Did I ask the question, "And what was
24 that administrative fee for?" Answer: "I can't
25 explain it. I don't know what it was."

1 Question: "Do you know to whom those
2 payments were made?" Answer: "Not offhand, no."

3 Question: "Do you know if those payments were made
4 to Richard Osborne?" Answer: "If they weren't made
5 to Richard Osborne, it was made to one of his
6 companies."

7 Did I read that correctly?

8 A. Yes.

9 Q. Now, please turn your attention to the
10 Exhibit 5, further down the expense line to a row
11 labeled "Interest Expense - Associated Company." Do
12 you see that?

13 A. Yes.

14 EXAMINER WALSTRA: Can you repeat that?

15 MR. ALEXANDER: Interest Expense -
16 Associated Company.

17 By Mr. Alexander:

18 Q. Do you see that?

19 A. Yes.

20 MR. MICHAEL DORTCH: Actually, Trevor,
21 give me a minute. I can't find it.

22 THE WITNESS: Last line.

23 MR. MICHAEL DORTCH: I'm sorry. Thank
24 you. Sorry.

25 MR. ALEXANDER: Are you ready, Mike?

1 MR. MICHAEL DORTCH: Yeah.

2 By Mr. Alexander:

3 Q. Now, that line item reflects interest
4 rates -- interest expenses Cobra owed to Richard
5 Osborne, associated companies, for loans that Cobra
6 had received from those associated companies?

7 A. Yes.

8 Q. There were never any loan agreements
9 between Cobra and those Osborne associated companies?

10 A. There were none.

11 Q. As a result, there's no documentation
12 memorializing the terms of those loans, including the
13 interest rate?

14 A. No.

15 Q. So when you calculated the total
16 interest expense owed to the associated companies in
17 that line item, you had to rely on someone at Cobra
18 to tell you what the interest rate was, correct?

19 A. I relied on previous workpapers.

20 Q. Because without the loan agreements, you
21 couldn't personally determine what the interest
22 expense was?

23 A. No.

24 Q. And that person had no documentation
25 indicating what interest expense should have been

1 either, did they?

2 A. No, I don't believe so.

3 Q. And it's your understanding that the
4 person who had your job prior to you just came up
5 with a number and used it?

6 A. I don't -- I'm not sure how to answer
7 that. I don't know how they came up with it.

8 Q. Can you turn to page 37 of your
9 deposition, line 15?

10 A. Okay. All right.

11 Q. "Can I asked you a question?" "Sure.
12 "If there was no document which gave you interest
13 rate, how did you know what interest rate to apply?"

14 Answer: "The person who was in charge
15 of the accounting before came up with a number and
16 used it. I don't know how he -- I'm not even sure
17 which one it was. I think it was the person who was
18 there before me, and I don't know if it was in
19 conference with Rick Osborne or if she just came up
20 with that?"

21 Did I read that correctly?

22 MR. JUSTIN DORTCH: Objection.

23 Objection, your Honor. Again, the point of using
24 deposition for impeachment is to fret out an
25 inconsistent statement. Nothing in that statement is

1 inconsistent with what she said on the stand.

2 MR. ALEXANDER: Your Honor, what she
3 testified to just now was not that the person before
4 her just came up with a number and used it, but
5 rather it was -- she wasn't sure. Those are two
6 different things.

7 EXAMINER WALSTRA: I don't see much
8 difference, but I'll allow it.

9 By Mr. Alexander:

10 Q. So did I read that correctly?

11 A. Yes.

12 Q. For NEO Exhibit 2, were those income
13 statements also created on the accrual basis rather
14 than the cash basis?

15 A. Yes.

16 Q. And so you don't know whether the
17 amounts reflected on NEO Exhibit 2 actually reflect
18 cash transactions in those years?

19 A. No.

20 Q. No, you don't know?

21 A. No, I don't know.

22 EXAMINER WALSTRA: Mr. Alexander, what
23 is the NEO Exhibit?

24 MR. ALEXANDER: I apologize. That was a
25 deposition reference. Company Exhibit 5, the income

1 statements. In the deposition it was labeled as a
2 NEO exhibit.

3 EXAMINER WALSTRA: Okay. Thank you.

4 MR. ALEXANDER: So I'll reask the
5 question just so the record is clear.

6 By Mr. Alexander:

7 Q. With regards to Company Exhibit 5, the
8 income statements from 2008 to 2017, those are
9 recorded on the accrual basis?

10 A. Yes.

11 Q. And as a result, you don't know whether
12 the expenses shown in those line items were actually
13 paid in any of those years?

14 A. That's true, I don't know.

15 Q. Now, staying in that same exhibit,
16 Company Exhibit 5. Now, focus on the revenue
17 portion. Cobra shows that it received interest
18 income in those years?

19 A. Yes.

20 Q. And that would refer to interest income
21 earned from Osborne associated companies?

22 A. Yes.

23 Q. But Cobra never actually received any of
24 that interest income?

25 A. No, it did not.

1 Q. And similarly, there are no loan
2 agreements memorializing the terms of Cobra's loans
3 to those other entities?

4 A. There are not.

5 Q. And beginning in 2016, Cobra stopped
6 reflecting interest income, correct?

7 A. That's true.

8 Q. And you believe it was ridiculous to
9 include interest income in Cobra's income statements,
10 correct?

11 A. I thought it was just a wasted exercise.

12 Q. Well, my question is, you believe it was
13 ridiculous to include interest in Cobra's income
14 statements, correct?

15 A. Yes.

16 Q. And in your view, it's ridiculous
17 because the interest on the loans between Cobra and
18 entities owned and operated by Mr. Osborne would
19 never be paid one way or another?

20 A. There was no plan to.

21 Q. Now, going back -- staying in the same
22 exhibit, Company Exhibit 5. Going back to the
23 expenses line, I'd like to direct your attention to
24 the Other Taxes - Personal Property Tax row. Do you
25 see that?

1 A. Yes.

2 Q. There's no accrual for personal property
3 taxes for the years 2008 to 2011, correct?

4 A. There is not.

5 Q. And there's no accrual for those years
6 because Cobra did not believe it needed to pay any
7 personal property tax at that time?

8 A. That's true.

9 Q. And in 2012, Cobra identifies an accrual
10 of \$140,000 for personal property tax in that year?

11 A. Yes.

12 Q. And you came up with the \$140,000
13 estimate for 2012?

14 A. I did.

15 Q. And you considered that estimate to be a
16 stab in the dark?

17 A. I did.

18 Q. And in 2013, you identified the personal
19 property tax obligation as \$135,000?

20 A. That's true.

21 Q. And as of 2013, Cobra had still not paid
22 or filed any personal property tax return?

23 A. It had not.

24 Q. Now, Cobra knew in 2012 that it owed
25 personal property tax, correct?

1 A. I believe they did.

2 Q. Okay. Cobra did not file a personal
3 property tax return until the spring of 2014?

4 A. Yes.

5 Q. And no personal property tax return was
6 filed until the spring of 2014, because there was no
7 one at Cobra to file the tax returns on behalf of the
8 company?

9 A. Yes.

10 Q. In 2012, Cobra had revenues of
11 approximately \$2.6 million?

12 A. Yes.

13 Q. So despite that revenue, Cobra did not
14 hire an accountant to prepare personal property tax
15 returns for that year?

16 A. No.

17 Q. In 2013, Cobra had approximately \$2.8
18 million in revenue?

19 A. Yes.

20 Q. But again, despite that revenue, Cobra
21 did not hire an accountant to prepare personal
22 property tax returns in that year either?

23 A. No -- what kind of accountant are you
24 talking about?

25 Q. To prepare a personal property --

1 A. An outside accountant?

2 Q. Yes.

3 A. No, it did not.

4 Q. In 2014, the personal property tax
5 accrual was estimated again to be \$135,000?

6 A. I lost the place. Well, I think that's
7 right. I can't find the line again. Here we go. I
8 see it. Now I see it. Okay. Yes.

9 Q. And that was another stab in the dark,
10 correct?

11 A. That was before the taxes were filed in
12 the spring. We did not start receiving any billings
13 until late that year, or at the beginning of 2015.

14 Q. So until the beginning of 2015 when
15 Cobra started receiving invoices from the counties,
16 it was still making stab in the dark estimates?

17 A. It was just a placeholder, I guess, to,
18 you know, put something on the books.

19 Q. In 2015 the personal property tax
20 accrual is \$1.84 million?

21 A. Yes.

22 Q. Now, that \$1.84 million does not reflect
23 the amount of taxes which actually accrued in 2015?

24 A. No, it does not.

25 Q. By including past year personal property

1 tax expenses in the 2015 income statement, Cobra is
2 overstating its expenses in the year 2015?

3 MR. JUSTIN DORTCH: Objection. He
4 didn't establish that yet. He hasn't said where
5 the -- he's not formed why the \$1.8 million --

6 MR. ALEXANDER: I'm happy to explain
7 that, your Honor.

8 EXAMINER WALSTRA: Okay.
9 By Mr. Alexander:

10 Q. Ms. Coatoam, the \$1.8 million was
11 calculated based on the invoices you received from
12 the counties, correct?

13 A. Yes, but --

14 Q. And so that \$1.8 million includes
15 amounts which were owed by Cobra for years prior to
16 2015?

17 A. Yes.

18 Q. So by including past year personal
19 property tax expenses in the 2015 income statement,
20 Cobra overstates its expenses in the year 2015?

21 A. Yes, it does. But it had understated
22 them in the previous years.

23 Q. And so in every future year after 2015
24 in which Cobra increases the personal property tax
25 liability above the actual accrued expense for that

1 year, Cobra would be overstating its expenses?

2 A. Well, according to accrual accounting,
3 you've got -- you've got a problem here with the
4 personal property taxes because they become due at
5 the end of this year for this year, but we are not
6 billed for them until next year.

7 So you set up an accrual to recognize
8 that expense, and then when you pay it, it goes
9 against the accrued balance of the payable.

10 Those are generally accepted accounting
11 principles. We're not allowed to report on a cash
12 basis, only what we paid out and only what we took
13 in.

14 Q. Well, I guess to be more accurate, what
15 you paid out and took in would be reflected on the
16 statement of cash flows?

17 A. Yes.

18 Q. Okay. So let's focus on the income
19 statement. You testified Cobra reports its income
20 statements on an accrual basis?

21 A. Yes.

22 Q. And the tax that accrued in 2015 was
23 less than \$1.8 million, yes?

24 A. That's true.

25 Q. Okay. And then looking at the next

1 year, 2016, Cobra accrues \$658,235.

2 A. Yes.

3 Q. That also doesn't match the tax that
4 accrued to 2016, correct?

5 A. No, that was -- it was partly accrual
6 and partly adjusting entry to bring it up to whatever
7 the balance is on the billing statements.

8 Q. Right. And that's what I'm trying to
9 get to. Part of these entries are the tax that
10 actually accrued, and then part are adjusting entries
11 made to reflect for past years failure to pay?

12 A. To adjust those previous years'
13 accruals.

14 Q. And part of the adjustments you made
15 were also for back interest due to Cobra's failure to
16 pay?

17 A. Yes.

18 Q. And part of the adjustments you made
19 were to reflect Cobra's penalties for failure to pay?

20 A. Yes.

21 Q. Now turning to the 2018 income
22 statement, Exhibit A, to Cobra's emergency
23 application.

24 A. Okay.

25 Q. Are you there?

1 A. Yes.

2 Q. For 2018, Cobra projects \$500,000 in
3 personal property tax obligation for 2018, plus an
4 additional \$23,539.73 to reflect 2017 taxes which
5 were greater than you had estimated?

6 A. Yes.

7 Q. And so I want to focus on, right now,
8 the \$500,000 2018 estimate.

9 A. Okay.

10 Q. The \$500,000 2018 property tax estimate
11 consists of an estimated \$440,000 in tax liability
12 for 2018, plus an additional \$60,000 in estimated
13 interest and penalties in 2008, correct?

14 A. Yes.

15 Q. And Cobra is seeking to recover from
16 customers the cost of the penalties and interests
17 assessed as a result of Cobra's failure to pay the
18 personal property tax on time?

19 MR. JUSTIN DORTCH: Objection,
20 mischaracterization.

21 EXAMINER WALSTRA: She can clarify.

22 THE WITNESS: I -- what we're trying to
23 do is, I can separate the penalties and interest from
24 the actual taxes owed, but we still are going to have
25 to pay the penalties and interest.

1 By Mr. Alexander:

2 Q. Sure. And just to be clear, Cobra is
3 seeking to recover a rate which will allow it to
4 recover all the expenses shown in Company Exhibit A,
5 correct?

6 A. I assume so.

7 Q. Okay. And --

8 A. Why wouldn't we?

9 Q. Yeah. And those expenses include
10 penalties and interest associated with personal
11 property tax?

12 A. Yes.

13 Q. And you don't believe that customers
14 should be responsible for paying the interest and
15 penalties associated with previously owed personal
16 property tax obligations, correct?

17 A. I'm -- I assumed that we would not, you
18 know, expect them to pay it.

19 Q. Turning your attention to excise taxes.
20 Cobra did not pay any excise taxes between 2008 and
21 2017, correct?

22 A. Yes, it did. It paid 32,000 something.

23 Q. You're correct. That was my next
24 question. Cobra actually paid a total of \$29,986 in
25 excise tax, correct?

1 A. Yes.

2 Q. I apologize for that, one question off.
3 The Ohio Department of Taxation claims that Cobra
4 currently owes \$624,000 in excise taxes?

5 A. I believe they do.

6 Q. Now, turning our attention to Exhibit A,
7 Cobra includes \$93,022 for 2018 excise taxes; is that
8 right?

9 A. Exhibit -- wait a minute. Yes.

10 Q. The \$93,000 referenced here includes
11 penalties and interest as well?

12 A. No, that's just the amount of the actual
13 calculated tax for the -- for the eight months -- for
14 the four months -- four months at the beginning of
15 the year and the eight months at the end of the year,
16 because the tax year runs from May 1st to April 30th.

17 But it's the actual -- it's the actual
18 amount I calculated as the tax owed for that time
19 period.

20 MR. ALEXANDER: Your Honor, may I have
21 this document marked as NEO Exhibit G?

22 EXAMINER WALSTRA: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 By Mr. Alexander:

25 Q. Ms. Coatoam, I hand you what has been

1 marked for identification as NEO Exhibit G. Have you
2 ever seen this document before?

3 A. Yes.

4 Q. Are you the individual that created this
5 document?

6 A. Yes, I am.

7 Q. Does this document show Cobra's excise
8 tax liability for the year 2008 to -- well, including
9 parts of 2019?

10 A. Yes.

11 Q. And does this document also include the
12 differences between Cobra's estimates of the tax owed
13 and the Department of Taxations estimates of the tax
14 owed?

15 A. Yes.

16 Q. And does this document also reflect
17 whether Cobra paid the excise tax for various years?

18 A. Yes, it does. It indicates that.

19 Q. So earlier today you had referenced that
20 Cobra's only payment of excise taxes was \$29,986.
21 That payment took place in 2014?

22 A. Yes.

23 Q. So for none of the other years did Cobra
24 actually make an excise tax payment?

25 A. No.

1 Q. Okay. And focusing your attention on
2 2018, both you and the Department of Taxation agree
3 that the obligation for that year is \$63,135?

4 A. Yes.

5 Q. And that would be less than the \$93,022
6 referenced in the emergency application Exhibit A,
7 right?

8 A. Yes, because that's for the tax year
9 2018, the year that ended 4-30-18.

10 Q. The excise tax obligation is based on
11 net taxable gross receipts?

12 A. Yes.

13 Q. The net taxable gross receipts vary with
14 the volume transported?

15 A. Well, by definition it would vary with
16 the amount of revenue, you know. It's derived from
17 different customers.

18 Q. But the majority of Cobra's revenue is
19 variable based on the amount of transports?

20 A. Yes.

21 Q. Your expense estimates do not include
22 any rent for administrative offices, correct?

23 A. No.

24 Q. No, I'm incorrect?

25 A. It does not include.

1 Q. And then for 2018, Cobra anticipates
2 legal expenses of \$149,820.37?

3 A. Yes.

4 Q. Cobra's legal services expense estimate
5 in 2018 is well in excess of anything Cobra has seen
6 in the past ten years, correct?

7 A. I believe so.

8 Q. Ms. Coatoam, I've just handed you a
9 document which has previously been marked and
10 admitted in this proceeding as NEO Exhibit 6. It is
11 a copy of the Staff Report issued in the 2016 base
12 rate case. Have you seen that document before?

13 A. Yes.

14 Q. Please turn your attention to page 8 of
15 that report. And I guess before we get to this,
16 Cobra's legal expenses are almost exclusively related
17 to its 2018 base rate case, correct?

18 A. I don't know.

19 Q. So back to the Staff Report. Page 8,
20 Staff recommends amortizing rate case expenses over a
21 five-year period, correct?

22 A. I believe so.

23 Q. And now looking at your Exhibit A, the
24 legal expenses listed here include legal expenses
25 incurred as part of the rate case, correct?

1 A. Yes.

2 Q. And you have included 100 percent of
3 those expenses in 2018?

4 A. Yes.

5 Q. And so the exhibit does not amortize
6 rate case expenses over five years?

7 A. No. I would assume if you were going to
8 do that you would have separate schedules.

9 Q. Now, you also created a balance sheet
10 included with the emergency application as Exhibit D,
11 correct?

12 A. Yes.

13 Q. There are two columns in that balance
14 sheet, one labeled 8-31, the other 12-31. The 8-31
15 column reflects the actual balance sheet as of
16 8-31-2018?

17 A. Yes.

18 Q. And the 12-31 column is a projection as
19 of the end of 2018?

20 A. Yes.

21 Q. So focusing now on cash in the asset
22 category.

23 A. Yes.

24 Q. As of 8-31, Cobra actually had a net
25 negative cash of \$35,959.17?

1 A. Yes.

2 Q. And you're showing, as of the end of
3 2018, a positive cash value of \$20,000?

4 A. Yes.

5 Q. That \$20,000 cash estimate is a pure
6 estimate, correct?

7 A. Yes.

8 Q. \$20,000 just seemed like a good number
9 to use?

10 A. Actually, it did.

11 Q. And the balance sheet and all the
12 numbers included in the balance sheet were compiled
13 fairly quickly, in a short amount of time, correct?

14 A. That's true.

15 Q. And when you were creating these
16 numbers, you were not sure of the exact proper way to
17 do it, correct?

18 A. In some cases.

19 Q. Ms. Coatoam, on the stand there should
20 be a copy of NEO Exhibit 1 as previously used in the
21 last witness' cross-examination. It's a copy of the
22 Cobra application in the 2016 rate case. Could you
23 get that in front of you, please?

24 EXAMINER WALSTRA: It's multiple pages.

25 THE WITNESS: Is this it, small pipeline

1 company.

2 By Mr. Alexander:

3 Q. Yeah, that's it.

4 A. Okay.

5 Q. Could you turn to Exhibit 7 of that
6 document, the balance sheet for 2015?

7 A. All right. Okay.

8 Q. All right. Now, I'd also like you to,
9 in the emergency application -- do you have Exhibit D
10 still in front of you? We are going to be flipping
11 back and forth between those two documents.

12 A. Exhibit D, okay.

13 Q. So we'll start with the 2015 balance
14 sheet from NEO Exhibit 1. Accounts receivable for
15 Lakeshore. Do you see that line item?

16 A. Let me get the page turned over. Okay.

17 Q. Lakeshore is an entity owned by
18 Mr. Osborne, correct?

19 A. Yes, it is.

20 Q. So as of the 2015 balance sheet,
21 Lakeshore had a receivable to Cobra of \$1,035,442.93?

22 A. Yes.

23 Q. And turning to the emergency application
24 balance sheet Schedule I?

25 A. Okay.

1 Q. The accounts receivable as of 2018 was
2 \$1,100,107.59 associated with Lakeshore?

3 A. Yes.

4 Q. So comparing numbers, there was
5 approximately a \$65,000 increase in accounts
6 receivable to Lakeshore in 2018?

7 A. Yes.

8 Q. Lakeshore filed for bankruptcy in
9 December of 2017, correct?

10 A. It did.

11 Q. And so Cobra will never be reimbursed
12 for this receivable?

13 A. No.

14 Q. Again, back to NEO Exhibit 1, the
15 balance sheet. There's an accounts receivable
16 associated with Orwell-Trumbull Pipeline in the
17 amount of \$1,290, correct?

18 A. Yes. I'm sorry, I couldn't find it.
19 Yes.

20 Q. Now, turning to the 2018 balance sheet
21 again, Schedule I, the accounts receivable for
22 Orwell-Trumbull Pipeline increased to 85,914.29?

23 A. Yes.

24 Q. And that increase reflects the fact that
25 Cobra paid an insurance premium for O-TP?

1 A. Well, there was more than an insurance
2 premium. After O-TP was taken over by the receiver,
3 the insurance premium was the main thing that had to
4 be paid.

5 Q. And O-TP has refused to pay this amount
6 to Cobra?

7 A. Yes, they have.

8 Q. And so Cobra will likely have to write
9 off that account receivable as well?

10 A. Yes.

11 Q. Now, turning back to the 2015 balance
12 sheet. There was a \$15,000 account receivable for
13 Sleepy Hollow; is that right?

14 A. Yes.

15 Q. And in 2018, Cobra had written off that
16 account receivable?

17 A. Yes, it had.

18 Q. Now Sleepy Hollow was another entity
19 owned by Mr. Osborne?

20 A. Yes.

21 Q. Turning back to the 2016 rate case, Ohio
22 Rural Natural Gas, that was an entity controlled by
23 Mr. Osborne as well?

24 A. Yes.

25 Q. And the 2015 balance sheet, there was a

1 \$60,117.07 account receivable?

2 A. Yes.

3 Q. By 2018's balance sheet, the account
4 receivable had dropped to \$7,598.24?

5 A. Yes.

6 Q. And Cobra wrote off the difference
7 between --

8 A. Wrote that difference off, yes.

9 Q. Back to the 2015 balance sheet for Ohio
10 Pipeline. Ohio Pipeline is another entity controlled
11 by Mr. Osborne?

12 A. Yes.

13 Q. In 2015 Cobra had an account receivable
14 in the amount of \$41,216.18?

15 A. Yes.

16 Q. And by 2018, Cobra had written off that
17 amount?

18 A. Yes.

19 Q. Big Oats is another entity owned by
20 Mr. Osborne?

21 A. Yes.

22 Q. In 2015 Cobra had an accounts receivable
23 from Big Oats in the amount of \$31,731.28?

24 A. Yes.

25 Q. And by 2018 the Big Oats receivable had

1 dropped to only \$37.50?

2 A. Yes.

3 Q. And Cobra wrote off the difference in
4 those two numbers?

5 A. Yes.

6 Q. In 2015 there was accounts receivable
7 for associated company interest in the amount of
8 \$223,811?

9 A. That's true.

10 Q. By 2018 it had dropped to \$166,862?

11 A. Yes.

12 Q. And Cobra wrote off the deference in
13 those two numbers?

14 A. It was taken out when other -- some of
15 the other receivables were written off that were
16 related -- you know, that went with the same company.

17 Q. In 2015 there was an accounts receivable
18 from Richard M. Osborne for \$1.877 million?

19 A. Yes.

20 Q. As of the 2018 balance sheet the
21 accounts receivable for Mr. Osborne had risen to
22 \$2,143,000?

23 A. Yes.

24 Q. And that increase is at least partially
25 attributable to Cobra paying for some of

1 Mr. Osborne's expenses?

2 A. Yes.

3 Q. And other than that, you don't know why
4 the accounts receivable from Richard Osborne grew to
5 \$2,143,000 as of the end of 2018?

6 A. No.

7 Q. And in 2018 -- now, turning our
8 attention back to the income statement, Cobra made at
9 least five payments of 20,000 each to OS-AIR, another
10 entity owned or controlled by Mr. Osborne?

11 A. Yes.

12 Q. And you do not know what service OS-AIR
13 provided to Cobra that would explain why Cobra made
14 \$118,000 in payment to OS-AIR in 2018?

15 A. No.

16 Q. OS-AIR paid down Cobra's loan to
17 Huntington Bank in 2018 in the amounts of 100,000 and
18 \$150,000?

19 A. Yes.

20 Q. That was two separate payments?

21 A. Yes.

22 Q. There is no accounting entry in Cobra's
23 income statement or balance sheet which would reflect
24 OS-AIR'S payments to Huntington Bank on Cobra's
25 behalf, correct?

1 A. Yes, there's an offset to Richard
2 Osborne's paid-in capital account. It's not in here,
3 it's not in these projections.

4 Q. Okay. So what you're saying is there is
5 no accounting entry in Cobra's emergency application
6 showing the payments made by OS-AIR on Cobra's
7 behalf, right?

8 A. No, they weren't made at that time. We
9 didn't know about it.

10 Q. But you believe there will be an entry
11 in the future?

12 A. As of 12-31-18, yes.

13 Q. If Cobra's related company accounts
14 receivable are written off as an asset, is there --
15 Strike that.

16 If related company accounts receivable
17 are written off, there is a corresponding accounting
18 entry to the owner's equity section of the balance
19 sheet, correct?

20 A. Sometimes.

21 Q. And that would be the case for related
22 company accounts receivable, correct?

23 A. It's not necessarily what's been done in
24 the past, but that's what I would suggest doing.

25 Q. So you, for example, for the receivable

1 from Mr. Osborne, if that were written off, there
2 would be a credit to receivables and a debit to
3 Mr. Osborne's paid-in capital?

4 A. Yes.

5 Q. Now, Mr. Osborne currently has a
6 negative \$502,887.91 of paid-in capital?

7 A. Yes. This was as of 8-31, I believe.
8 Yes.

9 Q. Okay. And so if there were any further
10 write-offs of the -- Mr. Osborne's accounts
11 receivable, then that would cause Mr. Osborne's
12 paid-in capital to go further negative?

13 A. Yes.

14 Q. All right. Turning our attention to the
15 Washington County property Ms. Carothers testified
16 about earlier today. In 2016 Cobra transferred that
17 property to Marietta Land Properties, LLC?

18 A. Yes.

19 Q. And Marietta Land Properties, LLC, you
20 were told by Mr. Osborne, is owned by Mr. Osborne?

21 A. Yes.

22 Q. You're not an employee of Marietta Land
23 Properties, LLC, are you?

24 A. I certainly hope not.

25 Q. You haven't seen any of Marietta Land

1 Properties, LLC's books and records?

2 A. No.

3 Q. And you haven't done any independent
4 investigation as to the ownership of Marietta Land
5 Properties, LLC other than your conversation with
6 Mr. Osborne?

7 A. That's true.

8 Q. The Washington County property was
9 transferred to Marietta Land Properties, LLC in 2016,
10 correct?

11 A. I believe so. That's -- I've got a copy
12 of the deed up here, I think. I believe it was 2016.

13 Q. And you didn't find out about -- that
14 the property had been transferred until September of
15 2018 when we were in the hearing in this matter?

16 A. No, I didn't.

17 Q. So you found out in September of 2018
18 that the Washington County property had been assigned
19 to Mr. Osborne, correct?

20 A. Yes.

21 Q. Okay. So now turning our attention back
22 to the balance sheet. The balance sheet does not
23 reflect the transfer of the Washington County
24 property to Marietta Land Properties, LLC, correct?

25 A. No, it doesn't.

1 Q. Yeah, to be clear, the 2018 balance
2 sheet, not -- we have been flipping between 2015 and
3 2018. The 2018 does not reflect the transfer of the
4 Washington County property?

5 A. No, it doesn't.

6 Q. And in fact, the real property
7 associated with the Washington County property is
8 still reflected under land in the Land Right - CT of
9 that balance sheet?

10 A. Yes, it is.

11 Q. And Cobra has not updated its balance
12 sheet to reflect that transfer because no one at
13 Cobra has put in the time or effort to do so,
14 correct?

15 A. No.

16 Q. So no, that is not correct, or yes, I'm
17 correct?

18 A. I have not made the adjustments yet.

19 Q. And no one else at Cobra has made the
20 adjustments?

21 A. No.

22 Q. And Cobra has not made the adjustments
23 because they have not put in the time or effort to do
24 so?

25 MR. MICHAEL DORTCH: Objection, or --

1 MR. JUSTIN DORTCH: Objection,
2 argumentative.

3 EXAMINER WALSTRA: Overruled.

4 THE WITNESS: No.

5 By Mr. Alexander:

6 Q. Ms. Coatoam, I couldn't understand your
7 answer. Were you agreeing with me that that is the
8 reason why Cobra had not made the adjustment, because
9 they had not put in time and effort?

10 A. Our time and effort has been directed
11 otherwise.

12 Q. Cobra transferred the Washington County
13 property to Marietta Land Properties, LLC for no
14 consideration, correct?

15 A. That's true.

16 Q. And there's nothing preventing Marietta
17 Land Properties, LLC from selling or transferring
18 this property to someone else?

19 A. I suppose not.

20 Q. You do not know whether Marietta Land
21 Properties, LLC used the Washington County property
22 as collateral for any loans?

23 A. No, I don't.

24 Q. And you understand that it's possible to
25 sell both real and personal property in the same

1 transaction?

2 A. Yes.

3 Q. For instance, you could sell a building
4 and the equipment inside the building in one
5 transaction, correct?

6 A. Yes.

7 Q. And you understand that personal
8 property is still considered to be personal property
9 even if it is sold as part of a larger transaction
10 which also includes real estate?

11 MR. JUSTIN DORTCH: Objection, calls for
12 a legal conclusion.

13 EXAMINER WALSTRA: Are you representing
14 yourself as an attorney?

15 THE WITNESS: No.

16 EXAMINER WALSTRA: She can answer to the
17 best of her knowledge.

18 THE WITNESS: I think so.

19 By Mr. Alexander:

20 Q. You're not aware of any sale or
21 leaseback transaction arrangement regarding the
22 Churchtown stripping station, correct?

23 A. No.

24 Q. And you're not aware of any capital
25 lease regarding the stripping station?

1 A. No.

2 Q. You've never personally read the Quit
3 Claim Deed transferring the Washington County
4 property to Marietta, correct?

5 A. No, I had not.

6 Q. And you're basing your opinion that
7 Cobra still owns the stripping station based solely
8 on what Mr. Osborne told you?

9 A. Yes.

10 Q. And you haven't seen any contracts
11 between Cobra and Mr. Osborne regarding the ownership
12 of the stripping station?

13 A. No.

14 Q. The income statement includes an
15 allowance for depreciation; is that correct?

16 A. Yes.

17 Q. When you discussed depreciation in your
18 testimony, your depreciation calculations assumed
19 that all the property is used and useful?

20 A. Yes.

21 Q. And if the Commission determines any of
22 the property is not used and useful it would change
23 your depreciation calculation?

24 A. Yes.

25 Q. And what was the date upon which you

1 made your depreciation calculation? What was your
2 date certain?

3 A. What?

4 Q. What was the date certain by which you
5 made the depreciation calculation?

6 A. Since when? What do you mean?

7 Q. If you could look at Exhibit A --

8 A. Okay.

9 Q. -- of the emergency application, there's
10 depreciation expense of \$464,831.77. Do you see
11 that?

12 A. Yes.

13 Q. Okay. What was the date certain upon
14 which you made the depreciation expense calculation?

15 A. I've never heard it expressed that way.
16 I just carried forward our year-to-year depreciation
17 calculation, and these are the numbers.

18 Q. But for which year?

19 A. For 2018.

20 Q. And did you base that depreciation
21 expense calculation on the assets shown in Exhibit D,
22 Schedule 2?

23 A. Yes.

24 Q. And did you make that depreciation
25 expense calculation consistently with Staff's

1 recommendations from the 2016 rate case?

2 A. No, I did not go back and do that yet.

3 Q. All right. Turning to your direct
4 testimony, page 13.

5 A. Okay.

6 Q. Here you address some \$400,000 in
7 equipment for which Cobra has been unable to provide
8 supporting data; is that right?

9 A. Yes.

10 Q. Cobra agrees that the Commission should
11 remove this \$400,000 from Cobra's plant?

12 A. I believe --

13 MR. JUSTIN DORTCH: Objection. I
14 believe that's answered in the -- it's asked and
15 answered. Her position on this matter is listed in
16 her testimony. It can be reviewed and read aloud if
17 need be.

18 EXAMINER WALSTRA: I'll allow the
19 question.

20 (Record read back as requested.)

21 THE WITNESS: Yes.

22 By Mr. Alexander:

23 Q. You previously testified that you have
24 searched for that missing documentation, correct?

25 A. Yes, I did.

1 Q. And those documents are the types that a
2 business like Cobra should normally keep as a
3 business record?

4 A. Yes.

5 Q. And the failure to preserve those
6 records constitutes financial mismanagement by Cobra?

7 A. I don't know. At the best, it's a
8 mistake. At the worse, it's mismanagement. I don't
9 know.

10 Q. And as of today, while you're here on
11 the stand, you have been unable to identify the
12 specific nature or an itemized breakdown of that
13 \$400,000?

14 A. That's true.

15 Q. And as a result, you believe that Cobra
16 should not be given cost recovery for those expenses?

17 A. That's true.

18 Q. Now I'd like to discuss page 11 of your
19 testimony, where you reference the reduction rider.
20 You don't have any knowledge regarding the reduction
21 rider, do you?

22 A. What do you mean?

23 Q. You don't know what the reduction rider
24 is?

25 A. Yes, I do.

1 Q. You believe the reduction rider is a
2 reduction in the charge for transport?

3 A. I believe that's what it is supposed to
4 be, yes. I'm not an expert.

5 Q. Now I'd like to discuss pages 16 and 17,
6 the Future Improvements Rider. You proposed the
7 Future Improvements Rider in your prefiled testimony
8 in the base rate case, too, correct?

9 A. Yes.

10 Q. And you cannot identify any other gas
11 utility which has a rider similar to the proposed
12 Future Improvements Rider?

13 A. I don't know of any.

14 Q. And you're not aware of any authority
15 that would allow the Commission to create this type
16 of rider in an emergency rate case?

17 MR. JUSTIN DORTCH: Objection. Calls
18 for a legal conclusion. He's asking her to interpret
19 the statutory code and make an opinion.

20 MR. ALEXANDER: Your Honor, the witness
21 recommend that the Commission create this rider in
22 the proceeding, and I'm asking on what basis the
23 Commission can do so.

24 EXAMINER WALSTRA: Overruled.

25 THE WITNESS: Repeat the question again,

1 please.

2 By Mr. Alexander:

3 Q. Sure. You're not aware of any authority
4 which would allow the Commission to create this type
5 of rider in an emergency case?

6 A. Not aware of any authority, or lack of
7 authority.

8 Q. You don't know the difference between
9 the Future Improvements Rider and Rider PSR as
10 proposed by Mr. Hess in the 2016 rate case?

11 A. I don't remember what that was. Hang on
12 a second.

13 Q. The Future Improvement Rider --

14 A. The PSR, Mr. Hess' PSR?

15 Q. Yeah. You don't know what the
16 difference between Rider PSR and the Future
17 Improvements Rider?

18 A. I don't remember what his rider was at
19 this moment.

20 Q. Okay. The Future Improvements Rider was
21 designed to recover the cost to fund improvements
22 recommended in the Shoemaker report, correct?

23 A. Yes.

24 Q. Cobra has already made most of the
25 recommended improvements outlined in the Shoemaker

1 report without incurring any costs, correct?

2 A. Yes, the cheap one, the cheap
3 recommendations.

4 Q. Cobra believes that maintenance costs to
5 its system should be recovered through the Future
6 Improvements Rider?

7 A. Well, the Shoemaker recommendations are
8 things that we might like to do, but they are very
9 expensive. I'm not sure how we're supposed to do
10 them on 50 cents a Dth.

11 Q. Cobra believes that costs associated
12 with meters should be recovered under the Future
13 Improvements Rider?

14 A. That was one of their recommendations,
15 that we do more electronic metering.

16 Q. Cobra has not identified the cost of
17 installing those meters?

18 A. No, but it would be quite a lot of
19 money.

20 Q. And Cobra has not identified the amount
21 of meters to be installed, correct?

22 A. I don't believe we have the exact
23 numbers, but I'm not sure. I'm not the person to
24 answer that question.

25 Q. And Cobra has not identified the period

1 over which it proposes meters to be installed,
2 correct?

3 A. I don't know.

4 Q. And Cobra has not quantified the cost of
5 the Future Improvement Rider to customers, correct?

6 A. I don't believe so, no. I haven't.

7 Q. And Cobra has not provided notice to the
8 public of its request to recover those costs in this
9 emergency right proceeding, correct?

10 A. Not at this time.

11 Q. And your testimony also proposes the
12 creation of a previously assessed personal property
13 tax rider, correct?

14 A. Yes.

15 Q. And there's no difference between that
16 rider proposal in this proceeding, and the same
17 proposal in the 2016 rate case, correct?

18 A. No.

19 Q. Cobra owes in excess of \$4.2 million of
20 previously assessed personal property tax?

21 A. Yes.

22 Q. I'd like to explore the relationship
23 between Cobra and Mr. Osborne. In your opinion,
24 there's no difference between Cobra as an entity and
25 Mr. Richard Osborne the person, correct?

1 A. He's the owner, yes.

2 Q. In fact, you believe that Cobra is
3 Mr. Osborne, correct?

4 A. Apparently one of his big dreams, you
5 know, buying pipeline.

6 Q. Sure. But you believe that Cobra is
7 Mr. Osborne, correct?

8 A. Yes, I do, at this time. At this time.

9 Q. And even though you operate as
10 controller for Cobra, because Cobra is Mr. Osborne,
11 Mr. Osborne will dictate sometimes how to book
12 certain accounting items?

13 A. How to book what?

14 Q. Certain accounting items.

15 A. Yes.

16 Q. Ms. Coatoam, the income statement -- you
17 and I discussed this in your deposition, so let's
18 focus on revenues.

19 A. Which one?

20 Q. The 2018 income statement attached as
21 Exhibit A.

22 A. Okay.

23 Q. So the revenue line items starting with
24 Telemetering Charges - CT through Rev
25 Process/Compress - CT are all revenues billed by the

1 company in 2018?

2 A. Yes.

3 Q. Okay. And then it follows with two
4 adjustments.

5 A. Yes.

6 Q. So the first adjustment is for 2018
7 billings not paid. That line item reflects bills
8 from Cobra to my clients, Northeast Ohio, Orwell and
9 Brainard of the 95 cent per dekatherm charge, right?

10 A. Yes.

11 Q. And my clients did not pay that charge,
12 correct?

13 A. They did not.

14 Q. And so you have removed those bills from
15 the revenue to be received by the company via this
16 adjustment?

17 A. Yes.

18 Q. Now, there are some customers, though,
19 who did pay the charge; is that correct?

20 A. Yes, they did.

21 Q. And as a result, the Commission has
22 ordered Cobra to refund approximately \$500,000 to
23 customers that paid the charge?

24 A. Yes.

25 Q. Now, in 2018, Cobra calculates that it

1 billed those customers and collected \$150,576.95?

2 A. Yes.

3 Q. And that line item represents funds
4 which Cobra billed and received from customers, but
5 will have to refund under the Commission's order in
6 the future?

7 A. Yes.

8 Q. At this point Cobra has not refunded
9 that \$150,000 amount to customers?

10 A. No.

11 Q. In 2017 -- you can see this by looking
12 at Exhibit H. Is there any adjustment showing the
13 amounts received by Cobra in 2017 from customers
14 which it has been ordered to repay?

15 A. Not in the 2017 statement. It's
16 reflected in the retained earnings on the balance
17 sheet in Exhibit D, basically.

18 Q. Has Cobra notified the customers who are
19 entitled to a refund, that they are entitled to a
20 refund?

21 A. I don't know that.

22 Q. Has Cobra reflected the amount of the
23 refund to each customer on the customer's bills?

24 A. I don't know.

25 Q. Who is responsible for issuing bills to

1 customers?

2 A. Jessica.

3 MR. ALEXANDER: I have no further
4 questions.

5 EXAMINER WALSTRA: Thank you.
6 Mr. Margard.

7 MR. MARGARD: Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Margard:

11 Q. And I'll try to be brief. Ms. Coatoam,
12 let me ask you to turn to page 3 of your testimony.

13 A. Okay.

14 Q. Are you there?

15 A. Yes.

16 Q. On line 6 you indicate that you support
17 the proposed rate of 87 cents per dekatherm for
18 interruptible service?

19 A. Yes.

20 Q. That's different than the company
21 requested in its application, correct?

22 A. Yes, I think so. I don't remember what
23 the -- what it was, I'm sorry.

24 Q. And it's your intention here to support
25 the rate as determined by Ms. Carothers?

1 A. Yes.

2 Q. So your reference to interruptible
3 service, are you saying that you believe the rate
4 should only be applied to interruptible customers?

5 A. I don't know.

6 Q. That's fine. I asked Ms. Carothers if
7 her intention was this be applied to all throughputs.
8 Is that what you intend by this statement?

9 A. I don't know.

10 Q. You don't know?

11 A. I don't know.

12 Q. That's fair.

13 A. I'm very hazy on what each layer of
14 service --

15 Q. I understand. That's fine. We talked
16 about property transfers, and we have talked about
17 the Washington County property transfer. You learned
18 today that there were two parcels?

19 A. Yeah. Ad nauseam.

20 Q. Well, perhaps. So we'll get to that.
21 But at least today you learned that there was a
22 second Washington County property that was also
23 transferred?

24 A. Yes.

25 Q. And presumably the expenses, including

1 the property tax expenses associated with that, are
2 also included in the income statements in the
3 application?

4 A. I don't know. I assume so, but I'd have
5 to go look.

6 Q. And do you also assume that the company
7 is still paying those property taxes even though it
8 no longer owns that property?

9 A. I don't think we'll be paying anymore.

10 Q. But to the best of your knowledge, you
11 have been to date?

12 A. Yes. Yes.

13 Q. Is the same true of the Newton Falls
14 property?

15 A. Yes.

16 Q. Okay. And have you been paying those
17 property taxes because you've been instructed to do
18 so by Mr. Osborne?

19 A. No, I don't believe so.

20 Q. Okay. Now, the various quit claim deeds
21 that you've seen today, none of those were records
22 that were maintained by the company; is that correct?

23 A. No.

24 Q. The company didn't have any copies of
25 those at all?

1 A. No.

2 Q. Does the company maintain property
3 records?

4 A. Yes, but those -- that's the only -- as
5 far as I know, that's the only property that we had.
6 So --

7 Q. I'm not intending to suggest any others,
8 but I was curious to know. In what other counties
9 does the company own real property?

10 A. I'm not aware that we own any other real
11 property.

12 Q. To the best of your knowledge, the
13 company no longer owns any other real property?

14 A. No.

15 Q. Let's talk about personal property and
16 personal property taxes.

17 A. Okay.

18 Q. Now, you've indicated that Cobra has not
19 paid 2018 personal property taxes, correct?

20 A. That is correct.

21 Q. Or 2017 personal property taxes?

22 A. That is correct.

23 Q. Or any personal property taxes, correct?

24 A. That is correct.

25 Q. I think it's probably useful for us to

1 understand how that process works, because we have
2 been talking a lot about it.

3 Are you the individual who is
4 responsible for preparing the schedules necessary for
5 personal property tax filings?

6 A. Yes.

7 Q. That's not done by somebody outside the
8 company?

9 A. No.

10 Q. Okay. Now, explain to us how that
11 process works. The process, as I understand it, and
12 correct me if I'm wrong, is that the company prepares
13 a summary, a recap of its personal property, and what
14 the value of that property is, and submits it to the
15 Ohio Department of Taxation; is that correct?

16 A. Yes. It starts with the whole plant,
17 and there's some exemptions that are like land, real
18 property -- real estate, and licensed vehicles that
19 are exempted.

20 Q. And as part of that -- and the
21 Department of Taxation refers to this as a recap, or
22 recapitulation?

23 A. Oh, yeah.

24 Q. And as part of this recap, is the
25 company required to characterize the various personal

1 property that it is summarizing?

2 A. Yes.

3 Q. And how has the company summarized its
4 personal property in its recaps to the Department of
5 Taxations, what categorizations have you used?

6 A. Well, we have used general plant, and I
7 believe we used distribution. I don't remember the
8 rest of the name, distribution --

9 Q. Those would basically be the
10 categorizations?

11 A. I think so.

12 Q. And then -- and I don't know if you know
13 the process or understand the process in there, but
14 apparently an assessment is made of your property
15 valuation by the Department of Taxation. Do you
16 understand that that occurs?

17 A. Yeah, based on the schedule that we send
18 in, it gives a -- that particular tax return boils
19 down to the taxable -- wait a minute -- the true
20 value of your scheduled assets, and the taxable value
21 of that.

22 Q. Unlike a lot of tax returns that we're
23 familiar with, you don't calculate that tax, do you?

24 A. No, not the tax itself, just the taxable
25 value. And then the -- the taxable value basically

1 broken out by County, by taxing entity.

2 Q. And --

3 A. And those are on separate schedules.

4 Q. Could be a taxing district, all kinds of
5 different taxing districts?

6 A. Fire department.

7 Q. Schools, all different kinds of
8 districts. And then the Department of Taxation then
9 sends that to the individual counties who actually
10 make the tax assessments?

11 A. Yes.

12 Q. When is the recapitulation required to
13 be filed with the Department of Taxation?

14 A. I believe March 3rd, or something like
15 that. But you can get an extension to March 31st.
16 It depends.

17 Q. Okay. And typically, when do you
18 receive the tax assessments from the counties?

19 A. Not until the fall.

20 Q. Fall? October sort of time frame?

21 A. Yeah, usually around the time that they
22 would bill the second half of the previous year,
23 which is sometimes -- in most counties it's in the
24 fall or late summer.

25 Q. Okay. Thank you.

1 MR. MARGARD: May I approach, your
2 Honor?

3 EXAMINER WALSTRA: You may.
4 By Mr. Margard:

5 Q. Ms. Coatoam, I've handed you a single
6 page document. Do you recognize this document?

7 A. Yes.

8 Q. This was Exhibit G attached to your
9 testimony in the 2016 rate case?

10 A. I believe so.

11 MR. MARGARD: Your Honor, if that
12 identification is sufficient I won't further mark it.
13 I have a space for it if you desire that, but I think
14 it's such to note that it was Exhibit G to Cobra
15 Exhibit No. 2 in 2016 rate case.

16 EXAMINER WALSTRA: That will work.
17 Thank you.

18 By Mr. Margard:

19 Q. And just to kind of follow up where we
20 have been, what you listed under the column that's
21 marked "Parcel Number" are the individual taxing
22 districts, if you will, in which you have personal
23 property subject to taxation, correct?

24 A. Yes.

25 Q. And you've listed some 16 or so

1 counties, some 50-some different taxing districts?

2 A. Yes.

3 Q. Okay. Now, earlier this morning we had
4 some testimony from Ms. Carothers regarding the
5 nature of some of this personal property, and I've
6 been confused about this and I'm hoping you can
7 clarify some of this for me.

8 For example, there is a parcel in
9 Crawford County. Do you see that?

10 A. Yes.

11 Q. Now, you don't provide transportation
12 service in Crawford County, do you?

13 A. I don't know.

14 Q. You don't know if Cobra provides
15 transportation service in --

16 A. No, I don't know.

17 Q. Do you know what that personal property
18 is?

19 A. No, but I'd have to go back and try to
20 find where that -- you know, find it on another
21 schedule.

22 Q. Would the same be true if I were to ask
23 you with respect to any of these parcels?

24 A. I just -- I inherited this -- these
25 designations from the previous accountant.

1 Q. But at least in the information that you
2 provide to the Department of Taxation, you don't
3 specifically identify what the property is in each
4 one of these districts, do you?

5 A. Don't necessarily identify what?

6 Q. What the property is in each district.

7 A. Right.

8 Q. You just provide a valuation?

9 A. Yes.

10 Q. So the only place we would know what
11 this property is is somewhere in the company's books?

12 A. Yes. I believe I can find it.

13 Q. Okay. So if I were to ask you the same
14 question, if you were able to identify what personal
15 property the company has in Franklin County, you
16 don't know that?

17 A. No, I don't.

18 Q. The company doesn't provide
19 transportation services in Franklin County, does it?

20 A. I don't know.

21 Q. Or in Huron County?

22 A. No, I just -- I don't know what that
23 actually involves.

24 Q. You're the individual who prepares the
25 recap for the Department of Transportation, but

1 without -- I want to make sure I'm understanding.
 2 Without specifically looking at the books, you
 3 couldn't tell me what this property is?

4 A. No, I can't. I can't.

5 Q. Do you review those property records at
 6 the time that you prepare your recap, or do you just
 7 rely on what you've done in years past?

8 A. Yes, I think the original designations
 9 were taken from, you know, the purchase date or the
 10 completion date, if it was pipeline.

11 Q. I'm sorry?

12 A. If it was something we added. But the
 13 property schedule, itself, is not broken down by
 14 county or township. So I'd have to do some
 15 translation to get that back to the actual --

16 Q. Have you ever done that translation
 17 process?

18 A. Well, no. Not completely, no.

19 Q. Thank you. Let's talk about the
 20 depreciation accrual. I'm going to ask you to turn
 21 to page 9 of your testimony.

22 A. Okay.

23 Q. Beginning on line 20 you state that you
 24 know that Cobra's rates were submitted for review and
 25 approved in a 2005 ATA case, correct?

1 A. Yes.

2 Q. And on the next page, in the
3 continuation of that answer, you essentially state
4 that you believe that the Commission did not object
5 to the depreciation rates as part of that case,
6 correct?

7 A. I believe they did not. I mean, I
8 didn't -- I don't understand why TCO depreciated that
9 property at a certain rate and it was handed of to us
10 and we continued to depreciate it. And I don't
11 understand why -- there's something wrong with it all
12 of a sudden.

13 Q. So first, is it your belief that TCO
14 rates were reviewed and approved by the Public
15 Utilities Commission?

16 A. I had assumed they were. I don't know.

17 Q. Would it surprise you to learn that the
18 Commission does not have jurisdiction over TCO's
19 rates?

20 A. No -- yes, it would. Why not?

21 Q. Okay. Thank you. Have you reviewed the
22 Commission's order in this 2005 ATA case?

23 A. Not completely. I know that it was
24 done.

25 Q. All right. I think I'm going to give

1 you that opportunity.

2 A. Oh, no.

3 MR. MARGARD: Your Honor, I can either
4 request that the Bench take notice, or I can mark it
5 as an exhibit. It's a Commission order.

6 EXAMINER WALSTRA: Why don't we mark it?

7 MR. MARGARD: I believe I'm at E?

8 EXAMINER WALSTRA: Yes.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 By Mr. Margard:

11 Q. With respect to that 2005 case, did you
12 also review the company's application?

13 A. I don't think I have a copy of it in my
14 file.

15 Q. Have you ever seen a copy of it?

16 A. I must have, but --

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 By Mr. Margard:

19 Q. Ms. Coatoam, I've handed you two
20 documents, the first marked for purposes of
21 identification as Staff Exhibit E, a copy of the
22 finding and order on which you relied in your
23 testimony.

24 A. Yeah.

25 Q. A document marked as Staff Exhibit F is

1 a copy of the application that was submitted by the
2 company in that case that resulted in this order.

3 And I will give you whatever time you
4 need, but my ultimate question for you is if you can
5 ascertain that a depreciation study, depreciation
6 schedules, depreciation information of any sort, was
7 ever submitted to the Commission as part of the
8 company's application, and whether the Commission, as
9 part of its finding and order, made any finding at
10 all whatsoever with respect to depreciation.

11 MR. JUSTIN DORTCH: Objection. Your
12 Honor, there is no way of knowing what data requests
13 were made in this -- based upon the entry provided.
14 They don't -- we don't know what was asked of this
15 company.

16 Ms. Carothers -- I'm sorry. Ms. Coatoam
17 herself has already said she wasn't part of this in
18 her testimony. There's no -- there's no personal
19 knowledge, there's no evidence here to suggest what
20 was considered when the order was made.

21 MR. MARGARD: Precisely my objection
22 when I moved to strike this portion of the testimony,
23 your Honor, is there's no knowledge here in terms of
24 what the Commission did or didn't have.

25 She assumes certain things about what

1 the Commission found with respect to depreciation
2 rates. I'm asking based on what, and there's no
3 reason --

4 MR. JUSTIN DORTCH: Your Honor, the
5 answer is simple. She says in her testimony that
6 based upon the experience she has now gone through in
7 rate cases, she presumes these things to have
8 occurred.

9 If Staff is willing to stipulate that
10 these things did not occur during that rate case, we
11 will be more than happy to accept that.

12 MR. MARGARD: I guess, as your Honors
13 are aware, the 2005 case is not a rate case.

14 EXAMINER WALSTRA: Can I have the
15 question reread?

16 MR. MICHAEL DORTCH: Can we go off the
17 record for a minute?

18 EXAMINER WALSTRA: Off the record.

19 (Discussion off the record.)

20 EXAMINER WALSTRA: We will go back on
21 the record.

22 MR. JUSTIN DORTCH: Your Honor, after we
23 just had a discussion off the record with Staff --
24 Staff's counsel, we will withdraw the question from
25 page 9, line 13, and the response that goes from --

1 continues on from page 10 to line 7.

2 EXAMINER WALSTRA: And, Mr. Margard, is
3 that your understanding? Do you have any objection?

4 MR. MARGARD: It is, and that is
5 acceptable to Staff. Thank you, your Honor.

6 MR. ALEXANDER: That's fine with the
7 companies, your Honor.

8 EXAMINER WALSTRA: Thank you. We will
9 allow the question to be withdrawn.

10 MR. JUSTIN DORTCH: Thank you, your
11 Honor.

12 By Mr. Margard:

13 Q. I only have a few more questions for
14 you.

15 A. I'll hold you to that.

16 Q. On page 14 of your testimony you discuss
17 what you characterize as the Washington County
18 property?

19 A. I put it back in the stack, I thought it
20 was done. Page 13?

21 Q. Page 14.

22 A. Okay. All right.

23 Q. And you indicated that you feel
24 confident with the characterization because of the
25 way you characterized the compressor plant

1 presumably, stripping plant, as distinct from the
2 realty on which it sits?

3 A. Yes.

4 Q. And I want to make sure I understand
5 your answer. You're testifying that the company
6 continues to include the stripping station in its
7 personal property recap to the Ohio Department of
8 Taxation, correct?

9 A. Yes.

10 Q. But it hasn't paid any of those taxes,
11 right?

12 A. No.

13 Q. It has, however, continued to pay taxes
14 on the real property?

15 A. Yes.

16 Q. Okay. Let me ask you to turn to
17 page 18 of your testimony. And you make reference on
18 line 9, specifically, with respect to the Staff
19 recommended rate of return in 2016 rate case?

20 A. Yes.

21 Q. And beginning on line 8 you make the
22 statement that Cobra's owners were entitled to
23 receive \$401,000 annually based on that rate of
24 return.

25 A. Yes.

1 Q. Is it your testimony that this is what
2 Staff believed that the owners should have been
3 receiving?

4 A. This is what I thought.

5 Q. That's your understanding of what
6 Staff's recommendation was?

7 A. Yes.

8 Q. You understand that -- and I'm here
9 trying to explore your understanding of the rate case
10 process.

11 You understand that this is the rate of
12 return that the Staff recommended that the company
13 should have the opportunity to earn going forward?

14 A. I would think so.

15 Q. And do you understand that the purpose
16 of a rate proceeding is to establish a rate that
17 affords a utility an opportunity to earn a return?

18 A. I would think so.

19 Q. And that that opportunity is not a
20 guarantee that the company will recover any kind of
21 return?

22 A. I agree with you, I think.

23 Q. Okay. And of course, you understand
24 that the rates contained in the tariffs that were
25 initially approved by the Commission were rates

1 proposed by the company, and not based on any Staff
2 or Commission recommended rate of return?

3 A. I believe that's true, yes.

4 Q. Just a couple questions about the
5 management fees. You've already been asked a number
6 of questions about that. And how was the payment of
7 the management fees communicated to Cobra?

8 A. Not --

9 Q. Did Mr. Osborne somehow communicate to
10 you to make -- or to someone to make monthly payments
11 to OS-AIR, correct?

12 A. Probably by telephone.

13 Q. It was not made to you?

14 A. No. I don't --

15 Q. So you don't know specifically how it
16 was made, but Mr. Osborne requested that the company
17 make these payments?

18 A. Yes.

19 Q. And we have already established that
20 this was not for any actual services received by the
21 company, right?

22 A. Right.

23 Q. And when -- when did Cobra stop making
24 these payments?

25 A. At the end of May, I believe, of 2018.

1 Q. And why did the company stop making the
2 payments?

3 A. Sorry?

4 MR. MICHAEL DORTCH: Keep your voice up.

5 THE WITNESS: I'm sorry.

6 By Mr. Margard:

7 Q. Why did the company stop making the
8 payments?

9 A. Because we really couldn't afford it.
10 We didn't have the money at all.

11 Q. Did it ever have the money?

12 A. Apparently, but I believe it stopped in
13 May. That's when the transport goes way down, it
14 warms up.

15 Q. When the transport goes way down,
16 meaning that's when the Commission order directing
17 the company to reduce its rates was issued, or you're
18 talking strictly about volumes?

19 A. I'm talking strictly about volumes.

20 Q. Okay. Thank you very much.

21 And you believe that the reason the
22 company did not stop sooner was because it could
23 afford to make that payment?

24 A. Barely, but yeah.

25 Q. On page 21 of your testimony, on lines 4

1 and 5, you make the statement that Cobra found this
2 information by searching its general ledgers.

3 A. Yes.

4 Q. Are you saying that it found the total
5 paid to OS-AIR by searching its ledgers? You're not
6 suggesting, are you, that Cobra wasn't aware it was
7 making these payments?

8 A. No, it was put -- the number was put
9 together from various monthly incomes.

10 MR. MARGARD: I think that's all I have.
11 Thank you, your Honor.

12 EXAMINER WALSTRA: Thank you. Any
13 redirect?

14 MR. JUSTIN DORTCH: There is no
15 redirect, your Honor.

16 EXAMINER WALSTRA: Thank you. We'll
17 deal with exhibits.

18 MR. JUSTIN DORTCH: Can we please
19 move -- the company moves to have Carolyn Coatoam's
20 testimony submitted as Exhibit B.

21 EXAMINER WALSTRA: Any objections?

22 MR. MARGARD: None.

23 MR. ALEXANDER: None.

24 EXAMINER WALSTRA: It will be admitted.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 MR. ALEXANDER: Companies move NEO
2 Exhibits F and G.

3 EXAMINER WALSTRA: Any objections?

4 MR. JUSTIN DORTCH: None.

5 MR. MARGARD: None.

6 EXAMINER WALSTRA: Hearing none, they
7 will be admitted.

8 (EXHIBITS ADMITTED INTO EVIDENCE.)

9 MR. MARGARD: I do not intend to move
10 Exhibits E and F.

11 EXAMINER WALSTRA: Thank you.

12 (Witness excused.)

13 MR. JUSTIN DORTCH: The company has no
14 other witnesses at this time.

15 EXAMINER PARROT: Thank you, Mr. Dortch.
16 Mr. Margard, turning things over to you.

17 MR. MARGARD: Thank you, your Honor.
18 The Staff would call Matthew Snider to the stand,
19 please.

20 EXAMINER PARROT: Raise your right hand.
21 Do you swear or affirm the testimony you're about to
22 give will be the truth?

23 MR. Snider: I do.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 - - -

1 Matthew Snider,
2 being first duly sworn, as prescribed by law, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Margard:

6 Q. Mr. Snider, I placed before you two
7 documents marked for purposes of identification as
8 Staff Exhibits G and H. Let me begin with Staff
9 Exhibit G. Do you recognize that document, sir?

10 A. I do.

11 Q. Could you identify that for me, please?

12 A. It was a Staff letter that Staff
13 submitted on January 7th in response to the emergency
14 rate filing.

15 Q. This letter is signed by Tamara
16 Turkenton and David Lipthratt. Were you, sir, the
17 author of this letter?

18 A. I -- I wrote a portion of the letter,
19 and it was reviewed by the two individuals that
20 signed the letter.

21 Q. Have you had an opportunity to review
22 this letter prior to taking the stand today?

23 A. Yes, I have.

24 Q. Is Staff aware of any corrections,
25 changes, modifications, amendments of any kind that

1 need to be made to this letter?

2 A. No.

3 Q. And direct your attention to what's been
4 marked as Staff Exhibit H, and ask if you would
5 identify that for me, please.

6 A. This is my testimony submitted in
7 support of the Staff letter.

8 Q. And you are the Matthew Snider that is
9 identified in this testimony; is that correct?

10 A. Pretty sure.

11 Q. Well, make sure you're absolutely sure.

12 A. I am absolutely sure.

13 Q. Thank you, sir. And is your identifying
14 information and your background information as stated
15 here correct?

16 A. It is correct.

17 Q. Okay. Have you had an opportunity to
18 review this document prior to taking the stand today?

19 A. I have.

20 Q. And do you have any changes,
21 corrections, modifications of any sort to this
22 document?

23 A. There is one small grammatical change.

24 Q. And what is that, please?

25 A. On page 3, question 8, it says, "What

1 was Staff's process of review application for
2 Emergency Rate Relief." I would like to correct that
3 to, "What was Staff's process of reviewing the
4 application for emergency rate relief."

5 Q. Very good. Thank you. Any other
6 changes?

7 A. No.

8 Q. If I asked you the questions contained
9 in this document today would your responses be the
10 same?

11 A. They would.

12 Q. And in your opinion, would those
13 responses be true and reasonable?

14 A. Yes.

15 MR. MARGARD: Thank you, Mr. Snider.
16 Your Honors, that completes my direct examination. I
17 tender the witness for purposes of cross-examination
18 and move for admission of Staff Exhibits G and H
19 subject to that examination. Thank you.

20 EXAMINER PARROT: Thank you.

21 Mr. Alexander.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Alexander:

25 Q. Mr. Snider, I understand that Staff is

1 not recommending that this charge be implemented, but
2 I'd like to ask you some questions about the 40
3 percent rate referenced on page 5, line 6 of your
4 testimony. Do you see that?

5 A. Yes, I do.

6 Q. Okay. So the first thing I'd like to
7 understand is, is how Staff calculated that rate.
8 For the purpose of calculating that rate did the
9 Staff use Cobra's 2018 revenues?

10 A. Staff used the application as filed,
11 yes; the revenues found in the application.

12 Q. And when you say the application as
13 filed, more specifically are you referring to
14 Exhibit A to the application, the income statement?

15 A. I believe so. It would be the income
16 statement. I don't have that exhibit in front of me,
17 but it would be the 2018 income statement. It may be
18 up here in the stack of papers.

19 Q. It would probably be helpful to dig that
20 out. It's NEO Exhibit A.

21 MR. MARGARD: Let me know if you don't
22 find it.

23 THE WITNESS: We may get there.

24 MS. COATOAM: I took some of the things.

25 THE WITNESS: Is it contained in her

1 testimony? This is Carolyn's testimony -- I mean
2 Jessica's.

3 MR. MARGARD: I'm sorry, I gave you the
4 company one here. Wrong A.

5 MR. MICHAEL DORTCH: What are we looking
6 for?

7 THE WITNESS: Just the income statement.

8 MR. MARGARD: My apologies.

9 THE WITNESS: I'm on Exhibit A now.

10 By Mr. Alexander:

11 Q. So the Staff's calculation of the 40
12 cent charge starts with the \$1,596,837.40 revenue
13 projected by the company?

14 A. Yes, they did.

15 Q. Okay. Now, Mrs. Carothers' methodology
16 then used the expenses included in the rest of
17 Exhibit A totaling \$2,629,811.12. Did Staff also
18 accept, for the purpose of its calculation, all of
19 those expenses?

20 A. It did.

21 Q. Okay. And Ms. Carothers, in her
22 calculation, then divided those expenses by the
23 projected 2018 volumes to determine interruptible
24 rate. Is that what Staff did as well?

25 A. I don't believe Staff used the same

1 volumes as the company. Staff had actual volumes
2 for 11 months, January through November, and then we
3 forecasted for the final month December.

4 We did remove a transporter, a cheese
5 company that no longer operates. There was some
6 slight tweaks to the forecasted volumes.

7 Q. Okay. So the 40 cent charge was
8 calculated at the projected expenses, divided by
9 projected 2018 volumes after the adjustments you just
10 discussed?

11 A. Yes.

12 Q. Now, Cobra currently receives sources of
13 revenue beyond the commodity charge referenced of 50
14 cents per dekatherm by Ms. Carothers, correct?

15 A. Yes.

16 Q. And that includes telemeter charges?

17 A. Yes.

18 Q. And it also receives revenue from demand
19 charges?

20 A. Yes.

21 Q. It also receives revenue from overrun
22 charges?

23 A. Yes.

24 Q. And the Staff's calculation of the 40
25 cents would not have included any of those additional

1 sources of revenue?

2 A. I believe the overrun would be included.
3 I think that's a volumetric. Staff's calculation
4 of 40 cents would be to apply 40 cents to all
5 volumetric tariffs. So I believe it would be the
6 interruptible and the overrun.

7 Q. But if Staff calculated the additional
8 40 cents by dividing the expenses by the volumes,
9 that would have led to a universal commodity rate
10 between all the classes, correct?

11 A. Yes, it is.

12 Q. So if you were here earlier today -- I
13 guess for this next series of questions I'd like to
14 explore some issues that if the Commission decided to
15 adjust Cobra's projected income statement, they would
16 understand how that statement would flow through
17 Staff's calculation.

18 I'd first like to start with the revenue
19 for 2018 billings paid by customers of \$150,000.

20 A. Yes.

21 Q. You heard earlier today from Ms. Coatoam
22 that -- that that line item references funds that
23 Cobra received and has been ordered to repay but did
24 not repay in 2018. You heard that testimony?

25 A. I did.

1 Q. Okay. And so if the Commission were to
2 order that Cobra's revenues be adjusted to reflect
3 that Cobra still has that cash and did not actually
4 pay that refund, would they reduce the revenues to be
5 received by Cobra by that \$150,000 amount?

6 A. It would reduce the shortfall under
7 Staff's calculation.

8 Q. And then you were also here earlier
9 today and heard testimony about the stripping station
10 that is no longer operational.

11 A. Yes, I heard that.

12 Q. Okay. Now, the Staff letter, at page 3,
13 finds that the stripping station could be restarted
14 with minor repairs?

15 A. That's Staff's understanding.

16 Q. And there's been a substantial reduction
17 in stripping station related revenue since the
18 Churchtown line was shut in by TCO, correct?

19 A. The company is projecting zero revenue
20 in 2018.

21 Q. And Exhibit H shows the 2016 and 2017
22 revenues to be much higher?

23 A. Yes, that is correct.

24 Q. And so if the Commission wanted to
25 revise Staff's calculation, taking into account the

1 new operation of the stripping station, it would add
2 the difference between the 2017 and 2018 revenues to
3 show the impact to Cobra?

4 A. Can I have the question reread?

5 MR. MICHAEL DORTCH: Could I please have
6 that question reread?

7 MR. ALEXANDER: I'll restate it, I might
8 have been mistaken.

9 By Mr. Alexander:

10 Q. If the Commission wanted to determine
11 the projected impact of the operation of the
12 stripping station, it would look at the change in
13 revenue from 2017 to 2018 from Cobra's income
14 statements?

15 A. I don't know if I can sit here and agree
16 with that statement. I think that's assuming that
17 the revenues would return to the level in 2017.

18 I do think that if -- if there is sales
19 from extracted product, then that should be counted
20 as revenue, and reduce the overall shortfall. But I
21 don't know if I can sit here and project that it will
22 be the same level as 2017 or 2016.

23 I mean, even going back to the rate
24 case, there were years where sales of extracted
25 product were -- were much, much greater than even

1 2017.

2 Q. But if the Commission did want to make
3 an adjustment, it would adjust Cobra's projected
4 revenue by whatever the Commission determines is the
5 rate?

6 A. Yes, the Commission has that discretion.

7 Q. And the same discussion with regard to
8 extracted products. If the Commission wanted to
9 assume revenue from extracted products, it would
10 adjust Cobra's revenue by that amount?

11 A. Yes.

12 Q. Now I'd like to discuss some expense
13 adjustments. Staff's letter acknowledges some
14 payments that were paid by Cobra to OS-AIR in the
15 amount of \$100,000. Are you familiar with that?

16 A. Yes, we saw those payments in bank
17 statements.

18 Q. And Staff does not believe that the
19 \$100,000 in payments to OS-AIR is an appropriate
20 expense, correct?

21 A. During emergency rate filing, Staff
22 doesn't know if the company should be making payments
23 to unregulated affiliates. I don't know if Staff
24 would support those payments in general.

25 Q. And Staff's calculation of the 40 cent

1 rate includes that \$100,000 in expenses, correct?

2 A. It could. I don't know where on the
3 income statement that would be embedded. We saw --
4 Staff saw the payments on the bank statements, but we
5 were never able to trace them to the income
6 statement. So if they are embedded on the income
7 statement, then that potentially could be a problem.

8 Q. Okay. And just as far as the arithmetic
9 here, if that \$100,000 in administrative fee were
10 included as an expense, then -- and the Commission
11 wanted to exclude that from the emergency rate, then
12 the Commission would reduce expenses by \$100,000?

13 A. Yes. Yeah.

14 Q. And then it would divide by the volumes?

15 A. Yeah. Our Staff's calculation was
16 looking at the revenue minus the expenses in
17 calculating the shortfall, and divided by the volume.

18 So any adjustments the Commission would
19 want to make to the revenue and expenses, I would
20 just see it as reducing the company's shortfall and
21 then dividing it by the same number of volumes to
22 arrive at a new rate.

23 Q. Depreciation. Staff's expenses include
24 \$464,000 in depreciation in 2018?

25 A. Yes, we did not exclude that from the

1 calculation.

2 Q. Okay. Now, depreciation is a noncash
3 item; is that right?

4 A. Yes, that is correct.

5 Q. So if the Commission wanted to adjust
6 Staff's calculation to remove depreciation expense,
7 it would reduce expenses by that \$464,000?

8 A. Yes, that is correct.

9 Q. Okay. Then legal services. Were legal
10 services also included in Staff's calculation of
11 the 40 cent rate?

12 A. They were.

13 Q. And they were included in the full
14 amount of \$149,820.37?

15 A. They were.

16 Q. Are you aware that in the 2016 rate case
17 Staff Report, Staff recommended that rate case
18 expenses be allocated over five years?

19 A. Yes.

20 Q. And were you present earlier today when
21 Ms. Coatoam testified that those expenses were not
22 allocated over five years?

23 A. Yes, I heard that.

24 Q. Okay. And so if the Commission wanted
25 to allocate rate case expense over five years, would

1 it include only 20 percent of that rate case legal
2 expense in the 2018 year?

3 A. If under the emergency rate filing they
4 wanted to be consistent with the rate case
5 recommendation, then yes, they could do that.

6 Q. And focusing your attention on the
7 wages, the salaries and wages line item of \$499,722.
8 Do you see that?

9 A. I do.

10 Q. And did Staff, for the purpose of its 40
11 cent calculation, accept that wage figure
12 representation by the company as accurate?

13 A. Staff did, yes.

14 Q. Okay. And earlier today Ms. Coatoam
15 testified that that figure includes \$40,000 of
16 additional wages for employees who have not yet been
17 hired. Did you hear that?

18 A. I did.

19 Q. And does Staff's calculation include
20 that \$40,000 in the calculation of the 40 cent rate?

21 A. Staff included the whole salaries and
22 wages of \$499,000.

23 Q. Okay. And so if the Commission wanted
24 to reduce Staff's calculated rate to adjust out that
25 \$40,000 of wages that weren't paid, it would simply

1 reduce expenses by \$40,000?

2 A. They would.

3 Q. Personal property tax, it's on the
4 second page. Cobra includes \$523,539.73; is that
5 right?

6 A. Yes.

7 Q. Did Staff include that entire amount in
8 its calculation of the 40 cent rate?

9 A. It was included.

10 Q. Okay. Now, earlier today did you hear
11 Cobra testify that it had not actually made any of
12 those payments in 2018?

13 A. Staff did, yes.

14 Q. And if the Commission wanted to adjust
15 the emergency rate to reflect only amounts actually
16 paid by Cobra, would it reduce the expenses by that
17 523,000?

18 A. Yeah, if they want to go on the idea
19 that it's expenses actually paid. And I think Staff
20 is -- we did talk about this, and Staff, I mean, does
21 want the company to pay their property taxes, and it
22 is an expense that we would like to see the company
23 pay, so --

24 MR. MICHAEL DORTCH: The company will
25 stipulate it would like to pay its personal property

1 taxes.

2 THE WITNESS: So for the purpose of
3 emergency rates, we did leave that in the
4 calculation. But yes, if the Commission wants to
5 accept a rate that only looks at actual payments
6 made, then yes, that should be excluded.

7 By Mr. Alexander:

8 Q. Okay. And then to go to your point, if
9 the Commission wanted to only include the portion of
10 personal property taxes which accrued in 2018, you
11 were here earlier today when Ms. Coatoam testified
12 that that amount was \$440,000?

13 A. Yes. So pondering that, that should, in
14 my view, be what they would include in the emergency
15 rate filing for 2018.

16 Q. And so if the Commission wanted to make
17 that adjustment, it would reduce expenses by the
18 difference between the \$523,000 projected by Cobra
19 and the \$440,000 of actual accrued 2018 property
20 expense?

21 A. Yes, that is correct.

22 Q. Excise taxes. Earlier today Ms. Coatoam
23 testified that Cobra did not pay its excise taxes in
24 the amount of 93,000. Did you hear that testimony?

25 A. I did.

1 Q. Did Staff include that \$93,000 of excise
2 taxes in its calculation of the 40 cent rate?

3 A. It was included.

4 Q. And so if the Commission wanted to
5 adjust Staff's calculation to reflect only the excise
6 taxes actually paid, the Commission would simply
7 reduce the expenses by \$93,022?

8 A. Yes, if they were basing off of only
9 paid.

10 Q. And I believe you may have said this in
11 response to a previous answer, but just so it's
12 clear.

13 A. Okay.

14 Q. Staff's calculation used the revenues
15 projected by Cobra, less the expenses, and then took
16 that remaining difference and divided by the volumes
17 to determine the rate for the emergency rate?

18 A. Yes, that is correct.

19 Q. And so if the Commission wanted to make
20 any adjustments to Staff's calculation, it could
21 simply do the same math to the adjusted revenues less
22 the adjusted expenses, divided by Cobra's projected
23 volumes, to get another rate?

24 A. Yes. But I think Staff has a slightly
25 different calculation for volumes, but essentially

1 it's the same, yeah.

2 Q. I'll rephrase that question. You're
3 correct. You explained this earlier and I misspoke.

4 A. It's okay.

5 Q. So if the Commission wanted to adjust
6 Staff's calculation, it would use the Commission
7 adjusted revenues less the Commission adjusted
8 expenses divided by the volumes that Staff used,
9 which include the adjustments you testified to
10 earlier?

11 A. Yes.

12 Q. Did I understand that?

13 A. Yes.

14 Q. Do you have a copy of Ms. Carothers'
15 testimony on the stand?

16 A. I don't believe so.

17 Q. Turn to page 8, line 10.

18 A. I'm there.

19 Q. In that question and answer Cobra gives
20 a projected delivery volume in 2018 based off of
21 actual deliveries from January 1st to November 30th,
22 and then a projection for December of 2018; is that
23 right?

24 A. Yes, I believe so.

25 Q. And so was that the volume that Staff

1 used to perform its calculation?

2 A. The 2,495,059?

3 Q. Yeah, 2,495,059 dekatherms?

4 A. No, Staff's volume calculation was
5 slightly higher than that.

6 Q. Okay. And do you recall approximately
7 what Staff's volume calculation was?

8 A. I believe it was around 2.6 million, but
9 I do not have it in my testimony, or it does not
10 appear to be in the Staff letter in front of me.

11 MR. ALEXANDER: Thank you, Mr. Snider.
12 I don't have anything further.

13 EXAMINER PARROT: Mr. Dortch?

14 MR. MICHAEL DORTCH: Thank you, your
15 Honors.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Michael Dortch:

19 Q. I promise I won't keep you terribly
20 long. A few questions, however. In -- you took --
21 you participated in what I will call the 2016 rate
22 case, correct?

23 A. I did.

24 Q. And that was based on test year 2015?

25 A. Yes.

1 Q. And in the course of that proceeding and
2 in this proceeding, would you agree that Staff has
3 effectively been updated to the status of the -- of
4 the status of the company revenues and operations
5 through at least the end of November 2018?

6 A. To a certain extent, yes.

7 Q. And so you've got a pretty good view of
8 the financial straights of the company as it exists
9 today; is that a fair statement?

10 A. I agree to an extent, yes.

11 Q. And at the risk of putting words into
12 your mouth, would you agree with me that the
13 financial situation of the company's dire?

14 A. Staff would agree that the company has
15 lost volumes on its system. I don't know if I would
16 go to the extent of saying dire.

17 Q. Okay. Do you have any idea of -- very
18 roughly from your review of the company's records, of
19 cash on hand, what the company may have?

20 A. Staff did review bank statements, I
21 believe up through September.

22 Q. That's good enough for my purposes. And
23 you have an idea of the revenues that the company can
24 anticipate generating during 2019 based upon an
25 extrapolation from 2018, is that fair, all else being

1 equal, no changes?

2 A. If there are no changes, yes.

3 Q. Okay. Would you anticipate that the
4 company makes a profit in 2019 if there are no
5 changes?

6 A. Given all the inconsistencies in the
7 2018 income statement, I don't know if I could speak
8 definitively whether they would have a profit or not.

9 Q. You mentioned these inconsistencies, and
10 unfortunately, in the 2018 -- the 2018 information
11 provided you by the company, but unfortunately you
12 were very, very vague about identifying any
13 inconsistencies. Can you identify some specific
14 inconsistencies that concern you?

15 A. I mean, the big one is still the
16 property taxes.

17 Q. And does the company -- based upon your
18 review of the company's records, does the company
19 have a half a million dollars to pay 2018 property
20 taxes?

21 A. Cash on hand, no.

22 Q. And does the company have -- and if it
23 doesn't have a half a million dollars to pay the 2018
24 property taxes, you certainly don't anticipate that
25 it could pay the 4.4 million, or whatever the actual

1 number is due for -- for an error that began
2 apparently in 2008, would you agree? No way it can
3 pay that?

4 MR. ALEXANDER: Objection. It assumes
5 facts. There's been no testimony as to the start
6 point of the personal property tax era.

7 MR. MICHAEL DORTCH: Actually there has
8 been, your Honor, and it was actually even testimony
9 today, in fact, I believe.

10 The case is consolidated with plenty of
11 testimony about an original case and there I believe
12 is a schedule and I'm sorry I've forgotten the
13 exhibit that discusses the -- that summarizes the
14 company's cash flow by year, and then
15 Mr. Alexander --

16 MR. ALEXANDER: It's Company Exhibit 5.

17 MR. MICHAEL DORTCH: Mr. Alexander
18 inquired of the witness based upon Company Exhibit 5.

19 MR. ALEXANDER: And, your Honor, my
20 examination discussed 2012 forward.

21 MR. MICHAEL DORTCH: Company Exhibit 5
22 was admitted in evidence, and Company Exhibit 5
23 pretty plainly demonstrates that an awareness of the
24 tax issue seems to have been booked at approximately
25 2012, but the scope wasn't recognized until 2014 or

1 2015.

2 And specifically I'm referring the Bench
3 to Company Exhibit 5, the line approximately an inch
4 up from the bottom, which is other tax - personal
5 property tax.

6 MR. ALEXANDER: And, your Honor, my
7 issue with the question was it assumes both that
8 there was an error, which assumes we have an
9 explanation as to how this failure to pay taxes
10 started, and the error occurred in 2008, and that
11 that has been established by actual testimony in this
12 proceeding.

13 EXAMINER PARROT: Mr. Dortch, I'm going
14 to ask you to rephrase your question.

15 MR. MICHAEL DORTCH: I will do my best
16 to do so. I've sort of lost the thread of the
17 question after all that.

18 By Mr. Michael Dortch:

19 Q. Mr. Snider, could you agree with me that
20 the company does not have the ability to pay the 4.4
21 or 4.7 million, whatever it is -- I will omit stating
22 based on an error that began in 2008, and simply
23 state that have been accrued as past due personal
24 property taxes?

25 A. While I agree that the company may not

1 have the ability to pay, Staff continues to hold the
2 same position it held in the rate case, that these
3 are historical taxes that ratepayers have already
4 paid for through rates.

5 Q. Well, let's talk about that, then,
6 because you read Ms. Carothers' testimony -- I'm
7 sorry, Ms. Coatoam's testimony, I presume, and you
8 are aware that Ms. Coatoam has calculated that in
9 point of fact, Mr. Osborne, during his ownership of
10 the company, has taken out approximately \$5 million
11 by all methods, means, mechanisms. Has Staff
12 attempted to take any look at that and review that
13 information?

14 A. That was filed very late in the process,
15 and Staff did not look at it in depth. I don't know
16 if Staff, without extensive data requests, could rely
17 on simply an Excel spreadsheet trying to categorize
18 all of these outstanding loans, yes.

19 Q. It wasn't just a balance sheet. You do
20 have the general ledgers, you do have the bank
21 statements, you do have every financial record
22 available.

23 At this point in time is there any
24 financial record of the company that you're aware of
25 that has not been given to the Staff?

1 A. I believe Carolyn's testimony goes
2 back 11 years. We do have a lot of records, but we
3 definitely don't have 11 years' worth of loans. And
4 I think our bank statements were the past 18 months.

5 Q. Okay. You do not dispute that the
6 company has suffered a significant loss of volume
7 across the system, if I understand your testimony
8 correctly; is that right?

9 A. It's Staff's understanding, yes, that
10 they have lost a significant amount of volume.

11 Q. And all else equal -- Strike that.

12 You have already explained how Staff
13 reached a 40 cent surcharge which you do not
14 recommend, I understand that. But if a surcharge is
15 not granted -- Strike that.

16 I'm going to ask you to assume that
17 Staff accurately calculated an appropriate surcharge,
18 and that the Commission will make no adjustments but
19 will accept Staff's work. Can you accept that as a
20 hypothesis?

21 A. I can, yes.

22 Q. What would you anticipate will happen to
23 the company in the event that it does not receive
24 rate relief through the original 2016 rate case or
25 this emergency rate case?

1 MR. MARGARD: I'll object that he's
2 requesting that the witness speculate.

3 MR. MICHAEL DORTCH: The witness is
4 testifying as an expert witness, has testified to
5 extensive knowledge of the company's finances. The
6 witness has testified that he knows what the cash --
7 in relative terms, what the cash on hand is it. I
8 think he could have put together a reasonable answer
9 to that question.

10 MR. ALEXANDER: Your Honor, if I could
11 join Staff's objection. The reason it calls for
12 speculation is the witness has no way to know which
13 of Mr. Osborne's remaining entities may or may not
14 repay the debts. If they do, the company may make
15 the payments, if they don't maybe not. But it calls
16 for the witness to speculate to something which he
17 has no personal knowledge of.

18 MR. MARGARD: Among other things.
19 Certainly there are other things that could happen
20 including other actions that Mr. Osborne may or may
21 not take that could affect this company in the
22 future.

23 I don't think simply based on the
24 hypothetical, that this witness can reasonably expect
25 to speculate as to what would happen with this

1 company.

2 MR. MICHAEL DORTCH: I will add to the
3 hypothetical, then, if it helps, the assumption that
4 Mr. Osborne files bankruptcy and that these
5 outstanding loans are going to be repaid. Does that
6 help clarify the situation?

7 MR. ALEXANDER: No. There's still a
8 stripping station which is currently inoperative that
9 Staff reports testified could be repaired with
10 minimum time and effort. The Staff has no way to
11 know whether Cobra will put forth that minimum amount
12 of expense or not. That would have a dramatic
13 effect.

14 MR. MARGARD: It's also significant to
15 know that Mr. Osborne has been in bankruptcy now for
16 some time.

17 MR. MICHAEL DORTCH: Starting in 2018.

18 MR. MARGARD: A year.

19 EXAMINER PARROT: I'm going to allow the
20 witness to answer the question. Mr. Snider, if you
21 need us to read it back.

22 (Record read back as requested.)

23 THE WITNESS: I don't know if I can sit
24 here and speculate on that, currently. Staff is
25 under the impression that potentially, with some cost

1 controls and some upgrades to their system, they may
2 be able to potentially earn a profit and --

3 By Mr. Michael Dortch:

4 Q. Tell me about cost controls, Mr. Snider.
5 What costs do you believe the company has failed to
6 control? You're aware it doesn't pay rent, aren't
7 you? And you're aware from today's testimony that it
8 is down to what, five employees? Specifically, then,
9 tell me what costs you believe the company needs
10 to --

11 A. You mentioned five employees, but the
12 company has a projected total of \$500,000. It's
13 these kind of discrepancies that kind of led to
14 Staff's recommendation.

15 Q. Mr. Snider, isn't it much more fair to
16 say that the fact that that is a projection at a time
17 when you point to the \$500,000, that that projection
18 was being prepared at a time the company -- that the
19 company believed it would have those employees?

20 A. Staff is operating under that view, yes.

21 Q. So saying that's a discrepancy really
22 isn't fair, is it? It was a projection based upon
23 reasonable information available to the company at
24 the time. Would you agree with that statement?

25 A. I would agree with it. But if we're

1 going to recalculate projected expenses under what's
2 known today, then I think the Commission -- I mean,
3 the company's net income could be a lot different.

4 I don't know if I can sit here and come
5 up with a number without going through and
6 recalculating many of these items.

7 Q. And so the mechanism to do that,
8 typically, would be a rate case, correct?

9 A. Yes.

10 Q. And this company has had a rate case
11 pending for more than three years, correct?

12 A. Yes.

13 Q. And is it going to be here in three
14 years if it's not granted some sort of rate relief in
15 the next three years?

16 MR. MARGARD: Again, objection. Same
17 speculation.

18 EXAMINER PARROT: To the extent you're
19 able to answer, Mr. Snider.

20 THE WITNESS: Once again, Staff doesn't
21 want to speculate on that.

22 By Mr. Michael Dortch:

23 Q. Have you been party to conversations
24 amongst Staff -- and I will ask you to exclude
25 conversations at which your attorneys were present.

1 Have you been party to conversations
2 amongst Staff in which the future demise of this
3 company has been discussed?

4 A. I don't believe so, no.

5 Q. Have you been party to conversations
6 among Staff in which the likelihood that this company
7 will fail has been discussed?

8 MR. MARGARD: Your Honor, I'm going to
9 object to this line of questioning. What Staff does
10 or doesn't consider as part of its day-to-day
11 operations doesn't have any relevance to this case.
12 What matters here is what Staff's valuation of this
13 application was in this.

14 EXAMINER PARROT: Response?

15 MR. MICHAEL DORTCH: Your Honor, I'm
16 being told that Staff has no position on whether this
17 company can survive the -- I've just been told that
18 this Staff has no position on whether this company
19 could -- will survive the next three years.

20 I want to know whether this witness has
21 been in conversations where exactly that subject has
22 been discussed. There's no privilege, there's no
23 reason he can't answer that question.

24 MR. MARGARD: Staff --

25 MR. MICHAEL DORTCH: I excluded

1 privileged conversations.

2 MR. MARGARD: Staff is made up of many
3 members that engage in a variety of discussions.

4 MR. MICHAEL DORTCH: But I didn't ask
5 him about every member of Staff, I asked if he has
6 been --

7 MR. MARGARD: If I may be permitted.

8 MR. MICHAEL DORTCH: I'm sorry,
9 Mr. Margard.

10 MR. MARGARD: What we have here today is
11 a representative of Staff speaking for Staff as the
12 body of Staff.

13 The fact that there may be varying
14 opinions among members of the Staff is not relevant
15 to this procedure. What is relevant here is the
16 position of Staff as it is being stated from the
17 stand.

18 EXAMINER PARROT: Go ahead, Mr. Dortch.

19 MR. MICHAEL DORTCH: Your Honor, it is
20 exactly relevant. The whole point of this proceeding
21 is -- well, the whole point here is that Staff has
22 taken a position that there is no emergency for this
23 company, if -- that is not correct.

24 Mr. Snider, speaking on behalf of Staff,
25 has taken the position that there is no emergency

1 facing this company. Mr. Snider has participated in
2 these rate cases for years now, as have we all.

3 I'll tell you what. I'll strike the
4 question. Mr. Snider, I'll ask you a different
5 question.

6 By Mr. Michael Dortch:

7 Q. Are you aware of any hostility among
8 Staff toward Richard Osborne?

9 A. I don't believe so.

10 Q. So you are unaware of any members of
11 Staff who have -- who are hostile to Mr. Osborne's
12 ownership of Cobra?

13 MR. MARGARD: And I'll object. The idea
14 that the various Staff members hold various opinions
15 about various utilities and/or their officers or
16 representatives, you would expect that in any
17 organization.

18 I think you would find that in this room
19 with respect to each other. I don't see, your Honor,
20 how that's relevant to this proceeding.

21 MR. MICHAEL DORTCH: May I have a
22 moment, your Honor?

23 EXAMINER PARROT: You may.

24 (Pause.)

25 MR. MICHAEL DORTCH: I have no further

1 response. I'll allow the Bench to rule on my
2 existing question.

3 EXAMINER PARROT: May I have the
4 question reread, please?

5 (Question read back as requested.)

6 EXAMINER PARROT: Thank you. I'm going
7 to ask you to rephrase, Mr. Dortch. I agree that
8 Staff in this case is a collective body.

9 MR. MICHAEL DORTCH: Fair enough, your
10 Honor.

11 By Mr. Michael Dortch:

12 Q. Mr. Snider, who specifically did you
13 work with in preparation of your -- I understand you
14 wrote Staff's letter, and of course you prepared your
15 testimony. And Mr. Lipthratt and Ms. Turkenton
16 signed your letter.

17 Were there other members of Staff with
18 whom you worked in preparing these documents?

19 A. Roger Sarver gave me some updated
20 volumes, and Howard Petricoff also discussed just my
21 testimony in general with me.

22 Q. Are those the only members of Staff you
23 worked with?

24 A. There was still some people from the
25 rate case, like Stephanie Doney who had worked on

1 plant. But Staff did not use a rate-of-return
2 calculation in this case, so we weren't as concerned
3 with the current plant balance.

4 Q. Have you ever heard Mr. Sarver express
5 terms that I -- that could be considered hostile to
6 Mr. Osborne's ownership of a utility?

7 MR. MARGARD: Objection. Your Honor,
8 Mr. Sarver's opinion with respect to Mr. Osborne, his
9 business operations, is --

10 MR. MICHAEL DORTCH: To the extent that
11 Staff is discussing matters that go into or are
12 matters discussed with or in the presence of the
13 witness, they have the potential to influence the
14 witness. And bias, as far as I know, is always a
15 relevant topic in any proceeding.

16 EXAMINER PARROT: Same ruling. I'm
17 saying if you want to try to rephrase it, but I'm not
18 calling out individual Staff members here.

19 MR. MICHAEL DORTCH: Well, I've tried to
20 do it generally, and I'm trying to do it
21 specifically.

22 EXAMINER PARROT: Let's try it again
23 generally, is what I'm saying.

24 MR. MICHAEL DORTCH: Let's try -- Let's
25 try -- let's try abandoning this line of questioning.

1 I'm bored with it, too.

2 (Pause.)

3 MR. MICHAEL DORTCH: No, it's pointed
4 out that there is one more that I am required to ask
5 here.

6 By Mr. Michael Dortch:

7 Q. Have you ever made a comment to any
8 member of Staff that is hostile to Mr. Osborne's
9 operation of a regulated utility?

10 MR. MARGARD: Your Honor, I'm going to
11 object only on the basis that Mr. Snider is here
12 testifying as Staff, and not with respect to his own
13 personal opinions.

14 MR. MICHAEL DORTCH: Your Honor, I don't
15 need to respond. Bias is a relevant topic. The
16 witness has been proffered as an expert. Yes, he is
17 supporting the position taken by Staff, but he is
18 still a witness in this case.

19 EXAMINER PARROT: And I agree that
20 Mr. Snider's personal opinion is not relevant.
21 Proceed.

22 MR. MICHAEL DORTCH: Thank you.

23 EXAMINER PARROT: Anything else?

24 MR. MICHAEL DORTCH: Oh, yeah.

25 By Mr. Michael Dortch:

1 Q. I asked you a bit ago to -- before we
2 started down a different track, to identify
3 specifically the deficiencies that you felt were
4 represented in the company's statements, and I'm
5 sorry, my notes are poor, can you identify them
6 again?

7 A. The first one we mentioned was the
8 property tax. Staff also saw owner withdrawals which
9 did not appear that they sent management payments to
10 OS-AIR, but we didn't see those on the income
11 statement. We did see those in bank statements.
12 There's some inconsistencies between revenue that the
13 company claims to have paid back. Let me see here.

14 Q. Go ahead. I'm sorry. I'll let you
15 finish.

16 A. Yeah, the company makes an adjustment
17 for billings paid. Staff does not believe those
18 payments actually occurred. So those were some of
19 the inconsistencies.

20 Q. Well, let's start with the -- let's
21 start with the refunds.

22 Based upon your knowledge of the
23 company's current financial affairs, does the company
24 have cash on hand to make this refund? I'll ask in a
25 different way. Does the company have a half a

1 million dollars in the bank?

2 A. Not as of September 2018, but the
3 company, before that, was loaning money out and
4 making owners withdrawals.

5 Staff feels like if throughout '17 the
6 company didn't engage in some of these actions, that
7 they may have been in a better place come September
8 2018.

9 Q. And you are aware that Ms. Coatoam has
10 attempted to demonstrate that Mr. Osborne's -- the
11 revenues Mr. Osborne has received doesn't matter
12 whether he takes it as a distribution or as a loan,
13 or as a loan to one of his entities, it's still the
14 same cash out of the company, correct?

15 A. Yes. But when you're not paying all
16 your financial obligations and paying your owner
17 first, that just --

18 Q. And with the --

19 A. -- is not a good practice.

20 Q. And with the exception of the personal
21 property tax, the scope of which doesn't appear to
22 have been recognized until 2015, you can't point --
23 can you point to anything prior to 2015, with the
24 exception of the personal property tax, where you
25 believe that the company wasn't meeting its current

1 obligations?

2 MR. MARGARD: Your Honor, I'll object.
3 I'm not sure what that has to do with 2018, when we
4 sit here today.

5 MR. MICHAEL DORTCH: I'm trying to
6 define what we're talking about here.

7 EXAMINER PARROT: I'll allow the
8 question.

9 MR. ALEXANDER: I'm going to object,
10 it's so vague. The question asked about expenses in
11 2015, then asked what the company's ability to meet
12 the current obligation is. I agree with mismatch of
13 period of time.

14 MR. MICHAEL DORTCH: I'm ultimately
15 asking about the company's current obligations,
16 you're correct.

17 By Mr. Michael Dortch:

18 Q. The criticisms have been that the
19 company -- that Mr. Osborne took money out of the
20 company, and I'm asking whether you're aware,
21 excepting the personal property tax, that the company
22 failed to meet its current obligations prior to 2015?

23 A. It appears that they haven't paid their
24 excise tax, either.

25 Q. The excise tax, okay. So we have got

1 those two tax issues, which there seems to have been
2 considerable confusion within the company regarding;
3 is that fair?

4 A. It confuses me to find that confusion,
5 but --

6 Q. It does me, too. 2016, was the company
7 meeting its current obligations, taxes aside?

8 MR. ALEXANDER: Objection, vague. How
9 could the company, in 2016, be keeping obligations
10 current as of today?

11 MR. MICHAEL DORTCH: Current in 2016. I
12 apologize for the question. It was a bad question,
13 I'm tired. It's 4:40, almost 5:00.

14 MR. MARGARD: In that case I'll object
15 because it assumes facts not in evidence. We don't
16 necessarily know, but based on the record, what the
17 obligations were in '16 and the company's ability was
18 in '16.

19 The rate case and test year 2015, we're
20 now looking at things as they stand in 2018. I'm not
21 sure this witness is in a position to be able to talk
22 about the company's ability to meet its expenses in
23 2016 or 2017. That hasn't been established.

24 EXAMINER PARROT: If he's not, he can
25 say that.

1 MR. MICHAEL DORTCH: Thank you, your
2 Honor.

3 THE WITNESS: Staff did not look
4 extensively at 2016 or 2017. Staff did review some
5 bank statements from 2017, but it did not look
6 extensively at data requests or anything in response
7 to 2016 on expenses or revenues.

8 By Mr. Michael Dortch:

9 Q. Well, the point here is that in 20 --
10 Strike that. Never mind.

11 Would you agree that a company, a
12 regulated utility that cannot meet its current
13 obligations on a cash flow basis, may be experiencing
14 an emergency?

15 A. I could agree to that.

16 Q. Is -- did Cobra, in 2018, generate
17 sufficient revenues to meet its cash flow
18 obligations?

19 A. I don't know if I could speak
20 definitively to that, to be honest. There's just a
21 lot of inconsistencies in the 2018 projected year.

22 Q. So despite the Staff's intensive
23 evaluation of the company now for three years plus,
24 you don't know?

25 MR. MARGARD: Your Honor, I'll object.

1 This is an emergency application that was only
2 recently filed. I think intense investigation over
3 three years has not a whole lot to do with the
4 predicate for 2018.

5 MR. MICHAEL DORTCH: My question was
6 rhetorical, so it was improper and I will withdraw
7 it.

8 By Mr. Michael Dortch:

9 Q. You were critical of the company's
10 increased legal expenses in your testimony. By
11 increased legal expenses, I mean the increase that
12 exists in 2018. Is that -- do you agree with that
13 statement?

14 A. We did mention it, yes.

15 Q. And you're aware that 2018 is when the
16 considerable work was done in the rate case and in
17 fact the rate case was tried and briefed; is that
18 correct?

19 A. Yeah, Staff is aware of that, and they
20 could understand the increase.

21 Q. And you were also critical of the
22 company for increases in its expense -- in its
23 operating expenses in 2018, correct?

24 MR. MARGARD: In general?

25 MR. MICHAEL DORTCH: Yeah, in general.

1 It's difficult to tell, because there's no detail in
2 the report, there's just generalized statements. So
3 yes, in general.

4 THE WITNESS: Staff's view was that
5 during an emergency rate filing we would hope that
6 the company tried to control their costs more than
7 what was projected.

8 By Mr. Michael Dortch:

9 Q. Is the increase in the company's
10 operating expenses associated with the inability to
11 share those expenses with Orwell-Trumbull Pipeline,
12 in Staff's understanding?

13 A. That could have contributed, but the --
14 when the two companies were combined, the -- Cobra
15 did not pay for all of it, it was far greater than --
16 than the 2018 projected amount. I believe it was
17 around 600,000, off the top of my head, from the time
18 of the rate case, but...

19 By Mr. Michael Dortch:

20 Q. I'm not certain I know what you're
21 referring to, Mr. Snider, but the record in the 2016
22 case is what it is. I don't recall a \$600,000
23 figure.

24 A. I was --

25 Q. In any event, 230,000, whatever it is,

1 to 400,000, is certainly not an increase -- I'm not
2 sure what you're referring to.

3 A. At one point Staff, during the rate
4 case, was provided a -- I believe almost a total
5 salary and administrative for both companies.

6 I think that was -- we kind of arrived
7 at some of that data because some of the benefits
8 flowed through either O-TP or Cobra. I could be
9 incorrect. But I do know that Staff did allocate
10 those based on a split that the company traditionally
11 used.

12 Q. I do know that you are correct. In the
13 2015 -- I think of it as '15 because it was '15 test
14 years, so I'm sorry, rate case that that allocation
15 was filed, I agree with you. And I recall objecting
16 to it. I also recall proposing it.

17 But that's not my question here. My
18 question here is, is the increased expenses in 2018
19 a -- in part, a result of the inability to allocate
20 operating expenses between the two companies?

21 A. I'm sure that's a factor. Once again,
22 the company testified that they only currently employ
23 five people, and I believe they also testified that
24 the pipeline is still being operated safely and
25 efficiently, and so I just have trouble accepting

1 that increase knowing what I know.

2 Q. And what is it that you know that makes
3 it difficult to accept that increase?

4 A. In Data Request 1, the company provided
5 a list of employees that equaled the \$499,000, and --

6 Q. And again --

7 MR. MARGARD: Your Honor.

8 MR. MICHAEL DORTCH: I don't mean to
9 interrupt. I apologize.

10 EXAMINER PARROT: Then let him finish.

11 MR. MICHAEL DORTCH: I will do so. I'm
12 sorry.

13 THE WITNESS: It's just the
14 inconsistency between the data request that Staff
15 receives justifying that number, and then later
16 finding out that only five employees are --
17 By Mr. Michael Dortch:

18 Q. Is it your belief that that information
19 was incorrect at the time of the data request?

20 A. No. I don't know when the company
21 downsized to five employees, to be honest. So -- but
22 no, I assumed it to be correct in our investigation,
23 yeah.

24 Q. And did Staff ask at any point in time
25 for -- we're talking about timing differences between

1 November and now?

2 A. Yeah.

3 Q. We're talking about timing differences
4 that are caused by an accrual accounting. We are
5 talking about information that changes, correct?

6 A. Yeah, but I think there was 13 --

7 Q. But is there discrepancy --

8 A. November to now is two months, and
9 you've lost eight employees or so.

10 Q. No -- strike that. Go ahead.

11 Mr. Snider, you've testified as to
12 discrepancies. Just to be -- just so that I'm
13 certain of something, is there any specific
14 information that the company provided to you in
15 response to a data request that you believed to have
16 been demonstrably false at the time it was provided?

17 A. At the time provided, no.

18 Q. Thank you. And the information that you
19 had been given by the company includes every invoice
20 sent by the company through November of 2018,
21 correct?

22 A. I didn't hear the beginning, can you
23 repeat it?

24 Q. Among the information provided Staff by
25 the company has been every invoice generated by the

1 company since 20 -- January 1, 2018 through November
2 of 2018, is that accurate?

3 A. Every invoice in regard to what?

4 Q. Every invoice generated by the company.

5 A. I don't believe we received every
6 invoice.

7 Q. Okay. Sorry. Mr. Snider, did you send
8 the discovery requests on Staff's behalf to the
9 company?

10 A. Yes.

11 Q. And did you send a DR No. 4 asking for
12 the invoices from the company?

13 A. I believe I asked for a general ledger.
14 I don't believe that's the same as an invoice.
15 General ledger can be whatever the company would
16 choose to put in their general ledger. An invoice
17 would support the general ledger.

18 Q. Did you see -- did you review company's
19 application?

20 A. I did, yeah.

21 Q. Do you recall that Exhibit C was
22 invoices generated by the company?

23 A. I'm getting a little confused with the
24 word invoice.

25 EXAMINER PARROT: What is the

1 reference -- what is the reference to Exhibit C? I
2 don't know what you're referring to now.

3 MR. MICHAEL DORTCH: I'm sorry, I had
4 something going on in two ears, your Honor.

5 EXAMINER PARROT: What was the reference
6 to Exhibit C?

7 MR. MICHAEL DORTCH: Exhibit C is
8 company invoices to its customers.

9 MR. MARGARD: Exhibit C to the
10 application.

11 EXAMINER PARROT: Of what?

12 MR. MICHAEL DORTCH: Exhibit C to the
13 company's application, emergency rate case
14 application.

15 EXAMINER PARROT: Thank you.

16 THE WITNESS: Is Exhibit C in the
17 application here?

18 MR. MICHAEL DORTCH: I don't know. I
19 doubt if a copy is attached there, because it's
20 confidential. And besides, that apparently is the
21 original Exhibit C.

22 THE WITNESS: I don't believe I reviewed
23 all those. I also don't believe that those, from
24 here, look like invoices to support the revenue. I
25 don't believe that is every invoice.

1 That's where my confusion is. We have
2 talked about a general ledger and you've described it
3 as an invoice.

4 By Mr. Michael Dortch:

5 Q. And I was asking you questions about
6 invoices, maybe you had misunderstood me, which you
7 were asking perhaps responding about the general
8 ledger. So we'll try to clean that up.

9 Have you seen invoices from the company?

10 A. I have seen invoices before. I don't
11 know if I've reviewed those.

12 Q. And you are aware now, at least, that
13 the company's invoices, or some part of the company's
14 invoices, were attached to its application as
15 Exhibit C?

16 A. Yes.

17 Q. And do you recall sending an email
18 request to Justus Dortch asking that that information
19 be updated? Would it help to see the email string?

20 A. Yeah, because I don't believe I asked
21 for an update to Attachment C.

22 MR. MICHAEL DORTCH: And, Vern, I
23 apologize, this is the only copy I have. Your
24 Honors, I apologize, it is the only copy I have. I
25 want mark it or introduce it as an exhibit, I just

1 want to try to refresh the witness' recollection.

2 MR. ALEXANDER: It's already been
3 introduced as Carothers. Your Honor, just to clarify
4 the record, but this is Carothers' Confidential
5 Exhibit JC-1.

6 EXAMINER PARROT: Thank you,
7 Mr. Alexander.

8 THE WITNESS: Once again, these are --
9 from what I see here, this is the general ledger, and
10 it's been referred to as invoices. Staff does not
11 believe this to be invoices.

12 By Mr. Michael Dortch:

13 Q. I agree with you, Mr. Snider, those
14 aren't invoices.

15 A. All right.

16 Q. Do you recall receiving the balance of
17 the company's invoices in response to that DR?

18 A. Yes, I do know I received the general
19 ledger.

20 Q. No, the general ledger, yes. You
21 acknowledge you received the general ledger, correct?

22 A. Yes.

23 Q. Now, I'm not talking about the ledger
24 now.

25 A. Okay.

1 Q. Do you also recall receiving the
2 company's invoices as an attachment to the same
3 email?

4 A. I must not have reviewed it, because no.

5 MR. MICHAEL DORTCH: Thank you. I'll
6 get those out of his way now. Mr. Snider, I have no
7 further questions.

8 EXAMINER PARROT: Any redirect?

9 MR. MARGARD: May I have a few moments?

10 EXAMINER PARROT: Go off the record.

11 (Recess taken.)

12 EXAMINER PARROT: Let's go back on the
13 record. Mr. Margard.

14 MR. MARGARD: Just a couple of
15 questions. Thank you, your Honor.

16 - - -

17 REDIRECT EXAMINATION

18 By Mr. Margard:

19 Q. Mr. Snider, we had quite a discussion
20 about invoices and ledgers and so forth, and I just
21 want to see if we can't clean that up for the record.
22 Staff requested updates of invoices, is that what I
23 understand?

24 A. They did in regards to the
25 transportation volumes in order for the purpose of

1 calculating Staff's rate that we are not
2 recommending, but if the Commission chooses to put
3 in a rate into effect.

4 Q. And what was contained in the invoices?

5 A. Volumes to various customers on the
6 system. I believe it was for the month -- we ended
7 up using January through November. This would have
8 updated Staff to -- through November.

9 Q. You indicated earlier in your testimony
10 that you had relied in part on Mr. Sarver to provide
11 you with volume information; is that correct?

12 A. That is correct.

13 Q. Did you request that Mr. Sarver review
14 those invoices for that purpose?

15 A. He did.

16 Q. And did those invoices contain any other
17 information with respect to expenses that are
18 contained in the company's income statement?

19 A. Not to my knowledge. I believe they
20 just helped us with the calculation of volumes.

21 MR. MARGARD: Thank you. I have no
22 further questions, your Honor.

23 EXAMINER PARROT: Mr. Alexander?

24 MR. ALEXANDER: No recross, your Honor.

25 EXAMINER PARROT: Mr. Dortch?

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RECROSS-EXAMINATION

By Mr. Michael Dortch:

Q. In addition to invoices, you did receive all information you requested, correct?

A. The company did provide all information we requested.

Q. And in that included the company's general ledgers.

A. It did include the general ledger.

Q. And all expense items are, to your understanding, generally reflected in the general ledger?

A. Generally, yes. Staff had concerns just in general about some of the information contained in the general ledger.

Q. Specific concerns?

A. They are the same concerns that Staff's had all along, that there's inconsistencies just simply between property taxes that are being paid, and not actually being paid, and --

Q. And you understand the concept of accrual?

A. I do.

Q. Okay. You understand that some of the

1 general ledgers are kept on an accrual basis?

2 A. Yes.

3 MR. MICHAEL DORTCH: Thank you. No
4 further questions.

5 EXAMINER PARROT: Mr. Margard, I believe
6 you have moved for the admission of Staff Exhibits G
7 and H.

8 MR. MARGARD: I have, and I renew that
9 motion, your Honor.

10 EXAMINER PARROT: Any objection?

11 All right. Hearing none, Staff Exhibits
12 G and H are admitted.

13 (EXHIBITS ADMITTED INTO EVIDENCE.)

14 EXAMINER PARROT: Thank you, Mr. Snider.

15 (Witness excused.)

16 EXAMINER PARROT: Anything else from the
17 Staff?

18 MR. MARGARD: No, your Honor.

19 EXAMINER PARROT: Go off the record.

20 (Discussion off the record.)

21 EXAMINER PARROT: Go back on the record.

22 The parties have agreed to a briefing
23 schedule. Initial briefs will be due February 15 --
24 I'm sorry, strike that -- February 22nd, with replies
25 due on March 8th.

1 Anything else to come before us this
2 evening?

3 Okay. Hearing nothing, we are
4 adjourned.

5 (Thereupon, the hearing was
6 adjourned at 5:10 p.m.)

7 - - -

CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the proceedings
taken by me in this matter on Thursday, January 10,
2019, and carefully compared with my original
stenographic notes.

Valerie J. Grubaugh
Valerie J. Grubaugh,
Court Reporter and Notary
Public in and for the State
of Ohio.

My commission expires August 11, 2021.



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in

Case No(s). 16-1725-PL-AIR, 18-1549-PL-AEM

Summary: Transcript In the Matter of the Application of Cobra Pipeline Company, Ltd. To Amend Its Rates and Charges and In the Matter of the Application of Cobra Pipeline Company, LTD for An Emergency Increase in Its Rates and Charges, hearing held on January 10th, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Grubaugh, Valerie