

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Review of the Power :
Purchase Agreement Rider : Case No. 18-1004-EL-RDR
of Ohio Power Company for :
2018. :

- - -

In the Matter of the :
Review of the Power :
Purchase Agreement Rider : Case No. 18-1759-EL-RDR
of Ohio Power Company for :
2019. :

- - -

PROCEEDINGS

before Ms. Greta See and Ms. Sarah Parrot, Attorney
Examiners, at the Public Utilities Commission of
Ohio, via Webex, called at 9:02 a.m. on Friday,
January 14, 2022.

- - -

VOLUME III

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481

- - -

1 APPEARANCES:

2 American Electric Power Service Corporation
3 By Mr. Steven T. Nourse
4 and Mr. Michael J. Schuler
5 1 Riverside Plaza, 29th Floor
6 Columbus, Ohio 43215

7 M.S. McKenzie Ltd.
8 By Mr. Matthew S. McKenzie
9 P.O. Box 12075
10 Columbus, Ohio 43212

11 Porter, Wright, Morris & Arthur LLP
12 Mr. Eric B. Gallon
13 41 South High Street, 30th Floor
14 Columbus, Ohio 43215

15 On behalf of Ohio Power Company.

16 Bruce J. Weston, Ohio Consumers' Counsel
17 By Mr. John Finnigan
18 and Ms. Angela O'Brien
19 Assistant Consumers' Counsel
20 65 East State Street, 7th Floor
21 Columbus, Ohio 43215

22 Isaac Wiles
23 By Mr. Brian M. Zets
24 Two Miranova Place, Suite 700
25 Columbus, Ohio 43215

On behalf of the Residential Consumers of
Ohio Power Company.

Carpenter Lipps & Leland LLP
By Ms. Kimberly W. Bojko
and Mr. Thomas Donadio
280 North High Street, Suite 1300
Columbus, Ohio 43215

On behalf of the Ohio Manufacturers'
Association Energy Group.

- - -

1 APPEARANCES: (Continued)

2 Carpenter Lipps & Leland LLP
3 By Ms. Angela Paul Whitfield
4 280 North High Street, Suite 1300
5 Columbus, Ohio 43215

6 On behalf of The Kroger Company.

7 McNeas, Wallace & Nurick LLC
8 By Mr. Matthew R. Pritchard
9 and Mr. Bryce A. McKenney
10 21 East State Street, 17th Floor
11 Columbus, Ohio 43215

12 On behalf of the Industrial Energy
13 Users-Ohio.

14 Kegler Brown Hill & Ritter Co., LPA
15 By Mr. Robert Dove
16 65 East State Street, Suite 1800
17 Columbus, Ohio 43215

18 On behalf of the Natural Resources
19 Defense Council and Ohio Partners for
20 Affordable Energy.

21 Sierra Club
22 By Ms. Megan Wachspress,
23 Mr. Tony G. Mendoza,
24 and Ms. Kristin A. Henry
25 2101 Webster Street, Suite 1300
Oakland, California 94612

On behalf of the Natural Resources
Defense Council.

Dave Yost, Ohio Attorney General
Mr. John Jones, Section Chief
By Ms. Kyle L. Kern
and Mr. Thomas Lindgren,
Assistant Attorneys General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES: (Continued)

Boehm, Kurtz & Lowry
By Mr. Michael L. Kurtz,
Ms. Jody Kyler Cohn,
and Mr. Kurt J. Boehm
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

On behalf of Ohio Energy Group.

- - -

1	INDEX		
2	- - -		
3	WITNESS		PAGE
4	Jason M. Stegall		
	Direct Examination by Mr. Nourse		710
5	Voir Dire by Ms. Bojko		723
	Cross-Examination by Mr. Finnigan		741
6	Cross-Examination by Ms. Henry		804
	Cross-Examination by Ms. Cohn		869
7	Cross-Examination by Mr. McKenney		871
	Cross-Examination by Mr. Donadio		888
8	Cross-Examination by Ms. Whitfield		909
	Cross-Examination by Mr. Lindgren		956
9	Redirect Examination by Mr. Nourse		963
10	- - -		
11	STAFF EXHIBIT	IDENTIFIED	ADMITTED
12	1 Audit Report - Public Version	I-34	657
13	1A Audit Report - Confidential Version	I-34	657
14	2 Direct Testimony of	I-37	657
15	Marie Fagan		
16	- - -		
17	AEP OHIO EXHIBIT	IDENTIFIED	ADMITTED
18	1 Direct Testimony of Jason M. Stegall	710	966
19	22 EIA Report Capital Cost and Performance Characteristic Estimates for Utility Scale Electric Power Generating Technologies, February 2020	II-599	699
20			
21			
22	29 Excerpt of OCC-RPD-01-004 Supplemental Attachment 2	II-624	705
23			
24	- - -		
25			

INDEX (Continued)		IDENTIFIED	ADMITTED
1			
2	- - -		
3	OCC EXHIBIT		
4	1 Motion for Subpoena Duces Tecum to Auditor	I-114	--
5			
6	2 Staff's Notice of Filing Errata Sheet for the Audit Report	I-119	657
7			
8	3 An Independent Audit of the Power Purchase Agreement Rider of Ohio Power Company, January 11, 2019, Case 18-1003 Vantage Energy Consulting, LLC	I-67	--
9			
10	4 Notice of Filing of Rate Study	I-131	Proffer
11			
12	7 PUCO's Second Entry on Rehearing in Case 14-1693	II-361	--
13	8 Michigan PSC Order in Case No. U-20804 Dated November 18, 2021	I-158	--
14			
15	9 Opinion and Order, Case Nos. 14-1693-EL-RDR and 14-1694-EL-RDR	I-78	--
16			
17	10 Joint Stipulation and Recommendation in Case 14-1693	II-355	--
18			
19	13 AEP Investor Presentation from 2020	I-275	Proffer
20	15 AEP's Initial Post-Hearing Brief in Case 14-1693	II-347	--
21			
22	17 Audit of the OVEC Power Purchase Agreement Rider of Ohio Power Company Draft	I-171	Proffer
23			
24	18 Electric Fuel Adjustment Clause Review in Ohio July 2015 by Kevin F. Duffy	I-102	Proffer
25	- - -		

	INDEX (Continued)		
1			
2		- - -	
3	OCC EXHIBITS		IDENTIFIED ADMITTED
4	19 PUCO Decision, Case 83-33-EL-EFC	I-112	Proffer
5			
6	20 Louisiana Public Service Commission Staff Audit Report LSPC Docket No. X/U-35523	I-32	Proffer
7			
8		- - -	
8	NRDC EXHIBIT		IDENTIFIED ADMITTED
9	2 E-mails between PUCO and Auditor	I-198	692
10		- - -	
11	OMAEG EXHIBIT		IDENTIFIED ADMITTED
12	5 Entry, Case Nos. 18-1004-EL-RDR and 18-1759-EL-RDR; Request for Proposal No. RA20-PPA-1	II-417	--
13			
14	6 EIA Report Ohio State Energy Profile and Electricity State Profile	II-452	697
15			
16	9 OCC-RPD- 01-004	886	--
17		- - -	
18			
19			
20			
21			
22			
23			
24			
25			

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Friday Morning Session,
January 14, 2022.

- - -

EXAMINER PARROT: Let's go ahead and go
on the record.

Good morning, everyone. This is day
three of the hearing in Case No. 18-1004-EL-RDR,
et al. My name is Sarah Parrot, with me is Greta
See. We are the Attorney Examiners assigned to these
cases.

Let's get started with brief appearances
of the parties, starting with the Company.

MR. NOURSE: Good morning, your Honor.
On behalf of Ohio Power Company, Steven T. Nourse,
Michael J. Schuler; and outside counsel, Eric Gallon,
with the law firm Porter, Wright, Morris & Arthur,
and Matthew McKenzie.

EXAMINER PARROT: Staff.

MS. KERN: Thank you, your Honor. On
behalf of the PUCO Staff, Kyle Kern and Thomas
Lindgren.

EXAMINER PARROT: OCC.

MS. O'BRIEN: On behalf of OCC, John
Finnigan, Angela O'Brien, and Brian Zets.

EXAMINER PARROT: IEU-Ohio.

1 MR. MCKENNEY: Good morning, your Honors.
2 On behalf IEU-Ohio, Bryce McKenney and Matthew
3 Pritchard, with the law firm McNeese, Wallace &
4 Nurick.

5 EXAMINER PARROT: OEG.

6 MS. COHN: Good morning, your Honors. On
7 behalf of OEG, Jody Cohn and Michael Kurtz.

8 EXAMINER PARROT: OMAEG.

9 MS. BOJKO: Thank you, your Honor. On
10 behalf of OMAEG, Kimberly W. Bojko and Thomas
11 Donadio.

12 EXAMINER PARROT: Kroger.

13 MS. WHITFIELD: Good morning, your
14 Honors. On behalf of The Kroger Company, Angela Paul
15 Whitfield.

16 EXAMINER PARROT: OPAE.

17 MR. DOVE: Good morning, your Honor. On
18 behalf of OPAE, Robert Dove. I also represent
19 Natural Resources Defense Council in this proceeding,
20 along with my co-counsel, Kristin Henry, Megan
21 Wachspress, and Tony Mendoza.

22 EXAMINER PARROT: Thank you, everyone.

23 Are there any matters we need to discuss
24 before we get started with Dr. Fagan again?

25 All right. Ms. Kern, any redirect?

1 MS. KERN: No, your Honor.

2 EXAMINER PARROT: All right. Very good.

3 Thank you.

4 Attorney Examiner See, did you have any
5 questions for Dr. Fagan?

6 EXAMINER SEE: No, I do not. Thank you.

7 EXAMINER PARROT: Okay. With that, let's
8 go ahead and turn to the exhibits that have been
9 marked.

10 All right. Ms. Kern. I'll start with
11 Staff.

12 MS. KERN: Staff would move for the
13 admission of Staff Exhibits 1 and 1A. Those are the
14 public and confidential versions of the Staff
15 report -- or audit report, excuse me. And we would
16 also move for the admission of Staff Exhibit 2, the
17 direct testimony of Dr. Fagan. And I believe
18 Dr. Fagan's errata sheet was marked by OCC as OCC --
19 it was Exhibit 2, if I'm correct.

20 EXAMINER PARROT: That's right.

21 MS. KERN: And Staff would move for the
22 admission of that exhibit as well, as it is
23 Dr. Fagan's errata. I should have marked that. I
24 apologize.

25 EXAMINER PARROT: No -- no trouble. For

1 clarity of the record we will go ahead and leave it
2 as OCC Exhibit 2.

3 MS. KERN: Thank you.

4 EXAMINER PARROT: Are there any
5 objections to the admission of Staff Exhibit 1, 1A,
6 2, or OCC Exhibit 2?

7 All right. Hearing none, those are
8 admitted into the record

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 EXAMINER PARROT: Let's turn to the other
11 OCC exhibits.

12 MS. O'BRIEN: Actually, I can go ahead
13 and move for admission but, first of all, could
14 someone please send Mr. Finnigan the hearing invite.
15 For some reason he didn't receive it, I guess, so
16 that would be helpful since he's counsel for OCC on
17 this. But then I can go ahead and move for OCC Cross
18 Exhibit 3 which is the Vantage audit report.

19 EXAMINER PARROT: Okay. Let's go ahead
20 and take them one by one. So are there any
21 objections to OCC Exhibit 3?

22 MR. SCHULER: Your Honor, AEP Ohio
23 objects that it be admitted as evidence in this case
24 as that is still an active case, the auditor has not
25 been cross-examined, but we would not be opposed to

1 the Commission taking administrative notice of that.
2 OCC Exhibit 3.

3 MS. O'BRIEN: I don't -- I don't think we
4 have an issue with taking administrative notice with
5 that.

6 EXAMINER PARROT: Okay. We will take
7 administrative notice of the Vantage audit report in
8 Case No. 18-1003.

9 MS. O'BRIEN: Then next we would move for
10 admission of OCC Cross Exhibit No. 9 which is the
11 Commission's March 2016 Order in Case No. 14-1693.

12 EXAMINER PARROT: As it is a Commission
13 order, I don't feel it's necessary to -- you know, we
14 have marked it for identification, that's helpful to
15 reference the document throughout the hearing, but I
16 don't typically tend to admit a Commission order as
17 evidence. It stands on its own, and you are fully
18 free to reference it in your briefs.

19 MS. O'BRIEN: Great. Okay.

20 The next one, let's see. OCC Cross
21 Exhibit 1, the motion for subpoena.

22 EXAMINER PARROT: All right. Any issues
23 with that? I guess I will hear from the parties,
24 first, before I give you my thoughts on that one.

25 MR. SCHULER: Your Honor, AEP Ohio would

1 object that that be admitted as evidence in the case
2 as it is a motion in the docket. It has been
3 substantively ruled upon by the Attorney Examiners in
4 this case, but we would not be opposed to
5 administrative notice of that document.

6 MS. KERN: Staff would join that. I
7 think we established that -- that Dr. Fagan was
8 available to testify because we -- we put her up as a
9 witness and that the motion for subpoena with respect
10 to Dr. Fagan was moot.

11 MR. FINNIGAN: Your Honor --

12 EXAMINER PARROT: Hang on just a moment.

13 Ms. Kern, are you opposing also the
14 request for admin notice or you're --

15 MS. KERN: No, no, your Honor.

16 EXAMINER PARROT: Just to be clear.

17 Thank you.

18 Go ahead, Mr. Finnigan.

19 MR. FINNIGAN: Your Honor, we would be
20 satisfied if the Bench would take administrative
21 notice of this document, but we do want to renew our
22 subpoena for Dr. Fagan's file because especially in
23 light of the testimony that came out yesterday and
24 this new exhibit that AEP wanted to introduce. We
25 believe that that makes even more compelling the need

1 for her file to be produced at this hearing for us to
2 have an ability to fully and fairly understand the
3 sequence of events that underlies these different
4 changes to the audit report that Staff asked her to
5 make. And without her file, we can't really
6 establish that because this is kind of a documentary
7 situation where the documents are the best evidence
8 of what really happened because we've seen from the
9 last couple of days that Dr. Fagan's memory is a
10 little bit fuzzy on this and the documents would help
11 to refresh her recollection; and without those
12 documents, we feel like -- well, we feel like we need
13 those documents to really be afforded a full and fair
14 opportunity for us to exercise our due process rights
15 to cross-examine her and possibly other witnesses,
16 and certainly the Staff's witness, Mr. Windle, about
17 these events where the Staff asked for the changes to
18 the audit report.

19 MS. KERN: Your Honor, would you like
20 Staff's response now or would you like to address
21 this at a different point in time?

22 EXAMINER PARROT: If you have a response,
23 go ahead, Ms. Kern.

24 MS. KERN: Well, we would oppose the
25 request for Dr. Fagan's files for a number of

1 reasons. I think the timeline and Staff's
2 involvement with respect to the draft and the
3 sentence that did not appear in the final audit
4 report, the timeline has been asked about for hours
5 now, and I think that, you know, the exhibit that AEP
6 introduced late last night also spoke to the timeline
7 and there was some opposition to questioning on that
8 document.

9 With respect to the files being relevant
10 to Staff Witness Windle, I don't see a connection
11 there how Dr. Fagan's files are connected to -- to
12 the Staff. So I think the timeline speaks for itself
13 and those facts are already in the record. So we
14 would oppose on those grounds.

15 MR. FINNIGAN: Your Honor, may I respond
16 to that?

17 EXAMINER PARROT: Briefly.

18 MR. FINNIGAN: The way the file is
19 connected to Mr. Windle is that there were
20 communications going back between the auditor and the
21 Staff on changes to the draft report. We don't know
22 the full extent of those communications until we see
23 her file and so if we had her file, we would be in a
24 better position to cross-examine Mr. Windle about
25 this sequence of events.

1 EXAMINER PARROT: All right. Thank you,
2 both.

3 MR. SCHULER: Your Honor --

4 EXAMINER PARROT: Oh, go ahead, sorry.

5 MR. SCHULER: Sorry.

6 AEP Ohio would join Staff on this and
7 make a few brief points.

8 You know, this case has been open for
9 nearly two years. Discovery has been done.
10 Thousands of pages have been produced. Public
11 records requests have taken place, and hundreds, if
12 not thousands, of pages have been produced. It's
13 been over a year since the audit report.

14 Mr. Finnigan conducted nine hours of
15 cross-examination of Dr. Fagan, and the other parties
16 did an additional nine hours of cross-examination.
17 We would find it wildly inappropriate to now issue a
18 subpoena after -- after those facts. It's obviously
19 no abridging of due process rights. And the rules
20 prohibit discovery on Staff and their auditors.

21 MR. FINNIGAN: Your Honor, may I respond?

22 EXAMINER PARROT: Briefly.

23 MR. FINNIGAN: Everything Mr. Schuler
24 said is true, but we asked for the subpoena some
25 months ago. It was never ruled on. This is not

1 discovery. This is to bring the file to the hearing
2 for evidence. And so, while everything Mr. Schuler
3 said is true, it misses the point that, for our due
4 process rights, we need this information to be
5 admitted into evidence to have a fair opportunity to
6 cross-examine Mr. Windle.

7 EXAMINER PARROT: The subpoena was ruled
8 upon in a January 6 entry and, subject to the ruling
9 in that entry, the request is -- consistent with that
10 ruling, the request is denied. The Bench will take
11 administrative notice of the motion for subpoena.

12 All right. Next OCC Exhibit.

13 MS. O'BRIEN: Let's see. Okay. This
14 would be OCC Cross Exhibit 20, the Louisiana FAC
15 report which was proffered.

16 EXAMINER PARROT: Okay. Subject to the
17 proffer, that's already -- I mean, the proffer is
18 already noted on the record.

19 MS. O'BRIEN: Okay. The same with OCC
20 Cross Exhibit 18, the law review article that was
21 also proffered.

22 EXAMINER PARROT: Okay.

23 MS. O'BRIEN: OCC Cross Exhibit 19 which
24 was the PUCO case. It was also proffered.

25 EXAMINER PARROT: Okay.

1 MS. O'BRIEN: OCC Cross Exhibit 2 which
2 is the Staff notice of errata filing which we already
3 discussed.

4 EXAMINER PARROT: All right.

5 MS. O'BRIEN: That has been admitted,
6 right?

7 EXAMINER PARROT: That's right.

8 MS. O'BRIEN: Okay. OCC Exhibit 4 which
9 is the Notice of Filing of Rate Study.

10 EXAMINER PARROT: Okay. Any objections
11 to OCC Exhibit 4?

12 MR. SCHULER: Yes, your Honor. AEP Ohio
13 objects. Dr. Fagan admitted that she was not
14 involved in the preparation of that report by LEI.
15 She only admitted she had read parts. None of the
16 parties established what parts she had read and
17 reviewed and were familiar with. Certainly not the
18 parts that the parties attempted to ask her about.

19 We would further state this is not
20 relative or probative. This is an audit report in
21 another state. We don't know the status of it. We
22 don't know the laws, but Kansas, I believe being a
23 vertically-integrated state with a fuel adjustment
24 clause, is remarkably different from Ohio, and there
25 is no indication that it has actually been adopted or

1 admitted into evidence in the state of Kansas.

2 MR. FINNIGAN: Your Honor, may I respond
3 to that?

4 EXAMINER PARROT: Go ahead.

5 MR. FINNIGAN: It was brought out
6 yesterday during Ms. Bojko's questioning of the
7 witness that this was prepared by Dr. Fagan's
8 colleagues whom she stated were very knowledgeable
9 and experts in this field. And as a result, this
10 would be admissible on two grounds. One, it's a
11 public record in Kansas, as shown on the first page
12 of the document, so it would be admissible under
13 803(8) of the Rules of Evidence as an objection to
14 the hearsay rule, a public report. It would also be
15 admissible under 803(18) as a learned treatise. So,
16 for both of those reasons, we believe the document is
17 admissible.

18 MS. BOJKO: Your Honor, OMAEG supports
19 Mr. Finnigan's statements. There is no reason to
20 repeat them.

21 MR. SCHULER: Your Honor, if I may
22 briefly be heard. I believe then that means this
23 should not be admitted because Mr. Finnigan only
24 responded on hearsay grounds but the objection also
25 includes authentication and also relevance.

1 MR. FINNIGAN: Well, your Honor, to
2 respond to that, you know, Ms. -- or, Dr. Fagan
3 authenticated it because she identified it as a study
4 by her firm by two of her colleagues and she said her
5 colleagues were experts so I think that's easily
6 decided.

7 Is it relevant? Well, yes, I would say
8 it's relevant because it lays out principles of
9 ratemaking that are relevant to this case, one of
10 which, just as an example, is the idea of competitive
11 procurement as being a best practice in the utility
12 industry.

13 And one of our theories of this case is
14 that the OVEC hedge was performing very much -- very
15 differently than represented to the Commission when
16 it was approved in 2016. At that time, AEP
17 represented that it would be producing a credit to
18 consumers of \$110 million over the life of the hedge
19 and that by 2018 and 2019, it would be in the money,
20 producing a credit.

21 And the Commissioners were very adamant
22 that that was a key component of their decision to
23 approve the PPA Rider. And in particular, the
24 concurring opinions of Commissioner Haque and
25 Commissioner Trombold in the March 31, 2016, Order.

1 And so the Michigan decision sheds some
2 light on what is good utility practice in this kind
3 of setting.

4 And this is not an attack on that order.
5 This is the prudence of the costs in 2018 is that
6 once AEP got into 2018 and 2019 and they should have
7 realized that it's not performing as a credit to
8 consumers as we had told the Commission it would, in
9 fact we are costing consumers \$74 million instead, so
10 it's wildly different than what we projected.

11 As a result, under good utility practice,
12 as the Michigan Commission well described, this is a
13 situation where the utility should have done
14 something about it.

15 In fact, it was on both sides of the
16 transaction in this case. It owned the output under
17 the ICPA that it was providing under the PPA Rider,
18 and then on the other side of the table it was the
19 taker of that output of the ICPA that it was passing
20 along to consumers; so it was in a very good position
21 to do something about it. It did nothing about it.

22 The Kansas report on competitive
23 procurement is relevant to the fact that perhaps AEP
24 could have gone out and solicited bids as to whether
25 there is other financial hedges out there that might

1 perform a little bit better than this one.

2 MR. SCHULER: Your Honor, just briefly.
3 I know it was very long but I think I can do it very
4 briefly.

5 Mr. Finnigan has leaned into my relevance
6 objection that they want to use it for support of
7 general utility practices which is outside the scope
8 of what this audit is about.

9 More importantly, he admits that this
10 document is about competitive procurement of
11 generation. That is not what this case is about. It
12 has no relevance or probative value and it's
13 substantially outweighed by the prejudice of bringing
14 in outside audit reports that were not reviewed by
15 the auditor in this case and has not necessarily --
16 we don't even know its status in Kansas and whether
17 this entire audit report may have been rejected. We
18 do not know. There is no foundation.

19 EXAMINER PARROT: Thank you.

20 MR. FINNIGAN: Your Honor.

21 EXAMINER PARROT: We're good. Thank you.

22 The request to admit OCC Exhibit 4 into
23 the record is denied. I do not believe that the
24 document was sufficient -- sufficiently
25 authenticated. Although the study was apparently

1 done by LEI, Dr. Fagan has testified that she did not
2 participate in that study. Therefore, we are going
3 to deny the request.

4 MR. FINNIGAN: Your Honor, at this time I
5 would like to make a proffer of that study into
6 evidence.

7 And I just want to note that Mr. Schuler,
8 I think, did not describe that accurately. This is
9 not a fuel adjustment clause proceeding that hasn't
10 been ruled on. What this is, this is a study of
11 ratemaking practices. And so to suggest that there's
12 some further action --

13 MR. SCHULER: Your Honor, could we move
14 along? You've ruled on this and, you know, can we
15 move on to the next exhibit. He can offer his
16 proffer and we can move along.

17 MR. FINNIGAN: Well, I was trying to
18 finish my proffer.

19 EXAMINER PARROT: Go ahead.

20 MR. FINNIGAN: And what I was trying to
21 do, your Honor, was just simply correct something
22 that Mr. Schuler said that was not really accurate.
23 And so I think I've done that but the reason I am
24 making the proffer and the reason why we would submit
25 it should be admissible is because it's been

1 authenticated for the reasons I stated earlier, and I
2 also established the relevance.

3 And let me just state this issue of
4 competitive procurement is just one of the issues in
5 the report. I believe the report also speaks to the
6 issue of must-run commitment. It also speaks to the
7 principle of least-cost ratemaking and several other
8 principles because the purpose of the study was how
9 to establish or how to make Kansas's rates more
10 competitive with other rates in the region and those
11 same principles would apply to this case of how could
12 AEP's PPA Rider be more competitive with other prices
13 that are available to consumers.

14 So, for those reasons, we would like to
15 proffer the report into evidence at this time. And
16 if permitted to introduce it into evidence, we would
17 use it to cross-examine the upcoming witnesses about
18 the information in the report along the lines I just
19 described. Thank you.

20 EXAMINER PARROT: Your proffer is noted
21 on the record.

22 MS. O'BRIEN: Okay. The next one is OCC
23 Cross Exhibit 8 which is the Michigan Public Service
24 Commission Order of November 18, 2021.

25 EXAMINER PARROT: Are there any

1 objections to the admission of OCC Exhibit 8?

2 MR. SCHULER: Yes, your Honor. AEP Ohio
3 objects to the admission of this document. We would
4 argue it is not relevant and prejudicial. You know,
5 this is a decision that came out just in the last
6 two months. It's long after the audit report. Ohio
7 law does not include a reciprocal pricing rule which
8 is at issue in that decision. Ohio law does not
9 include a Section 7 Warning referred to in that
10 order. The Michigan Commission has not approved the
11 ICPA as a financial hedge like the PUCO has in the
12 underlying matters here. I&M, which is the utility
13 at issue in that case, directly serves load, unlike
14 OVEC. And again, as we stated numerous times over
15 the last few days, this is not a fuel adjustment
16 clause case which was at issue in the Michigan case.

17 With all of that being said, AEP Ohio
18 would be amenable to administrative notice of this
19 document.

20 MS. O'BRIEN: OCC would agree to that.

21 EXAMINER PARROT: Any other parties wish
22 to weigh in? All right. I'm sorry. Go ahead.

23 THE WITNESS: Your Honor, may I take a
24 5-minute break while this is -- I don't think you
25 need me. May I leave or --

1 EXAMINER PARROT: You may. We'll
2 officially excuse you when we get through this, but
3 go ahead. Take your break.

4 All right. We will take administrative
5 notice of OCC Exhibit No. 8.

6 MS. O'BRIEN: Sorry. Unmute there.

7 Okay. OCC Cross Exhibit 17 which is the
8 excerpt of the draft audit report.

9 EXAMINER PARROT: Are there any
10 objections?

11 MR. SCHULER: Yes, your Honor. AEP Ohio
12 objects to this document on a number of grounds.

13 First, this document is not relevant for
14 purposes of admission of evidence. It does not have
15 a tendency to make any of the facts more true in this
16 case or less probable. A mere draft does not make
17 facts in a final audit report more true. Indeed, the
18 very nature of a draft audit report is that it is a
19 draft and it is incomplete. Dr. Fagan testified to
20 that repeatedly over the last two days.

21 Even if it is relevant, the probative
22 value is substantially outweighed by the danger of
23 unfair prejudice and it should be, therefore,
24 inadmissible.

25 The Commission expressly provided for a

1 draft audit report in the entry issued in these cases
2 that two copies of a draft of the final audit report
3 shall be sent to the Commission Staff at least
4 10 days prior to the due date of the final report.
5 This would be effectively rendered meaningless if it
6 were to then become admissible evidence in a case.
7 It is effectively no longer a draft at that point if
8 it's being used as to determine the actual outcome of
9 the case.

10 As we've established, these documents
11 have been provided. They are not being hidden. They
12 have been produced in all of the discovery and there
13 have been public records requests as well.

14 I think over the last two days we have --
15 we have really demonstrated the prejudicial effect of
16 diving into draft audit reports as we stated.
17 Dr. Fagan made it very clear that she made these
18 determinations on her own. She even made the point
19 that drafts are very akin to drafts of testimony or
20 briefs like lawyers do. Certainly the parties would
21 not create -- would not want to create precedence
22 that we start admitting drafts of testimony and legal
23 briefs. That would be incredibly prejudicial and it
24 really truly is unprecedented.

25 Also this would be -- this should also be

1 inadmissible because, even if relevant, it's
2 cumulative evidence. The -- at this point after two
3 days of testimony, the record is littered with the
4 information that is contained in -- in those -- in
5 that draft audit report. And if memory serves me
6 correct -- oh, I take that back. So there's plenty
7 of evidence that already indicates the substance of
8 those e-mails. It is already in the record and this
9 would be cumulative. Therefore, this should not be
10 admissible evidence in this case.

11 MS. KERN: Your Honor, Staff has nothing
12 to add but we do join the objection.

13 EXAMINER PARROT: All right. Anyone
14 else?

15 MR. FINNIGAN: Your Honor, we believe
16 this document is admissible for several reasons.

17 First, we're entitled to question at this
18 hearing anyone who makes or contributes to the audit
19 report and these documents establish that Staff
20 contributed to the audit report. Staff asked
21 Dr. Fagan to make these changes. Of course, she said
22 that she's the one that ultimately gets to decide
23 whether to make them or not but that doesn't change
24 the fact that Staff contributed by making this input.
25 So we think that the document would be admissible for

1 that reason.

2 Mr. Schuler said there's been a lot of
3 verbal testimony on this issue of, you know, what
4 changes were made and so on and so forth. But really
5 the document itself would be the best evidence of
6 what the change would be. And so it would be
7 admissible for that reason.

8 Also it would be admissible because of
9 the document that AEP introduced last evening,
10 Exhibit 29, because that's Mr. Nourse's and
11 Mr. Locigno's response to the September 9 draft of
12 the audit report.

13 And what happened, as Ms. Bojko
14 established yesterday in her examination, was that
15 there was an initial draft of the audit report sent
16 to the Staff on September 1 or 2. Staff responded
17 with the e-mail that we have that's been introduced
18 into evidence and is an attachment to Mike Haugh's
19 deposition -- or, testimony, with the statement
20 saying, "Therefore, keeping the plants running does
21 not seem to be in the best interests of the
22 ratepayers." That was the -- that was the language
23 in the September 1 or 2 draft of the audit report.
24 Staff asked for the change in that e-mail.

25 Then Dr. Fagan responded with another

1 draft of the audit report dated September 9. The
2 language in that draft that's in Exhibit 17, here is
3 why this exhibit is relevant, is there was a change
4 in the wording and it's -- it's important to
5 understand the sequence of changes, and the change in
6 the September 9 draft was, "However, LEI's analysis
7 shows that the OVEC contract overall is not in the
8 best interest of AEP Ohio ratepayers."

9 And then Staff wasn't happy with that
10 change either. And so Staff evidently asked for it
11 to be changed again. And then the change that was
12 finally made is what's evident in the final report or
13 the as-filed version of the report.

14 And then we have in the document that is
15 marked as AEP Exhibit 29 confirms that there was this
16 change. So that it was changed twice, both times at
17 the request of the Staff.

18 And the fact that Mr. Locigno and
19 Mr. Nourse responded to receiving this September 9
20 draft, and said in effect, oh, we're glad you changed
21 that, opened the door for us to say they changed
22 what. Well, this is evidence of what the change was,
23 that this was the second time the Staff asked for a
24 change in the report. And so this is very relevant
25 to the evidence -- or to the point of who made or

1 contributed to the report and the independence of the
2 report because that's something that the Commission
3 indicated in the RFP is that they wanted an
4 independent report. So this is relevant to that
5 issue too.

6 So, for those reasons, we would submit
7 that this document should be admissible.

8 MS. KERN: Your Honor, if I may
9 interject. I am sure Mr. Schuler has a response
10 here. But from -- and I tried to show professional
11 courtesy in let -- letting you finish, Mr. Finnigan.
12 But there is a lot of testimony in there that did not
13 come -- that was not a result of the hours of
14 questioning yesterday. You -- you opined on what
15 Staff felt was good enough. We don't know any
16 of those -- those comments that you made to be true,
17 and it's inappropriate for you to -- to interpret
18 what Staff's feelings were. They haven't had the
19 opportunity to testify. And that's not responsive
20 to -- to the arguments that Mr. Schuler put forth.

21 MR. SCHULER: Yes, your Honor. I would
22 agree. I believe that Mr. Finnigan has -- his
23 arguments in response are either not responsive or
24 assumes facts that are not in evidence.

25 And I will also really drive home the

1 point that, you know, talking about this audit report
2 which is the parties were permitted to do ad nauseam
3 over the last two days is very different than
4 actually admitting an excerpt of that into the
5 record. This can have an incredible chilling effect
6 on auditors on all matters going forward. That is
7 certainly not in the best interest of the Commission,
8 the companies, or, more importantly, customers, your
9 Honor.

10 MS. WACHSPRESS: Your Honor, this is
11 Megan Wachspress for NRDC if I may speak.

12 I think the analogy to draft versions of
13 testimony or briefs is misplaced here. This is a
14 version -- excerpt from the draft that was sent on
15 September 9 to AEP; the company that was being
16 audited by the auditor. This is not an internal
17 e-mail between two parties who are -- within a party
18 that's in privity to another or an internal draft
19 covered by some kind of attorney work-product
20 privilege. This is a draft that was sent to one of
21 the parties in the proceeding that is at least
22 nominally adverse in the sense that the audit is
23 supposed to be independent. So I don't see the
24 parade of horrors that counsel for AEP raises with
25 respect to this particular exhibit.

1 MS. BOJKO: Your Honor, OMAEG supports
2 the admission of OCC Exhibit 17. Contrary to both
3 AEP counsel and Staff counsel, all of the facts
4 stated by Mr. Finnigan were brought out yesterday and
5 the point is that this exhibit makes the record clear
6 and does actually support the facts and the testimony
7 that were provided yesterday and the day before. The
8 record would be confusing without the exhibit that is
9 constantly referenced throughout the testimony.

10 Additionally, this is not cumulative
11 evidence, as Mr. Schuler explained, because it is its
12 own separate document. It has a separate date of
13 September 9, 2021.

14 It also is true, as Mr. Finnigan points
15 out, that we are entitled to discuss with other
16 witnesses that made or contributed to the audit
17 report. Without this exhibit in the record, it will
18 be very difficult to then talk to another witness
19 about this same exhibit to see if they contributed to
20 the audit report. One reason why we wanted the Staff
21 witnesses to go together. That was denied. It would
22 be prejudicial to not admit it into the record to the
23 parties that want it contrary to Mr. Schuler. It
24 actually demonstrates the facts in the record. The
25 record would be confusing.

1 Additionally, Mr. Schuler raised the
2 point about this would be a slippery slope with
3 drafts and that is just not true. As NRDC's counsel
4 just pointed out, this draft is very different from
5 work product drafts or drafts of testimony that are
6 circulated within an organization. This actually
7 went to Staff and then it went to AEP. This is the
8 draft that went to AEP, the subject of the audit.
9 There are no privilege protections. This is vastly
10 different. These were the initial findings of the
11 auditor which makes it different than a typical draft
12 testimony as Mr. Schuler stated.

13 The fact there is a change in the
14 recommendations after that audit report was issued to
15 the subject of the audit is very relevant to this
16 case. And not allowing it to be admitted will be
17 prejudicial and it will make the record unclear,
18 particularly with the Staff witness yet to testify.
19 Thank you.

20 MS. KERN: Your Honor, if I may.

21 Respectfully, with Ms. Bojko's comment
22 with respect to everything that Mr. Finnigan
23 representing is true, it couldn't possibly be true
24 that a witness other than Staff could say what
25 Staff's intentions were when they reviewed the draft

1 which they were permitted to do per the RFP. No one
2 can testify as to what Staff's intentions were except
3 for Staff who has yet to testify. So that is not
4 appropriate to assign Staff's intentions or feelings
5 when they have not had the chance to answer that
6 question.

7 MS. BOJKO: Your Honor, if I can respond
8 to that since that was directed to my comment.

9 That is -- they put it in writing,
10 Staff's intentions. So what Mr. Finnigan was
11 referring to and what I was referring to is the
12 e-mail exchange where Staff did state direction to
13 the auditor of how to change the report. So that is
14 true. Maybe the word "intention" was not appropriate
15 but the facts are in the record of what they
16 requested to be changed in the audit report. And the
17 corresponding audit report and how it changed again
18 is very relevant to this proceeding and it would be
19 very prejudicial to not allow it into the record.

20 MS. KERN: I didn't say anything about
21 relevance. Mr. Finnigan's words were "apparently
22 wasn't good enough for Staff." And that is not in
23 the record. I don't have a transcript in front of me
24 but I know that didn't come out and I know that we
25 cannot establish what was good or not good enough for

1 Staff without actually speaking to a Staff witness.
2 That's all I have to say on this.

3 MS. WHITFIELD: Your Honor, on behalf of
4 Kroger, we would join the requests for this document
5 to be admitted for the very reasons articulated by
6 OMAEG, OCC, and NRDC. Thank you.

7 EXAMINER PARROT: Anyone else?

8 All right. Give me just a minute. We
9 are going to take a brief recess, 5 minutes. I am
10 going to confer with my co-AE. I will be right back.
11 5 minutes. Off the record.

12 (Recess taken.)

13 EXAMINER PARROT: All right. Let's go
14 back on the record.

15 All right. As to OCC's motion to admit
16 OCC Exhibit 17 into the record as -- as it pertained
17 to the testimony offered by Dr. Fagan, the Bench is
18 going to deny the request.

19 I have afforded the parties what I feel
20 is a full and fair opportunity to ask questions about
21 the audit process. Dr. Fagan has explained that the
22 views that are reflected in the final report are the
23 views of LEI as the auditor in this case. As a
24 draft, I do not believe it has been established this
25 is relevant to the proceedings as it does not reflect

1 the final views of the auditor in these matters.

2 Any questions about that ruling?

3 MR. FINNIGAN: No, your Honor. But may I
4 make a proffer of that document into the record?

5 EXAMINER PARROT: Of course. Go ahead,
6 Mr. Finnigan.

7 MR. FINNIGAN: Your Honor, we would like
8 to make a proffer of OCC Exhibit 17 and we would
9 submit that the document is relevant for the reasons
10 I stated a few moments ago and I won't repeat those
11 again here, but also it was our intent to use this
12 document to cross-examine Mr. Windle because
13 Mr. Windle is the Staff's witness who is going to
14 testify about what their side of the story was and
15 their dealings with Dr. Fagan.

16 EXAMINER PARROT: I'm sorry,
17 Mr. Finnigan. Just a moment. I just want to
18 interject. Important point. My ruling is not
19 precluding you from asking Mr. Windle questions about
20 the exhibit. Go ahead.

21 MR. FINNIGAN: Well, I appreciate that,
22 your Honor. Thank you. But, you know, the document
23 itself is the best evidence of what the draft
24 language said that the Staff asked her to change.
25 And without that document in evidence, it's -- it's

1 just one person's word against another person's word
2 about something that happened a year ago. We don't
3 have the best evidence of what the language really
4 was. And so it makes it more difficult for us to
5 cross-examine Mr. Windle about this language.

6 And the key point here that this
7 document, if admitted into evidence, would allow us
8 to establish in our questioning of Mr. Windle is that
9 the Staff asked Dr. Fagan to change the draft
10 language two times and so it goes to the issue of the
11 independence of the auditor. It goes to the issue of
12 whether all the costs were prudent from the OVEC
13 plants because both times she had a chance to render
14 her own independent opinion she said they weren't;
15 and then when Staff kept asking her, the third time
16 was a charm, and she finally took it out. And then
17 it also goes to the issue of whether the Staff made
18 or contributed to the report. So it's something that
19 we feel is important to have available for the
20 cross-examination of Mr. Windle and that was our
21 reason for offering it as an exhibit in this case.

22 MS. BOJKO: Your Honor, can I add for the
23 record?

24 EXAMINER PARROT: Go ahead.

25 MS. BOJKO: OMAEG supports the proffer

1 under Rules of Evidence 103, and Ohio Administrative
2 Code 4901-1-15(F), to raise the propriety of the
3 Attorney Examiner's ruling, striking the exhibits
4 during the briefing stage. And pursuant to Evidence
5 Rule 103(A)(2), an error may not be predicated upon a
6 ruling which excludes evidence unless a substantial
7 right of the party is affected which we believe it is
8 here today. So we would also like to preserve those
9 rights under Ohio Rule of Evidence 103(A)(2) and the
10 Commission's Rule 4901-1-18(B). Thank you.

11 EXAMINER PARROT: Thank you, Ms. Bojko.

12 And I would note I wasn't intending to
13 suggest the Commission will not entertain your
14 thoughts on this issue as of course it will. And as
15 Ms. Bojko just noted under the rule she cited, you
16 will have the opportunity to address this issue in
17 your briefs.

18 Anything else?

19 All right. I believe the next exhibit on
20 the list was Mr. Haugh's testimony, OCC Exhibit 21.
21 It was marked. We thought we may refer to it and
22 then sort of got off on that plan, so we will go
23 ahead and reserve motion for admission on that until
24 Mr. Haugh has actually testified, all right,
25 Ms. O'Brien?

1 MS. O'BRIEN: Yeah, that's fine. That's
2 fine.

3 EXAMINER PARROT: And then I think
4 there's one -- one last exhibit, I believe.

5 MS. O'BRIEN: Well --

6 EXAMINER PARROT: That was offered by OCC
7 I should say. There are other OCC exhibits that were
8 referenced but I think it makes more sense to allow
9 Ms. Whitfield to move those since she used them.

10 MS. O'BRIEN: Okay. Yes. Okay. So the
11 next one would be OCC Cross Exhibit 13 which is the
12 AEP investor report.

13 EXAMINER PARROT: Okay. Any objections
14 to the admission of OCC Exhibit 13?

15 MR. SCHULER: AEP Ohio objects to the
16 admission of OCC Exhibit 13. There was no foundation
17 laid for this document that Dr. Fagan had ever seen
18 this document. It is also not relevant and has no
19 bearing on this audit. It was -- it's a document
20 that was actually produced and created after the
21 audit report which is even further beyond the audit
22 period. It has a number of other pieces of
23 information in there that have -- they are so far
24 beyond the scope of this. It would just be
25 prejudicial to admit such a document. And to the

1 extent -- and the purposes that it was even used for
2 even go beyond the scope of this audit about future
3 investments that have not happened.

4 EXAMINER PARROT: Anyone else?

5 MR. FINNIGAN: Your Honor, may I be heard
6 on that?

7 EXAMINER PARROT: Yes. Go ahead.

8 MR. FINNIGAN: Your Honor, we submit that
9 this document would be admissible as an admission
10 against interest and as a public report. And the
11 reason we think it's relevant is because it states in
12 the document that the compliance with the CCR rules
13 and the ELG rules will require significant
14 investments for coal plant owners to comply. And we
15 feel that that's relevant because in the Commission's
16 orders leading up to the approval of the PPA Rider as
17 a placeholder item stated that compliance with future
18 environmental regulations is a key criteria of the
19 Commission's approval of the rider. So it's relevant
20 for those grounds.

21 Also the document states that in
22 evaluating whether to make the investments in the
23 plants to comply with the rules or to just do an
24 early retirement of the plants, AEP was doing a
25 plant-by-plant analysis of every coal plant and doing

1 a study -- a cost/benefit study as to whether making
2 the investments was both in the Company's interests
3 and in the customers' interests. And that shows what
4 the good utility practice is in this area and it's
5 relevant for that reason as well because that wasn't
6 done here.

7 We know that AEP submitted a brief when
8 this PPA Rider was approved that they would come to
9 the Commission and they would ask for pre-approval of
10 every capital investment -- every significant capital
11 investment that was going to be made in the plants.
12 They've never done that. This is evidence that
13 significant capital investments are required. There
14 has already been a lot of money spent on compliance
15 activities with these rules as evidenced in the audit
16 report that's before the Commission in this hearing.

17 And so for those reasons we would submit
18 that the document is relevant and -- and also
19 admissible as an admission against interest and as a
20 public report.

21 MR. SCHULER: Your Honor, if I may just
22 briefly, in response?

23 EXAMINER PARROT: Go ahead.

24 MR. SCHULER: I believe Mr. Finnigan has
25 leaned into the relevance argument here once again.

1 He's indicated that it's relevant and references the
2 concept of pre-approval for all capital investments
3 in AEP plants. This has happened routinely over the
4 last two days. That goes to the original version of
5 the PPA Rider that included AEP affiliated generation
6 plants. That is not the topic of what this audit is.
7 The PPA Rider, as your Honors know, was changed in
8 the Second Entry on Rehearing to only include OVEC.
9 This document -- excuse me, OCC Exhibit 13 goes to
10 all of AEP O -- excuse me, AEP's generation fleet
11 that serve load. This case is about OVEC, not any of
12 those plants, therefore, it is not relevant.

13 Again, I will remind the Bench that this
14 was created after the audit report and after the
15 audit period. It is not relevant and would be
16 prejudicial.

17 MS. BOJKO: Your Honor, may OMAEG respond
18 to one point of Mr. Schuler's --

19 EXAMINER PARROT: Go ahead.

20 MS. BOJKO: Mr. Schuler continues to say
21 there is some kind of distinction in the 14-1693
22 case. I realize there are multiple orders but in the
23 entries in this case that issued the RFP, in the RFP
24 itself, the Commission cites to the entirety of the
25 proceeding. It cites to every single order and entry

1 on rehearing. The Commission makes no distinction
2 between the OVEC-only PPA and prior PPAs that they --
3 as they claim and try to make the distinction and
4 have all throughout this proceeding. The Commission
5 does not make those distinctions. We talked about
6 this with Dr. Fagan yesterday. And it requires the
7 auditor to be in compliance with all of those orders,
8 period. They are all relevant to this case. Thank
9 you.

10 EXAMINER PARROT: Anyone else?

11 All right. I don't believe it's
12 necessary to get to the relevance issue on this one.
13 I don't think we had a proper foundation established.
14 So the request for admission of OCC Exhibit 13 is
15 denied. Dr. Fagan had not seen this document before.

16 MR. FINNIGAN: Your Honor, may I just
17 make a proffer of the document into the record of the
18 case? Whether she's seen it or not I don't think is
19 the issue. It's whether she would agree it's a good
20 utility practice.

21 But, in any event, we were submitting it
22 also for the reason to establish it is an admission
23 against interest of AEP to do this kind of economic
24 study that I mentioned.

25 So we would just like to make a proffer

1 of the document into the record for the reasons I
2 previously mentioned. Thank you.

3 EXAMINER PARROT: Thank you.

4 All right. Then there was one other
5 exhibit that was introduced by OCC, I believe,
6 although it was marked as an NRDC Exhibit. It's NRDC
7 Exhibit 2. Who wants to handle this one?

8 MS. WACHSPRESS: Your Honor, I think OCC
9 used it in -- introduced it and we referred to the
10 testimony later on so, but I am happy to speak in
11 favor of its admission. I just want to defer to OCC
12 because they introduced it.

13 All right. I will go ahead.

14 So this -- this exhibit is already part
15 of the record of the proceeding. It was attached as
16 an exhibit to testimony filed by Ms. Glick, I
17 believe. It goes to the credibility of the auditor
18 and the -- whether the final audit report reflects
19 her considered viewpoint on the -- on whether these
20 plants are in -- the PPA Rider is in the best
21 interests of Ohio consumers. It completes the record
22 as to extensive conversations and testimony and
23 cross-examination on this issue. And it is directly
24 relevant as it goes precisely to the contents of the
25 audit and whether its conclusions accurately convey

1 and summarize the findings in the -- in the audit
2 itself. And excluding it would create confusion in
3 the record. You know, it's already in there by way
4 of -- by way of the comments and would be detrimental
5 to the parties' ability to fully explicate in -- in
6 briefing the nature of the credibility issues that
7 arose over the course of cross-examination.

8 MR. FINNIGAN: Your Honor, may I speak to
9 that?

10 EXAMINER PARROT: Go ahead.

11 MR. FINNIGAN: I agree with those points.
12 And we would submit that this document should be
13 admitted for the same reasons that Exhibit 17 should
14 be admitted, that -- and reincorporate all those
15 arguments here without repeating those.

16 EXAMINER PARROT: Are there objections to
17 the admission of NRDC Exhibit 2?

18 All right. Hearing none, NRDC Exhibit 2
19 is admitted into the record

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 EXAMINER PARROT: All right. We have
22 three -- I think three exhibits that were premarked
23 as OCC exhibits. They've been identified as OCC
24 exhibits but they were actually introduced by Kroger;
25 so, Ms. Whitfield, do you want to --

1 MS. WHITFIELD: Yes, thank you, your
2 Honor.

3 EXAMINER PARROT: -- go through those.

4 MS. WHITFIELD: So I marked OCC
5 Cross-Exam Exhibit 7 which was the Second Entry on
6 Rehearing in the underlying Case No. 14-1693;
7 Exhibit 10 -- OCC Cross-Exam Exhibit 10 which is the
8 Joint Stipulation and Recommendation filed 12-14-15
9 in the underlying case, 14-1693; and OCC Cross-Exam
10 15, AEP's initial post-hearing brief in Case
11 No. 14-1629, filed on 2-1-16.

12 We would request that the -- that your
13 Honors take administrative notice of these three
14 documents as one is a -- one is an entry, the other
15 one is the joint stipulation entered into the docket,
16 and the other one is a brief filed by AEP in an
17 underlying case to this matter.

18 EXAMINER PARROT: All right. As to the
19 Second Entry on Rehearing in Case No. 14-1639, as an
20 order of the Commission, I don't believe it's
21 necessary to formally admit it as an exhibit or even
22 take notice of it. You are free to use it. It is
23 precedent of the Commission.

24 MS. WHITFIELD: Thank you.

25 EXAMINER PARROT: Any issues with admin

1 notice being taken of what were marked as OCC
2 Exhibits 15 and 10?

3 MR. SCHULER: I probably should have been
4 more helpful on the last one. No, your Honor. No
5 objection from AEP Ohio.

6 EXAMINER PARROT: All right. So we will
7 take administrative notice of OCC Exhibits 15 and 10.

8 MS. WHITFIELD: Thank you.

9 All right. Ms. Bojko, your turn.

10 MR. FINNIGAN: Your Honor, I'm sorry. We
11 just had one more issue about OCC exhibits.

12 EXAMINER PARROT: Okay. Did I miss one?

13 MR. FINNIGAN: This is a new one and this
14 is in response to AEP Exhibit 29 that was introduced
15 yesterday. And this document is a confidential
16 document so I am not going to say anything about the
17 contents of it but it is -- can be identified as
18 page 22 of 1145 in the documents that were discussed
19 yesterday that are confidential and that were
20 produced by AEP during discovery. I have a copy of
21 that document available that I could e-mail to
22 Mr. Schuler and Mr. Nourse now that they could
23 distribute to the Attorney Examiners and to the
24 persons who have signed a confidentiality agreement
25 to get it before you. And then once you have it, I

1 would like to just make a few points about why -- why
2 it should be admitted into the record.

3 EXAMINER PARROT: Mr. Finnegan, I am
4 going to defer this. This is apparently a new
5 exhibit. It wasn't referenced with Dr. Fagan; is
6 that correct?

7 MR. FINNIGAN: Well, no, because the
8 first -- we haven't had an opportunity yet. This is
9 in response to that Exhibit 29 is the reason we are
10 seeking to admit it at this time.

11 EXAMINER PARROT: All right. We're a
12 little procedurally out of the norm here so if you
13 want to work with the Company and see if there's some
14 common ground there, that's fine. But otherwise I
15 don't feel that we need to address this now. I'm
16 sticking to our list of exhibits that were explicitly
17 used with Dr. Fagan.

18 MR. FINNIGAN: And, your Honor, this is a
19 new exhibit that we would intend to introduce and use
20 with her if permitted and it also goes to our
21 examination of Mr. Windle when he testifies too. But
22 certainly I just want to understand, your Honor --

23 EXAMINER PARROT: Better time.

24 MR. FINNIGAN: Same.

25 EXAMINER PARROT: I think the opportunity

1 to ask questions of Dr. Fagan has passed us. So if
2 you wish to use it with a later witness, that's up to
3 you.

4 MR. FINNIGAN: Okay. Thank you.

5 EXAMINER PARROT: All right. Ms. Bojko.

6 MS. BOJKO: Thank you, your Honor. At
7 this time, OMAEG moves the admission of OMAEG
8 Exhibit 5 which was the Commission's entry and
9 request for proposal issued in the underlying case.
10 I guess it was an entry. We could just -- it wasn't
11 an Opinion and Order, so I guess we need to take
12 administrative notice or we can just refer to it
13 since it was in this case.

14 EXAMINER PARROT: Yes, it was styled as
15 an entry but it's still an order of the Commission.
16 I don't feel it's necessary to do that, but if folks
17 disagree, let me know. It's fair to use to
18 reference.

19 MS. BOJKO: Okay. I'm fine. So then my
20 next one was OMAEG --

21 MR. SCHULER: Sorry, your Honor. Excuse
22 me, Ms. Bojko. I didn't hear that. Did we end up
23 with administrative notice of that document, is
24 that --

25 EXAMINER PARROT: I do not believe it's

1 necessary.

2 MR. SCHULER: Okay. Thank you.

3 EXAMINER PARROT: It's a Commission
4 order. And that includes the attachment.

5 MS. BOJKO: At this time -- oh, sorry.

6 At this time, your Honor, I would like to
7 move the admission of OMAEG Exhibit 6. This was a
8 U.S. Energy Information Administration report. It
9 was used in cross-examination. The EIA data, the
10 witness has used it herself in the audit report. The
11 Company used it as an exhibit. It is an
12 authoritative source. And Ms. -- Dr. Fagan, excuse
13 me, stated she even previously worked at EIA, and she
14 did consider this document to be a document that was
15 normally produced by EIA, and she believed that those
16 documents are authoritative was her direct testimony,
17 so we would like to admit the EIA document.

18 EXAMINER PARROT: Are there any
19 objections?

20 MR. SCHULER: No objection from AEP Ohio.

21 EXAMINER PARROT: All right. Hearing
22 none, OMAEG Exhibit 6 is admitted into the record.

23 (EXHIBIT ADMITTED INTO EVIDENCE.)

24 MS. BOJKO: Thank you, your Honor.
25 That's all I believe that we moved yesterday.

1 EXAMINER PARROT: That's correct.

2 Mr. Schuler.

3 MR. SCHULER: Yes, your Honor. At this
4 time, AEP Ohio would move for the admission of AEP
5 Ohio Exhibit 22 and AEP Ohio Exhibit 29. I believe I
6 did last night and paused for this morning but I will
7 renew the request for admission.

8 MS. BOJKO: Mr. Schuler, could you remind
9 us what 22 is? I remember 29 but what was 22.

10 MR. SCHULER: My apologies. AEP Ohio
11 Exhibit 29 is an EIA report from February 2020 that
12 is cited in footnote 176 of the audit report.

13 MS. BOJKO: I'm sorry. Did I get those
14 two flipped? 29 is the EIA and 22 -- I'm sorry.

15 MR. SCHULER: 22 is the EIA report and 29
16 is the e-mail.

17 MS. BOJKO: Okay. I think you just said
18 it reversed when you moved.

19 MR. SCHULER: My apologies. How about I
20 clear up the record, your Honor?

21 EXAMINER PARROT: Go ahead.

22 MR. SCHULER: At this time, AEP Ohio
23 would like to admit AEP Ohio Exhibit 22 which is an
24 EIA report from February 2020 that was cited in
25 footnote 176 of the audit report in this matter.

1 AEP Ohio would also like to move for the
2 admission of AEP Ohio Exhibit 29 which is an e-mail
3 from the auditor on September 11 of 2020.

4 EXAMINER PARROT: Okay. Let's take those
5 one at a time.

6 Are there any objections to the admission
7 of AEP Ohio Exhibit 22, the EIA report?

8 MS. BOJKO: No objection, your Honor.

9 MR. FINNIGAN: No objection.

10 EXAMINER PARROT: All right. Hearing
11 none, AEP Ohio Exhibit 22 is admitted.

12 (EXHIBIT ADMITTED INTO EVIDENCE.)

13 EXAMINER PARROT: Are there objections
14 with respect to AEP Ohio 29?

15 MR. FINNIGAN: No objection, your Honor.

16 MS. BOJKO: No objection, your Honor.

17 MR. MCKENNEY: I would object, your
18 Honor. IEU-Ohio would note under Federal Rule of
19 Evidence -- not Federal, State Rule of Evidence 612,
20 documents used for the purpose of refreshing a
21 witness's recollection should not be admitted into
22 evidence because they have no evidentiary value. The
23 witness's testimony speaks for itself.

24 I think Mr. Schuler was very clear that
25 the purpose for which he sought to introduce

1 Exhibit 29 was for the purpose of refreshing the
2 witness's recollection. So we would object to the
3 admission of that exhibit.

4 In the alternative, as much as I hate
5 alternative arguments, I would note under the rule it
6 is also within the ability of the adjudicator to
7 strike portions of the exhibit. So, in the
8 alternative, we would move to strike at least the
9 response from Mr. Nourse in Exhibit 29. For the
10 reason of we believe the purpose for which it would
11 be re -- or admitted if it has any evidentiary value
12 are the dates indicating the sequence of events and
13 not for the statement made by Mr. Nourse in the
14 document.

15 MS. BOJKO: Your Honor, can I add one
16 thing? I'm sorry.

17 Yesterday I raised the issue that it is
18 actually a two-page document, and I appreciate
19 counsel admitting that and saying that it was just a
20 signature block or something, but I would appreciate,
21 if you decide to admit it, that it be the complete
22 document for the record.

23 MR. MCKENNEY: For clarity, you mean just
24 page 154 of 1145?

25 MS. BOJKO: They only introduced 154.

1 The document -- actually the whole e-mail string is
2 two pages and so I am suggesting that at least at a
3 minimum if it's decided it will be admitted, that it
4 be complete for the rule of completeness and that the
5 second page be admitted.

6 MS. WACHSPRESS: And this is Megan
7 Wachspress on behalf of NRDC. We join with OMAEG on
8 the completeness issue that the entire e-mail string
9 including any attachments be incorporated fully into
10 the record and not just the selected excerpts.

11 MR. FINNIGAN: Your Honor, this is for
12 OCC. We join with that point. And we would submit
13 that, with regard to this point of completeness, that
14 would include the September 9 draft of the audit
15 report because that was referenced in these e-mails
16 and may have been an attachment to the e-mails, it's
17 unclear at this point, but we submit that under the
18 doctrine of completeness that would include that
19 September 9 draft.

20 MR. SCHULER: Your Honor, if I could
21 respond? I'm hopeful we actually might be able to
22 take Mr. McKenney up on his alternative.

23 I will first respond and say that
24 questions asked to refresh recollection, Rule 612
25 does permit to admit the portions of the document

1 related to the witness's testimony which would be the
2 document. But the Company would be amenable to both
3 Mr. McKenney's and Ms. Bojko's suggestion to the
4 extent AEP Ohio could submit a new exhibit, AEP Ohio
5 Exhibit 29, which would be just the e-mail from
6 Dr. Fagan to the Company and it would include the
7 remainder of her signature block that we discussed
8 yesterday. It was not a part of a series of e-mails
9 as we talked about yesterday. It was a one finite
10 e-mail that was sent and we could provide that as AEP
11 Ohio Exhibit 29 if that would be acceptable to the
12 Bench.

13 EXAMINER PARROT: Any issues with that
14 proposal?

15 MR. MCKENNEY: I think the other thing I
16 would note, your Honor, is Rule 612 allows admission
17 by an adverse party. The party seeking its admission
18 is not the adverse one. He was the one that used it
19 to refresh the witness's recollection so it really
20 does not have any evidentiary value. It was just
21 used to refresh her recollection. Her recollection
22 is in the record and stands as the record, so the
23 document itself should not be admitted because it
24 really has no basis in evidence. It was just used
25 for the purpose of refreshing her recollection of

1 time.

2 MS. WACHSPRESS: Your Honor --

3 MR. SCHULER: Your Honor --

4 MS. KERN: Your Honor, if I may. Okay.

5 EXAMINER PARROT: Go ahead, Ms. Kern.

6 MS. KERN: Well, the issue of time and
7 the auditor's independence and independent judgment
8 has been questioned throughout the course of the
9 hearing thus far, so I think to the extent that --
10 that it was used to refresh her recollection on time
11 and when she made edits to the audit report, that it
12 is relevant to -- to the proceeding. Thanks.

13 MR. SCHULER: Yes, your Honor, I was
14 going to -- I certainly have similar relevance
15 arguments. I haven't heard any relevance objections
16 at this point but I would point out that Dr. Fagan
17 acknowledges it was an e-mail she sent.

18 This goes directly to, as I said last
19 night, hours of testimony, in fact, in this case
20 about serious accusations regarding the independence
21 of the auditor and AEP's influence.

22 This is similar to the set of e-mails
23 that was just admitted as part of NRDC Exhibit 2. It
24 would be incredibly prejudicial to the Company and,
25 quite frankly, this entire proceeding if an e-mail

1 that goes directly to that concept is not admitted
2 into evidence similarly.

3 EXAMINER PARROT: Ms. Wachspress.

4 MS. WACHSPRESS: Thank you, your Honor.

5 NRDC would just like to object to the
6 suggestion that the exhibit be revised to only
7 include Dr. Fagan's initial e-mail. The response
8 from Mr. Nourse refers to comments which is probative
9 of the full scope of the interaction between the --
10 between AEP and Dr. Fagan over the course of the
11 draft review period.

12 And, again, the principle of
13 completeness. If -- if AEP would like part of the
14 e-mail chain in, they need the whole e-mail chain in
15 and the parties are entitled to refer to the entirety
16 of the exhibit in making any arguments about the
17 nature of those interactions based on Dr. Fagan's
18 testimony.

19 MR. MCKENNEY: And maybe I can clear this
20 up a little bit. Your Honor, we will withdraw any
21 motion to strike any portion of this. I think our
22 concern was the purpose for which this document may
23 be used and Mr. Nourse's statement there. We think
24 it is not really -- just like the rest of the
25 document has no evidentiary value, but for purposes

1 of my recommendation to strike any portion of it and
2 it not be complete, we will withdraw that.

3 Therefore, I don't even think there is -- yeah, I
4 will withdraw that and maybe that will clear that up.

5 EXAMINER PARROT: Okay. Thank you,
6 Mr. McKenney.

7 All right. With that, I think that --
8 I'm sorry. Did I hear someone?

9 MR. FINNIGAN: Your Honor, I am sorry. I
10 just wanted to ask. I don't have the document before
11 me, but I can't recall whether the language
12 "Confidential" is in the upper right-hand corner of
13 the document. If it is, I would just ask that AEP
14 provide a copy with that word removed just so that if
15 it is added to the record, no one will think that
16 there was a confidential document that was included
17 that shouldn't have been in there.

18 EXAMINER PARROT: Okay. Is that
19 everyone?

20 All right. With that, we are going to
21 admit AEP Ohio Exhibit 29.

22 (EXHIBIT ADMITTED INTO EVIDENCE.)

23 EXAMINER PARROT: Mr. Schuler, I am going
24 to ask that you include the full chain there so to
25 Ms. Bojko's point about kind of the rest of the

1 signature block for LEI, make sure that's included.
2 And if you are able to go ahead and indicate, as
3 Mr. Finnigan has just suggested, if you can strike it
4 out or something, remove the confidential reference
5 in the upper right corner, please.

6 MR. SCHULER: Thank you, your Honor.

7 EXAMINER PARROT: Thank you. That's what
8 you should provide to the court reporter.

9 All right. Okay. At this point this is
10 a good point to, I think, note, although I know the
11 agreement is that exhibits that have been admitted
12 are or proffered are to -- the court reporters have
13 asked, to the extent you are comfortable and able to,
14 get exhibits to them now that we have, you know,
15 issued these rulings and they have either been
16 admitted or proffered officially, go ahead and get
17 those to the reporter as early as you can. That
18 helps their job along. All right. Thank you.

19 MS. BOJKO: Your Honor, you froze --

20 EXAMINER PARROT: Sorry.

21 MR. SCHULER: Your Honor, you were
22 freezing a little bit and I'm not sure that we caught
23 all that for the court reporter.

24 EXAMINER PARROT: I think it -- it looks
25 like the reporter has it. I will rephrase -- repeat

1 it.

2 I just was saying that the agreement
3 among the parties is to provide exhibits that have
4 been admitted or proffered by the end of the day, but
5 it's helpful to the court reporter if you can get
6 those to them quickly. So now that we have addressed
7 this set of exhibits, if you can get them here soon
8 to the reporters, they will appreciate that.

9 MS. BOJKO: Your Honor, a point of
10 clarification on your ruling of admission. Does that
11 include administrative notice?

12 EXAMINER PARROT: To send those to -- I
13 don't believe so.

14 MS. BOJKO: Okay.

15 EXAMINER PARROT: You are asking whether
16 you need to send those to the reporter?

17 MS. BOJKO: Correct.

18 EXAMINER PARROT: No. They are all
19 documents that are in other Commission dockets. I
20 don't believe there is any need to send them to the
21 reporter.

22 MS. BOJKO: Okay. Thank you. Just
23 checking.

24 MS. O'BRIEN: OCC has already sent all of
25 our exhibits. So, okay. So good. We're good.

1 Thank you.

2 MR. SCHULER: Your Honor, if I could
3 briefly, the Company, and I don't think any of the
4 parties, agreed to presenting proffered exhibits as
5 part of the record in this case.

6 MS. BOJKO: Yes, we did. We proffered
7 OCC Exhibit 17 specifically.

8 MR. SCHULER: No, I understand that, but
9 that was not part of the, you know, rules of
10 engagement, I would say.

11 MS. O'BRIEN: Mr. Schuler --

12 EXAMINER PARROT: It's in your rules, I
13 believe.

14 MS. O'BRIEN: Oh, I apologize.

15 Mr. Schuler, Ms. Gibson asked me to
16 forward all of OCC's exhibits, so I did. Whether or
17 not they actually make it into the record or not, I
18 guess, is a different issue but she has them all.

19 EXAMINER PARROT: Hold on just a moment.

20 Dr. Fagan, thank you very much. You are
21 officially excused. Thank you for your testimony.

22 THE WITNESS: Thank you, your Honor.

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

25 (Discussion off the record.)

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

3 First, I would like to remind the parties
4 that although you may have sent your -- all of your
5 exhibits to the court reporters for their reference,
6 I would remind you that you still need to send your
7 admitted exhibits to the court reporters at the
8 conclusion of each witness.

9 MR. NOURSE: Thank you, your Honor.

10 EXAMINER SEE: You're welcome.

11 MR. NOURSE: And can I make a statement
12 on the record? We -- just to correct. We had
13 misspoken earlier and said proffered exhibits were
14 not part of the agreement of the parties, and
15 double-checked and can confirm proffered exhibits are
16 part of the agreement to be sent to the reporter.
17 Thank you.

18 EXAMINER SEE: Okay. Mr. Nourse --

19 MS. HENRY: Your Honor, can we go off the
20 record for a second?

21 EXAMINER SEE: Let's go off the record
22 for a minute.

23 (Discussion off the record.)

24 EXAMINER SEE: Okay. Let's go back on
25 the record.

1 If AEP would like to call its next
2 witness.

3 MR. NOURSE: Thank you, your Honor. AEP
4 Ohio calls Jason M. Stegall.

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

7 (Witness sworn.)

8 EXAMINER SEE: Okay. Thank you.
9 Mr. Nourse.

10 - - -

11 JASON M. STEGALL

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

14 DIRECT EXAMINATION

15 By Mr. Nourse:

16 Q. Good morning, Mr. Stegall. Do you have
17 in front of you your testimony filed in this case?

18 A. Yes.

19 Q. And for the record, that was filed on
20 December 22, 2021 in these proceedings, the direct
21 testimony of Jason M. Stegall.

22 MR. NOURSE: Your Honor, could I mark
23 that AEP Ohio Exhibit 1?

24 EXAMINER SEE: The exhibit is so marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 MR. NOURSE: Thank you.

2 Q. (By Mr. Nourse) And, Mr. Stegall, you
3 have Exhibit 1 in front of you?

4 A. Yes, I do.

5 Q. This was your testimony prepared by you
6 or under your direction?

7 A. Yes.

8 Q. If I were to ask you the same questions
9 under oath today, do you have any additions,
10 corrections, or changes?

11 A. No.

12 Q. So you adopt this testimony as your
13 direct testimony in this case?

14 A. Yes, I do.

15 MR. NOURSE: Thank you, your Honor. I
16 submit the witness for cross-examination and move for
17 the admission of AEP Ohio Exhibit 1, subject to
18 cross-examination.

19 MS. BOJKO: Your Honor, would now be a
20 good time for motions to strike?

21 EXAMINER SEE: Yes.

22 MS. BOJKO: Thank you, your Honor. If I
23 may proceed?

24 EXAMINER SEE: Go ahead.

25 MS. BOJKO: At this time OMAEG moves to

1 strike the following portions of Mr. Stegall's
2 testimony as the testimony mischaracterizes the
3 record causing confusion and is so misleading to
4 cause prejudice under Evidence Rule 403.

5 Beginning on page 6, line 23, starting
6 with the word "determined" through line 1 on page 7
7 ending with the word "and." The language offered by
8 Mr. Stegall does not appear anywhere in the audit
9 report and this is evidenced by the fact that
10 Mr. Stegall does not provide a citation to the audit
11 report as he does elsewhere in his testimony. In
12 fact, the audit report in the first two paragraphs
13 under section 1.3 on page 9 states the exact opposite
14 of what Mr. Stegall claims the audit report
15 determined.

16 Those provisions in section 1.3 say that
17 LEI found that the processes, procurements, and
18 oversight were mostly adequate. It did not state
19 what Mr. Stegall says it states. Evidence Rule 403
20 requires the exclusion of evidence that misstates the
21 record and misleads the fact finder. Here, the audit
22 report speaks for itself and Mr. Stegall should not
23 be permitted to represent his own interpretation of
24 the audit report as unequivocal findings of the
25 auditor which is what he does in this provision,

1 particularly when such findings relate to an ultimate
2 issue in the case.

3 Mr. Stegall is mischaracterizing those
4 findings. Any probative value is substantially
5 outweighed by the danger of unfair prejudice and
6 confusion of the record as to the actual findings of
7 the audit report. Under these circumstances, the
8 exclusion is mandatory under Ohio Evidence Rule
9 403(A). Thank you. That's the first one.

10 EXAMINER SEE: Okay.

11 MR. MCKENNEY: Your Honor, are we taking
12 these one by one? How do you want?

13 EXAMINER SEE: Let's start with that one.

14 MR. MCKENNEY: We would join in that one,
15 in that particular one, and I would note that in my
16 cross-examination of the auditor I asked a very
17 specifically-worded question about whether this
18 language was in the audit report, and her response
19 was that it was not. So we would join in the motion
20 to strike the mischaracterization in Mr. Stegall's
21 testimony for the same reasons that Ms. Bojko raised.

22 MS. WHITFIELD: Kroger would also join
23 for the same reasons raised by OMAEG and IEU.

24 MS. COHN: As would OEG.

25 MR. FINNIGAN: And, your Honor, OCC joins

1 in all of the motions to strike that Ms. Bojko was
2 presenting for OMAEG.

3 MS. HENRY: NRDC also joins -- I'm sorry.
4 I want to note NRDC also joins in that motion. As --
5 as Dr. Fagan testified, this is -- this goes beyond
6 what Dr. -- what the audit held.

7 EXAMINER SEE: Okay. Is there any
8 response by -- go ahead, Mr. Nourse.

9 MR. NOURSE: Thank you.

10 The statement Mr. Stegall makes is that
11 the audit found that costs were prudently incurred.
12 That was in the scope of the audit. The auditor
13 testified that -- that she didn't make imprudent, you
14 know, recommendations or findings, didn't recommend
15 any disallowances.

16 And the -- as far as the audit report
17 reference in 1.3 on page 9 about that -- that's a
18 different observation about the processes,
19 procedures, and oversight. That does not suggest,
20 and the auditor did not substantiate in testimony or
21 cross-examination, that that observation translated
22 into any finding of imprudence or disallowance.

23 So I think Mr. Stegall can be
24 cross-examined about his views of the audit report
25 and I think that's a fair statement. I think it's

1 consistent with the auditor's testimony and
2 cross-examination in the case.

3 MS. HENRY: Your Honor, if I may? I
4 believe Mr. Nourse is conflating a lack of imprudence
5 with actually proving prudence. They are different
6 standards. There is -- you can have imprudence, you
7 can have prudence, and you can have that you haven't
8 proven either, and I think that there is middle
9 ground here that you are -- that your definition
10 didn't allow for.

11 MR. NOURSE: Well, your Honor, I was
12 referring to the auditor's testimony not going beyond
13 the audit report and clarifying that she did review
14 all of the costs of this audit period and she didn't
15 make any -- her charge was to look for imprudence.
16 She didn't make any findings of imprudence, so,
17 therefore, the Company can, you know, can observe
18 that the effect of the audit report as clarified in
19 the auditor's testimony is that the costs were
20 prudent.

21 MS. BOJKO: Your Honor, if I may be heard
22 in response. We actually asked those questions of
23 Dr. Fagan yesterday, and she did not go there. She
24 said she did not find imprudence, and she said it
25 multiple times. She was reluctant to actually say it

1 was prudent. She said that it's not always true that
2 it's the opposite. So we asked all those questions.
3 If they want to change the word to "imprudence," that
4 would be appropriate, but the auditor -- even
5 Mr. Nourse, when he just rephrased, used the word
6 "imprudent." He didn't use the word "prudent." And
7 that's the distinction that the auditor made numerous
8 times yesterday.

9 MR. FINNIGAN: And, your Honor, you know,
10 it seems clear that Dr. Fagan did not do the full
11 scope of review contemplated by the Commission with a
12 full fuel adjustment clause-type proceeding review
13 so --

14 MR. NOURSE: Again, your Honor, again,
15 your Honor, the parties can argue the definition of
16 prudence in their briefs. It's ultimately a legal
17 question. Mr. Stegall is making an observation about
18 his understanding of the audit report, and it should
19 carry the weight it carries after he is
20 cross-examined about it. It doesn't -- it doesn't
21 need to be stricken or modified.

22 EXAMINER SEE: Ms. Bojko, do you have --
23 your next motion to strike a portion of Mr. Stegall's
24 testimony?

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

1 At this time, your Honor, OMAEG moves to
2 strike Mr. Stegall's testimony on page 7, line 15,
3 starting after the word "Yes" and going through
4 line 17. This sentence cites to page 49 of the audit
5 report which is almost entirely confidential. AEP
6 attempts to get confidential conclusions in the
7 record by interpreting and mischaracterizing a
8 confidential finding in the public record that cannot
9 be disproved without the confidential audit report.

10 Additionally, the language proffered by
11 Mr. Stegall does not appear anywhere in the audit
12 report. So you cannot compare Mr. Stegall's
13 testimony to see if it's true with the audit report
14 because that section is confidential. It's an
15 attempt to end-around the confidentiality.

16 Evidence Rule 403(A) requires the
17 exclusion of evidence that misstates the record and
18 misleads the fact finder. Here the audit report
19 speaks for itself and Mr. Stegall should not be
20 permitted to represent his own interpretation of the
21 audit report as unequivocal findings of the auditor,
22 particularly when such findings relate to an ultimate
23 issue in this case and were deemed confidential.

24 Any probative value is substantially
25 outweighed by the danger of unfair prejudice and

1 confusion of the record as to the actual fact
2 findings of the audit report. Under these
3 circumstances, exclusion is mandatory under Ohio
4 Evidence Rule 403(A).

5 Alternatively, your Honor, given that
6 Mr. Stegall's interpretation of the confidential
7 audit report should be deemed confidential, it should
8 be stricken from the public record as it is
9 misleading and based on purported confidential
10 information that cannot be confirmed in the public
11 record.

12 AEP cannot have it both ways by
13 maintaining the confidentiality of the actual finding
14 and then providing a broader public finding in its
15 place, misleading the public and the trier of fact.
16 This is inappropriate. So, at a minimum, we would
17 request -- we would request that this sentence be
18 deemed confidential and be only used in the
19 confidential record when it can be compared to the
20 confidential audit report. Thank you.

21 EXAMINER SEE: Anyone else? Any other
22 Intervenor or Staff?

23 MR. NOURSE: All right. Shall I respond?

24 MR. LINDGREN: Your Honor, excuse me.
25 Staff has no position on this.

1 EXAMINER SEE: Go ahead, Mr. Nourse, your
2 response.

3 MR. NOURSE: Thank you, your Honor.

4 I'm not sure what Ms. Bojko is trying to
5 say about confidentiality. Obviously all the parties
6 have access to all the confidential materials. The
7 confidential version of the audit report has already
8 been admitted into evidence, and it's standard
9 practice for witnesses and testimony on the record to
10 discuss matters that are confidential without
11 revealing confidential information. That's standard
12 practice. That's the stated preference of the
13 Commission in these types of proceedings to do as
14 much as possible on the public record. So making
15 observations is in no way inappropriate and it
16 doesn't prevent the parties from doing
17 cross-examination. On the same basis, it doesn't
18 prevent the parties from citing evidence in the
19 record, such as the confidential audit report, in
20 their briefs, subject to appropriate protection.
21 And, you know, I certainly resent the implication
22 that presenting our case is somehow misleading.

23 I would also -- I would also note that I
24 would venture to say every single party that's
25 submitting testimony in this case, certainly the

1 Intervenor, rely extensively on the audit report,
2 quote from it extensively, and including confidential
3 portions. So, you know, obviously if this is
4 stricken, then there is going to be -- there should
5 be a lot of other testimony stricken forthcoming in
6 this hearing.

7 MS. BOJKO: Your Honor, if I may just
8 briefly respond. The problem is this isn't in the
9 audit report so we are not quoting from the audit
10 report. They are misrepresenting the audit report
11 and they are doing it under the guise of the
12 confidential audit report and trying to bring a
13 finding into the record publicly that isn't a real
14 finding of the audit report. So it misleads the
15 audit report and the trier of fact.

16 MR. NOURSE: Your Honor, that's what
17 cross-examination is for.

18 MS. BOJKO: Your Honor, we wouldn't be
19 able to cross-examine in the public record on this
20 and even though it's public testimony, that's the
21 problem. That's why I'll alternatively ask that this
22 be moved to a confidential record because then we can
23 at least cross him on the statements and point out
24 that the statement is not in the audit report. We
25 wouldn't be able to do that in the public record.

1 MR. MCKENNEY: IEU-Ohio continues to
2 agree with Ms. Bojko.

3 EXAMINER SEE: You're joining the request
4 to strike. Thank you, Mr. McKenney.

5 MS. WHITFIELD: Kroger will join in that
6 second motion to strike as well.

7 MR. FINNIGAN: OCC joins, and just I'll
8 state we join in all of the motions that Ms. Bojko
9 will be presenting this morning just so we don't have
10 to repeat ourselves.

11 MS. HENRY: NRDC will join that motion as
12 well.

13 EXAMINER SEE: Your next motion to
14 strike, Ms. Bojko.

15 MS. BOJKO: Thank you, your Honor.

16 The next two motions to strike, I believe
17 will require a brief voir dire if you may permit --
18 permit me. Excuse me.

19 EXAMINER SEE: Go ahead.

20 MS. BOJKO: Thank you.

21 Mr. Stegall, I'm assuming it's you. It's
22 really difficult to see you. You are really far
23 away. Mr. Nourse, is Mr. Stegall prepared to do a
24 voir dire?

25 MR. NOURSE: He sure is.

1 MS. BOJKO: Okay. I just can't see him.
2 Is there any way we can put a --

3 MR. FINNIGAN: Your Honor, could we swear
4 him first?

5 MR. NOURSE: I'm not sure why you can't
6 see him. He is in our frame of video. Can you see
7 me?

8 MS. BOJKO: Well, you are tiny. It's
9 nice to be able to see a witness when they are
10 talking and see their facial expressions. I can't
11 see anything.

12 MS. O'BRIEN: Hey, Kim. Have you -- are
13 you in the layout with the stack layout and then you
14 can move him to stage. That helps.

15 MS. BOJKO: Okay.

16 MR. NOURSE: Yeah.

17 MS. BOJKO: Then I can't see any of the
18 other parties.

19 MS. O'BRIEN: Yeah. Well, okay. Sorry.

20 MS. BOJKO: Okay. If I may proceed, your
21 Honor?

22 EXAMINER SEE: Go ahead.

23 MS. BOJKO: Thank you.

24 - - -

25 JASON M. STEGALL

1 being first duly sworn, as prescribed by law, was
2 examined and testified as follows:

3 VOIR DIRE EXAMINATION

4 By Ms. Bojko:

5 Q. Good morning, Mr. Stegall.

6 A. Good morning.

7 Q. Sir, you do not have any formal education
8 in economics, do you?

9 A. I have a Master's in Business
10 Administration. We covered economics as part of the
11 curriculum.

12 Q. Right. But you do not have any formal
13 education in economics. You do not have an economics
14 degree, do you?

15 A. While I do not have an economics degree,
16 I do have a Master's in Business Administration, and
17 economics was covered as part of that curriculum.

18 Q. A lot of things are covered as part of
19 curriculums in a Master's and Bachelor's. I am
20 asking if you have a degree in economics.

21 A. As I just stated, while I do not have a
22 degree in economics, I do have a Master's in Business
23 Administration and that education incorporated
24 economics.

25 MS. BOJKO: Your Honor, it might be

1 easier if you could instruct the witness to answer my
2 questions that are posed. We are going to be here
3 all day if these are the answers we are going to get.
4 He can simply say no, he doesn't have a degree in
5 economics.

6 MR. NOURSE: Your Honor, I object. You
7 know, Ms. Bojko is being argumentative. He certainly
8 answered the question and he gave an explanation to
9 it. So you are not going to get all the answers that
10 you scripted out ahead of time. The witness is
11 entitled to answer as he sees fit and he's responding
12 and explaining.

13 MS. BOJKO: Steve, this is about his
14 background. I am not being argumentative. And for
15 the record --

16 EXAMINER SEE: Go on, Ms. Bojko.

17 MS. BOJKO: -- that's an inappropriate
18 comment and statement.

19 EXAMINER SEE: Go on and ask your next
20 question, Ms. Bojko.

21 Q. (By Ms. Bojko) Sir, have you ever worked
22 directly in power plant operations?

23 A. While I have not worked in power plant
24 operations in my current role, I spend a significant
25 amount of time talking to those individuals.

1 Q. So the answer is no, you have never
2 worked in power plant operations, have you?

3 A. I will repeat the answer that I just gave
4 you. While I do not and have not worked in power
5 plant operations, in my current role I work with
6 those individuals on a regular basis.

7 Q. Isn't it true you have never worked for
8 OVEC?

9 A. That is correct. I have never worked for
10 OVEC.

11 Q. Isn't it also true you have never been
12 responsible for making unit commitments?

13 A. While I have never been responsible for
14 making unit commitments, I do participate in those
15 decisions. I have sat through those meetings and I
16 am comfortable understanding that process and talking
17 about it as I have indicated in my testimony.

18 Q. Are you aware that the OVEC plants were
19 offered in the PJM day-ahead market as must-run
20 units?

21 A. Yes, I am aware that's dictated in the
22 operating procedures established by the Operating
23 Committee.

24 Q. Isn't it true that you have no authority
25 to make a decision about whether OVEC plants are

1 offered into the PJM day-ahead market as must-run
2 units?

3 A. That decision is delegated to the
4 Operating Committee. I am not a voting member on the
5 Operating Committee. But I do not believe there is
6 any participant in this case that has sole discretion
7 to offer the OVEC units.

8 Q. So the answer to my question is no, you
9 do not have authority to make decisions about OVEC's
10 must-run status in PJM.

11 A. The answer is, no, that's designated by
12 the Operating Committee.

13 Q. Do you know approximately -- do you know
14 whether there were times in 2018 and '19 where the
15 PJM day-ahead price did not cover the variable costs
16 of running the plants?

17 A. You would have to be more specific in
18 terms of time frame.

19 Q. Well, do you know whether there were
20 times in 2018 and '19 where the PJM day-ahead price
21 did not cover the variable cost of running the
22 plants. It's a simple yes or no question.

23 MR. NOURSE: Your Honor, I object. I
24 don't think this is proper voir dire. She's getting
25 into cross-examination questions here.

1 MS. BOJKO: I am not, your Honor. It's
2 laying a foundation.

3 MR. NOURSE: I believe she is going to be
4 last in the order, so I don't want to have two bites
5 at the apple here, your Honor.

6 MS. BOJKO: Your Honor, it's going to his
7 knowledge and what he knows and his degree and what
8 he knows, what he does, and then I will make a motion
9 to strike his testimony based on his lack of
10 knowledge and expertise.

11 EXAMINER SEE: Go ahead and answer the
12 question, Mr. Stegall.

13 A. There are over 17,000 hours in the
14 two years you identified. You offered no specifics.
15 I can't answer the question asked.

16 Q. The question simply is, do you know
17 whether there were times during the two-year period,
18 the audit period in question that you are testifying
19 about today, do you know whether the PJM day-ahead
20 price did not cover the variable costs of running the
21 plants?

22 A. When you say "times," do you mean
23 individual hours?

24 Q. Any time during the audit period, do you
25 know whether the PJM day-ahead price did not cover

1 the variable cost of running the plants.

2 A. I believe there were individual hours
3 established in the day-ahead market, and the
4 day-ahead market is an hourly market where the
5 variable price, variable cost, as defined in the ICPA
6 and calculated under the -- under the rules set in
7 ICPA Section 5, where the costs of the units exceeded
8 the market price for particular individual hours.
9 But, once again, you said "times" and that's pretty
10 broad so I can't -- I can't give you any more
11 definition than that.

12 Q. Do you have independent knowledge of the
13 percentage of the time during 2018-'19 the PJM energy
14 price did not cover the variable costs of running the
15 OVEC plants?

16 A. You are asking me about individual hours.
17 I offered a calculation in my testimony that covers
18 the total period in terms of variable costs versus
19 energy revenues. I didn't look at this on an hourly
20 basis. That data certainly exists, but we can go to
21 what I stated in my testimony, if that would help.

22 Q. I think you saying that you didn't look
23 at it is sufficient.

24 A. You are mischaracterizing what I said. I
25 ran the report. I summed the data. I compared

1 numbers. I did not look at this on an hourly basis.

2 Q. Which specific -- I'm sorry.

3 Which specific factors does the OVEC
4 Operating Committee take into -- did they take into
5 account when deciding to adopt the must-run strategy
6 during the audit period?

7 MR. NOURSE: Your Honor, I object. This
8 is not -- this is not voir dire. It's
9 cross-examination. Ms. Bojko is attempting to get
10 two bites at the apple here --

11 MS. BOJKO: I'm not.

12 MR. NOURSE: -- using the motion to
13 strike.

14 MS. BOJKO: Your Honor, he states in his
15 testimony and throughout his deposition that he
16 didn't know what specific factors that the OVEC
17 Operating Committee took into account when deciding
18 to adopt a must-run strategy.

19 He also stated that -- well, if you let
20 me finish my voir dire, he will state that he isn't
21 on the Operating Committee. He has never been on the
22 Operating Committee. He wasn't on the Operating
23 Committee during the audit period. He had no
24 authority to speak to must run, whether the OVEC
25 plants were committed or not. He did not participate

1 in the Operating Committee as a nonvoting member
2 during the audit period. He did not do any analysis
3 of the OVEC Operating Committee regarding what
4 factors they did or did not take into account. He
5 never did an analysis for the OVEC operating company
6 comparing the must-run strategy with economic
7 dispatch strategy. He makes general statements in
8 his testimony about the OVEC operating procedures but
9 he has never been an employee of OVEC. He does not
10 know what went into the decisions of OVEC.

11 So at this time, even though I would like
12 the record to reflect that AEP is not allowing me to
13 finish my voir dire, and the deposition clearly
14 reflects that there is a lack of knowledge from
15 Mr. Stegall, but I will make a motion to strike as
16 speculative, irrelevant, and misleading under
17 Evidence Rule 401 and 403.

18 OMAEG moves to strike Mr. Stegall's
19 testimony from page 9, line 1, through page 12,
20 line 19. As you would have seen in -- and now you
21 will see in cross, in the transcript of Mr. Stegall's
22 deposition he states that he is not aware of anything
23 that OVEC did during the audit period. On page 96,
24 he states "what OVEC does is beyond the scope of what
25 AEP Service Corporation Commercial Operations does,

1 so I can't speak to how OVEC takes any of that into
2 account. I can only talk about, you know, general
3 AEP practices."

4 Despite these admissions regarding the
5 limitations of his knowledge, Mr. Stegall's testimony
6 expressly opines that OVEC's use of the must-run
7 commitment was a reasonable market commitment
8 strategy during the audit period.

9 Through his own sworn statements,
10 Mr. Stegall has no knowledge about OVEC's practices
11 during the audit period or the information that OVEC
12 specifically took into account or did not take into
13 account during the audit period.

14 Therefore, the previously-specified
15 portions of the testimony opining on specific actions
16 that OVEC took and whether those actions were
17 reasonable during the audit period are speculative
18 and irrelevant and should be stricken pursuant to
19 Rule 402.

20 Alternatively, Evidence Rule 403(A)
21 requires the exclusion of evidence that misstates the
22 record and misleads the fact finder.

23 Mr. Stegall should not be permitted to
24 offer specific conclusions in regards to the
25 reasonableness of OVEC's offer strategy during the

1 audit period when he has no basis to make such
2 conclusions. Any probative value of his testimony in
3 this regard is minimal because it lacks knowledge as
4 to anything OVEC did during the audit period. He was
5 not a part of the decision-making. He cannot speak
6 for OVEC and he cannot speak for what OVEC did or did
7 not do.

8 Your Honor, at this time, for
9 efficiency's sake, there is another portion that
10 would have the same objection with regard to lack of
11 knowledge, lack of expertise to opine on OVEC's
12 decisions that he had no part of, and that piece of
13 testimony, your Honor, is at page 12.

14 EXAMINER SEE: Just so I'm clear,
15 initially you just made a third motion to strike
16 pages 9 -- starting on page 9, line 1, through
17 page 12, line 19, correct?

18 MS. BOJKO: Right. This is an
19 additional --

20 EXAMINER SEE: Okay. Additional.

21 MS. BOJKO: I am trying to be efficient,
22 your Honor. This is an additional reason for the
23 specific lines 1 through -- I'm sorry. It's page 12,
24 line 14 -- I am sorry. Yeah, lines 14 through 19.

25 EXAMINER SEE: Okay.

1 MS. BOJKO: This is -- yes, you are
2 right, your Honor, this is incorporated into the
3 larger motion to strike, but this is -- for 14
4 through 19 there is additional provisions that this
5 piece specifically, "Do you believe that OVEC would
6 change the commitment status of the units," this
7 Q and A, is irrelevant and speculative.

8 Mr. Stegall speculates as to whether OVEC
9 would do something in the future regarding commitment
10 status based on future unknown events. Again,
11 Mr. Stegall has no background or basis to opine on
12 what OVEC may or may not do. He was not on OVEC --
13 wasn't an employee of OVEC during this period of
14 time. He wasn't on the Operating Committee. He
15 participated in no Operating Committee meetings
16 during this time even as a non-member. He is not on
17 the Board of Directors. So, here, he is offering an
18 opinion as to whether going forward OVEC should
19 carefully consider when and whether to do the
20 must-run strategy. He has no basis for that opinion.

21 And the Attorney Examiner's entry on
22 December 23 made it clear that OCC was not entitled
23 to obtain reports and forecasts and policies on
24 future events beyond the audit period but now AEP is
25 doing the exact same thing. So they can't have their

1 cake and eat it too. This provision should be
2 stricken because Mr. Stegall lacks knowledge and
3 expertise to opine on the fact but also because he's
4 talking about some future unknown event that is
5 outside the audit period and that he has no basis to
6 speak about. Thank you, your Honor.

7 MR. MCKENNEY: Your Honor, IEU-Ohio joins
8 both motions to strike, but I think it seems easier
9 to us if we weren't more efficient and did them one
10 at a time.

11 MS. BOJKO: Oh, sorry.

12 MR. MCKENNEY: So far nothing about this
13 hearing has been particularly quick, so I think we
14 have got time, but we would join in both. And I
15 think from our perspective it looks like it would be
16 easier to do one at a time, so.

17 MS. HENRY: Your Honor --

18 MR. NOURSE: May I respond?

19 MS. HENRY: -- this is NRDC. Sorry,
20 Steve. I was just going to note for the record that
21 NRDC also supports the motions to strike.

22 MS. WHITFIELD: And this is Kroger. We
23 also support the two motions to strike that were just
24 discussed.

25 EXAMINER SEE: Any other Intervenor join

1 either of the last two motions to strike?

2 MS. COHN: Yes. OEG supports both.

3 MR. FINNIGAN: OCC joins both.

4 EXAMINER SEE: Any response to those
5 motions to strike, Mr. Nourse?

6 MR. NOURSE: Yes, thank you.

7 Your Honor, this testimony -- all the
8 things that Ms. Bojko brought out are certainly true
9 for all the witnesses in this case, and I think as
10 cross-examination testimony will show, Mr. Stegall is
11 the witness in this case that has the most knowledge
12 about OVEC and the most understanding of their
13 operation and so, you know, for the -- for the
14 Intervenors to suggest that -- that because you
15 haven't run a power plant before, because you don't
16 make daily decisions for dispatch or commitment or,
17 you know, because you are not an employee of OVEC, et
18 cetera, that's the basis to strike all the testimony,
19 obviously we could probably end the hearing in
20 5 minutes because none of the other witnesses have
21 any of those qualifications.

22 Obviously Mr. Stegall's testimony is
23 based on his personal knowledge and his statements in
24 the passages under these motions to strike are based
25 on his personal knowledge and can be subjected to

1 cross-examination and the Commission can afford
2 proper weight.

3 But none of the -- none of the items that
4 Ms. Bojko brought out in her cross and in her
5 statements -- in her voir dire, rather, and in her
6 statement take away from the ability to opine as an
7 expert.

8 And with respect to page 12, 14 through
9 19, the separate Q and A there, you know, I disagree.
10 This is not a statement of a future event. It's a
11 hypothetical. It's a -- it's an example, an
12 illustration to understand must run and how it works
13 and the fact that there are things that could change
14 that. That's an illustration. It's a hypothetical.
15 It's an example. It's not a post-audit period fact
16 like the discovery disputes and like the Examiner's
17 entry was dealing with.

18 MS. BOJKO: Your Honor, if I may just
19 briefly respond.

20 I think it's important to note that this
21 witness has no specific knowledge of anything
22 specific that OVEC did during the audit period, yet
23 he opines on that and makes broad conclusions and
24 generalizations even though he has no experience on
25 the Operating Committee, did not attend any of the

1 Operating Committee meetings, was not on the Board of
2 directors. He is opining on what OVEC actually did
3 and that's what's inappropriate. He can't speak to
4 what they thought. Just as Ms. Kern said, we can't
5 speak to what Staff thought, he can't speak to what
6 OVEC thought because he wasn't part of that
7 decision-making team. Thank you.

8 MR. MCKENNEY: Your Honor, IEU-Ohio would
9 agree.

10 The only thing I would add, if I may,
11 regarding the lines 14 through 19 on page 12. If
12 this was live testimony, this is a question we would
13 object to for calling for speculation, specifically
14 asking him to speculate on if he believes OVEC would
15 do something in the future. But because we do
16 prefiled direct testimony, we have it right here to
17 read. And for that reason, we believe this should
18 specifically be struck from the record.

19 MR. NOURSE: Your Honor, again, just to
20 briefly respond to that.

21 I mean, again, none of the witnesses in
22 this case have the knowledge that they are
23 challenging, you know, and we don't call in a coal
24 company that sells coal to, you know, in any kind of
25 case and say, well, you know, you have to appear here

1 and you have to explain the contract and you have to
2 do that before anybody can talk about it. No.

3 People review information. They are
4 opining as experts based on personal knowledge and
5 factual information as well as their experience.

6 This is a purchased power agreement. And
7 the Commission's orders have defined the scope of
8 this audit proceeding to be focused on AEP Ohio's
9 actions and the prudence of those actions and -- and
10 so obviously this is -- this is the Company's only
11 witness. We are addressing the issues in the audit
12 report and the issues in the case through this
13 witness, and all the parties can cross-examine the
14 witness based on his knowledge, and the Commission
15 can afford the evidence the weight that it deems
16 appropriate.

17 MS. HENRY: Your Honor, may I speak for a
18 moment? I was just going to note, Mr. Nourse kind of
19 puts all of the -- all of the witnesses on the same
20 playing field. But that's not true because the
21 speculative nature of this testimony does not mean
22 that all of the other experts did not do actually a
23 specific analysis to support their actual conclusions
24 and findings. And I think that that is -- it's wrong
25 to conflate them.

1 MR. NOURSE: Again, what I said, your
2 Honor, was none of the bases for the motion to strike
3 applied to any of the other witnesses either so if
4 you want to talk about equal footing. Obviously what
5 each individual witness says in testimony and what's
6 raised on cross is what the whole record is created
7 for and that's -- that was the narrow statement that
8 I made.

9 EXAMINER SEE: Thank you, all.

10 As to the four motions to strike portions
11 of Mr. Stegall's testimony, they are denied.

12 Ms. Bojko and the other Intervenors are welcome to
13 explore the subjects of his testimony, the extent of
14 his knowledge.

15 I would also ask that to the extent that
16 you can explore Mr. Stegall's statements in his
17 testimony in the public record that we do that first
18 and then later determine if there is a need to move
19 to a confidential session.

20 With that, let's move on.

21 Are there any other motions to strike
22 Mr. Stegall's testimony?

23 Okay. Then we'll follow the order, and
24 counsel for OCC.

25 MS. BOJKO: Actually, your Honor, we have

1 a new witness. We just provided the Fagan order. If
2 I may --

3 EXAMINER SEE: I'm sorry. Start over,
4 Ms. Bojko.

5 MS. BOJKO: We -- the Intervenors got
6 together and we decided orders for each witness. So
7 that order was for Mr. -- Dr. Fagan. So we have a
8 new order for this witness and we are going to go off
9 of Friday's schedule. Because we have some
10 scheduling conflicts, your Honor. We are trying to
11 keep the hearing going.

12 EXAMINER SEE: What is the order the
13 Intervenors are proposing?

14 MS. BOJKO: We're proposing that OCC,
15 then NRDC, OPAC, OEG, IEU, OMAEG, and Kroger. I
16 guess just the last two have changed for today.
17 Sorry.

18 EXAMINER SEE: Okay. So one more time.
19 OCC, NRDC, OPAC, OEG, IEU.

20 MS. BOJKO: OMAEG and then Kroger.

21 MS. WHITFIELD: Your Honor, Kroger is
22 just going -- moving from the middle to the last
23 because I have a potential scheduling conflict on
24 Friday. I have a scheduling conflict this afternoon
25 depending on where we are at. I may have to step

1 away.

2 EXAMINER SEE: So starting off with OCC.

3 MS. WHITFIELD: Yep.

4 EXAMINER SEE: Thanks. Let's go to
5 counsel for OCC.

6 MS. BOJKO: Thank you, your Honor.

7 MR. FINNIGAN: Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Finnegan:

11 Q. Good morning, Mr. Stegall.

12 A. Good morning.

13 MR. FINNIGAN: Your Honor, I am going to
14 kind of reiterate this point that Ms. Bojko raised
15 earlier and that is I am just having trouble seeing
16 Mr. Stegall. When we were doing the examination of
17 Dr. Fagan, it appeared that Mr. Schuler was sitting
18 in the seat that Mr. Stegall is in -- and, your
19 Honor, we can go off the record for this. If we can
20 go off the record for a moment.

21 EXAMINER SEE: Let's go off the record
22 then.

23 (Discussion off the record.)

24 EXAMINER SEE: Let's go back on the
25 record.

1 MR. FINNIGAN: Your Honor, thank you.

2 Q. (By Mr. Finnigan) Mr. Stegall, good
3 morning. I'm John Finnigan, counsel for OCC. We met
4 at your deposition recently.

5 Just for the record, we had a procedural
6 matter where there was some motions to strike your
7 testimony and you were here and you listened to that
8 discussion, correct?

9 A. Yes.

10 Q. And you heard Mr. Nourse describe you as
11 the person of all the witnesses in this proceeding
12 who is most knowledgeable of OVEC operations and that
13 none of the other witnesses have your knowledge about
14 OVEC. Did you hear that?

15 A. I did.

16 Q. Would you agree with Mr. Nourse?

17 A. Are you comparing me to every other
18 witness in this case?

19 Q. Well, I'm just -- Mr. Nourse did. I am
20 just asking you if you agree with him.

21 A. I believe that I have more familiarity
22 with OVEC than any other witness in this case, yes.

23 Q. Okay. And would that familiarity with
24 all of OVEC's operations include familiarity about
25 their costs?

1 A. I'm familiar with their costs as they are
2 defined in the ICPA and as they are billed through
3 the monthly billing.

4 Q. Okay. And as I understand the revenue
5 requirement for the PPA Rider for 2018 and 2019,
6 that's at issue in this case, that includes certain
7 costs and certain revenues; is that right?

8 A. Yes.

9 Q. Okay. Now your testimony provides two
10 numbers about the revenue side of the equation.
11 Could you direct us to the page where you identify
12 what those revenue numbers are and give us the page
13 reference and the amount of each one.

14 A. So I want to make a slight correction to
15 what you just said. So I provided two -- two sets of
16 numbers. One number, the capacity number, and this
17 is the number that is indicated on line 12 of page 7,
18 that number is gross, so the 40.2 million of capacity
19 revenues, that is just the -- the report from PJM
20 that says the Company received this amount of
21 revenues for its capacity sold into the base residual
22 auction and the incremental auction for the periods
23 of 2018 and 2019. So it's not netted against
24 anything from OVEC. It's a gross number.

25 Q. Okay. Was there another number in your

1 testimony for energy?

2 A. Yes. In the paragraph on page 11 -- yes,
3 page 11, beginning on line 11, I walk through a
4 methodology. I provide a \$32 million net benefit and
5 that benefit reflects both the energy revenues and
6 the ancillary revenues earned through the sale of AEP
7 Ohio's share of PJM -- of OVEC energy into the PJM
8 energy market, and then I netted it against the
9 \$114.8 million of costs billed under Section 5.02 of
10 the ICPA.

11 Q. Okay.

12 A. That number incorporates OVEC expenses.

13 Q. Okay. Now, you mean the energy number
14 does or the capacity number does?

15 A. The capacity number is gross. The energy
16 number is net.

17 Q. Okay. And for us to understand what the
18 charges are flowing through the PPA rider, we would
19 have to have a netting of both charges, wouldn't we?

20 A. If you are to understand what was flowing
21 through the PPA Rider as you stated in your opening
22 question, you would need to incorporate both the
23 billings from OVEC and the revenues earned from PJM.

24 Q. Okay. Does your testimony --

25 EXAMINER SEE: Make sure there is no

1 crosstalk for clarity of the record, please.

2 Go ahead and finish your answer,

3 Mr. Stegall.

4 THE WITNESS: I'm sorry. I lost my train
5 of thought, your Honor. Can I get Mr. Finnigan to
6 ask his question again or get it read from the
7 record?

8 EXAMINER SEE: Yes.

9 MR. NOURSE: Can the reporter reread the
10 answer that he's given thus far.

11 MR. FINNIGAN: Your Honor, if we could
12 just reread the last question and answer. I lost my
13 place.

14 EXAMINER SEE: Give Karen a moment.

15 (Record read.)

16 Q. (By Mr. Finnigan) And did you provide in
17 your testimony a netting of both the energy revenues
18 and charges and the capacity or demand revenues and
19 charges?

20 A. I didn't provide that breakdown but that
21 breakdown is provided in the monthly filings or
22 quarterly filings that AEP Ohio makes when it
23 determines the revenue requirement under this rider.

24 Q. Well, Mr. Nourse said you are the person
25 in this case that's most knowledgeable about OVEC and

1 their operations. So how much is the charge that is
2 flowing through the PPA Rider for 2018 and 2019
3 that's at issue in this case in terms of the
4 prudence?

5 A. I don't have that number in front of me.
6 I believe that was identified in the audit report.

7 Q. So you haven't calculated that?

8 A. Once again, it's calculated as part of
9 the quarterly filings. I believe it's calculated in
10 the audit report. I didn't think I needed to
11 calculate it again.

12 Q. Okay. Now, your job title is what?

13 A. My job title is -- I am going to refer to
14 my testimony. Beginning on line 6, page 1 of my
15 testimony, continuing onto line 7, my title is
16 Manager of Regulatory Pricing and Analysis.

17 Q. And does that require you to participate
18 in fuel adjustment clause filings in various states?

19 A. Yes, it does.

20 Q. In what states have you filed testimony
21 in a fuel adjustment clause case?

22 A. Pardon?

23 Q. In what states have you filed testimony
24 as a witness in a fuel adjustment clause case?

25 A. So I have provided testimony in several

1 Michigan cases. But I have -- I have addressed
2 economics of power plants in other jurisdictions.
3 There's the -- some jurisdictions have a very
4 fragmented means to address all the factors that you
5 would include in a fuel adjustment filing so, for
6 example, in Indiana, where it's somewhat fragmented,
7 I address the market operations piece. Indiana has a
8 PJM/Off System Sales Rider that addresses the
9 dispatch of an off-system sales margin associated
10 with its generation portfolio.

11 So you say "fuel adjustment clause," I am
12 just letting you know in my experience across the AEP
13 system these fuel adjustment clauses operate very
14 differently. Some are very narrow, some are very
15 large, and my involvement depends on how all of these
16 costs are recovered.

17 Q. Okay. Could you just kind of run through
18 the rest of that list. I was just trying to get at a
19 list of all of the states where you filed testimony
20 about the prudence of a fuel cost or any component of
21 those costs. You mentioned Michigan and Indiana. I
22 was just wondering if there were any others.

23 A. I've addressed power plant economics as
24 well in Michigan and in Texas. And I've been crossed
25 on market operations in Kentucky. In that case I

1 didn't -- my testimony didn't address market
2 operations but I did sponsor discovery and when I was
3 on the stand I was asked a lot of questions regarding
4 that scope.

5 Q. Okay. So we've got Michigan, Indiana,
6 Texas, Kentucky. Are those the only states where you
7 have ever testified at a commission proceeding?

8 A. Are you -- when you say "testify," I mean
9 I've appeared before -- I have not appeared before
10 the commission in Indiana in a hearing but I have
11 submitted filed -- prefiled testimony. The other
12 states I have actually appeared before a judge or the
13 commission.

14 Q. That's a good point. So in what states
15 have you submitted any prefiled testimony? Would
16 that include the list you discussed earlier of
17 Michigan, Indiana, Texas, and Kentucky. Those are
18 all states where you submitted prefiled testimony?

19 A. And Oklahoma.

20 Q. Is that the complete list then?

21 A. That list is actually on page 2 of my
22 testimony where I list the commissions in Indiana,
23 Kentucky, Michigan, Oklahoma, and Texas.

24 Q. Okay. Thank you.

25 And in those fuel adjustment clause

1 filings, is it the aim of the Company to present all
2 of the costs for supplying energy to consumers for
3 the commission's decision as to the prudence of those
4 costs?

5 A. When you say "all of the costs," I'm
6 assuming you mean all of the costs as defined in
7 whatever the fuel statutes are or the fuel rules are
8 in that particular state?

9 Q. Yes.

10 A. Yes. So I would -- if you qualify it as,
11 "as defined by either statute or commission
12 precedent," then I would say yes.

13 Q. And that's your job and in that case you
14 review all the elements of the fuel charges that are
15 being subject to commission review for prudence?

16 A. Are you asking my general duties? Or are
17 you asking me in these particular instances?

18 Q. I am asking at this point on a general
19 level.

20 A. So -- so on a general level, I am going
21 to refer you to lines 3 and 4, page 2 of my
22 testimony. My responsibilities include oversight and
23 support of all fuel and purchased power-related
24 filings. So we are talking about my witness
25 responsibilities and I have administrative and

1 support responsibilities as well. Those go across
2 the systems. So I think -- I just want to make sure
3 we are talking about the same thing.

4 Q. Yes. And in all these other filings in
5 all these other states it's your job to make sure
6 that the Commission has a full record of all of those
7 costs.

8 A. As defined by statute or precedent, yes.

9 Q. Was that yes?

10 MR. NOURSE: I object, your Honor. He
11 gave his answer. It is not a yes or no question.

12 Q. Okay. Now, but you didn't do that in
13 this case, did you?

14 A. I'm not sure I understand your question.

15 Q. I'm sorry, Mr. Stegall. I didn't hear
16 what you said.

17 A. I said I'm not sure I understand your
18 question. Is there a way you could rephrase it?

19 Q. I'm sorry. I didn't mean to interrupt
20 anybody.

21 A. I was just asking you if you could
22 rephrase your question. I didn't understand what you
23 were asking.

24 Q. Sure. Okay. If you could speak up a
25 little bit, Mr. Stegall, or maybe move that

1 microphone closer to you or move closer to the
2 microphone or move it closer to you if that's okay.

3 A. Mr. Finnigan, you met me. I am not very
4 tall. I am trying to lean into the mic here, but I
5 have a limit.

6 Q. Okay. I didn't know if you could slide
7 it over or if it's in a fixed position there.

8 A. I will do the best I can.

9 Q. All right. I appreciate that. Thank
10 you. My hearing is not the greatest, so.

11 Okay. So all I was getting at is, in
12 this case you did not provide a full account of what
13 all the costs are that are flowing through the PPA
14 rider and are subject to the Commission's prudence
15 review.

16 MR. NOURSE: Objection. That's not what
17 he said before. He said "as defined by statute and
18 precedent." You are not including that as part of
19 your question now.

20 EXAMINER SEE: Mr. Finnegan, if you could
21 rephrase the question.

22 MR. FINNIGAN: Sure.

23 Q. (By Mr. Finnigan) And you can, in your
24 answer, sir, you can address this however you want or
25 qualify your answer. But I am just trying to find

1 out to what extent you -- you had as your objective
2 in preparing your prefiled testimony an objective of
3 providing all of the costs to the Commission that
4 would flow through the PPA Rider for 2018 and 2019.
5 Was that one of the objectives of your testimony?

6 A. So when you asked me about presenting
7 costs, all of the costs to the Commission, my
8 experience with any sort of filings, whether it's
9 this one or it's a fuel adjustment clause, is there
10 is discovery, there are required schedules, the whole
11 cornucopia of that information is what provides the
12 Commission with the information to make its decision.
13 The testimonies in those fuel adjustment clauses that
14 we provide add context or direct the Commission to
15 certain points, but the filings themselves, as
16 defined by the Commission, indicate what information
17 they want to see and the format they want to see it
18 in.

19 Q. Okay. And I was just asking where we
20 could look in your testimony that would provide the
21 amount of the PPA Rider charges for 2018 and 2019.

22 A. As I stated, the auditor addressed this.
23 This would have been addressed in the filings that
24 the Company makes on a quarterly basis. That
25 information is in the record. It's just not in my

1 testimony.

2 Q. Okay. All right.

3 MR. FINNIGAN: Your Honors, may I have
4 just a moment here?

5 EXAMINER SEE: Sure.

6 Q. (By Mr. Finnigan) Now, Mr. Stegall, I'd
7 like to switch gears a little bit and talk about the
8 relationship between OVEC and AEP the Company and AEP
9 Ohio, and I appreciate, as Mr. Nourse said, you have
10 the knowledge about this.

11 So are you familiar with a gentleman by
12 the name of Paul Chodak?

13 A. Yes.

14 Q. Is he the President of OVEC?

15 A. Once again, you would have to be specific
16 in a time frame. I know Mr. Chodak is the Executive
17 Vice President of Generation for AEP Service
18 Corporation. And prior to that, I believe he was the
19 President of Indiana Michigan Power Company. Those
20 are the roles that I know him.

21 Q. He's also President of OVEC today.

22 MR. NOURSE: Your Honor, I guess I would
23 object because we are not -- I don't think the
24 question is asked about the audit period and I am not
25 sure what the relevance is otherwise.

1 MR. FINNIGAN: Well, the relevance is
2 this, your Honor. One of the issues in this case --
3 or, strike that.

4 The Commission stated in its previous
5 orders in the 14-1693 case that this review of the
6 prudence of OVEC's costs should be conducted as a
7 fuel adjustment clause review would be conducted. In
8 a fuel adjustment clause review, one of the issues is
9 always whether a utility is acquiring any power from
10 an affiliate.

11 In this case, this PPA Rider mechanism
12 operates as a financial hedge so there's no actual
13 purchase of power. However, the Commission said that
14 they would analyze it under those fuel adjustment
15 clause principles. So applying that to this case,
16 that would require a determination of whether OVEC
17 would be considered an affiliate of AEP Ohio and AEP
18 Company because, if they are, then there is a rule
19 that applies where they cannot purchase any power
20 other than at the lower of cost or market.

21 And in this case, by definition, all of
22 the PPA Rider costs are above market, the market
23 price for PJM energy and capacity, then all of those
24 costs should be disallowed per the Commission order
25 and under this doctrine of lower of cost or market

1 that applies when a company is an affiliate in a fuel
2 adjustment clause-type proceeding.

3 MR. NOURSE: Your Honor, I -- I strongly
4 disagree with everything Mr. Finnigan said. The
5 Commission did not say that it would analyze this
6 case as a fuel adjustment case. I think Examiner
7 Parrot already clarified this on the first day of the
8 hearing in this case that is not what it means. That
9 is not what the Commission language meant and that
10 it -- the process could be run and obviously the fact
11 there is an audit and so on but, so that's -- that's
12 false.

13 There is no fuel adjustment clause in
14 Ohio. That statute was repealed long ago.

15 There is no inverse pricing rule in Ohio.
16 That's simply not part of Ohio law.

17 And the Commission in the underlying PPA
18 Rider case, especially in the Opinion and Order that
19 was referenced there, clearly contemplated affiliate
20 PPA transactions which are completely separate from
21 OVEC transactions. The Commission never referred to
22 OVEC as an affiliate in that context and so I think
23 the entire premise is wrong.

24 And we -- you know, we can ask
25 Mr. Stegall about his testimony and the issues in

1 this case without trying to impose traditional
2 regulation concepts that don't apply, fuel clause
3 concepts that don't apply, rules from other
4 jurisdictions that have nothing to do with the unique
5 provisions in Ohio law or the unique provisions of
6 the PPA rider. I think we could then get on to some
7 relevant, probative evidence here.

8 MR. FINNIGAN: Your Honor, may I respond
9 very briefly?

10 EXAMINER SEE: Briefly, Mr. Finnigan. Go
11 ahead.

12 MR. FINNIGAN: Your Honor, this testimony
13 about the affiliate relationship is also relevant to
14 the issue of whether AEP acted prudently during 2018
15 and 2019 because when they saw that the PPA Rider was
16 not performing as they projected, they should have
17 done something about it, but the fact of this
18 affiliate relationship establishes a conflict of
19 interest where they had a bias to favor their
20 shareholders over consumers, so this affiliate
21 relationship is relevant to that issue as well and
22 which goes to prudence. Thank you.

23 MR. NOURSE: Your Honor, I am not going
24 to dispute everything he says every time, but if
25 Mr. Finnigan is going to be permitted to testify

1 every time there is an objection and get into factual
2 and legal arguments that are -- that have no basis in
3 the law in Ohio or record, you know, I think he
4 should be sworn in and we can do cross-examination if
5 that's going to happen.

6 MR. FINNIGAN: I would be happy to do
7 that, your Honor.

8 EXAMINER SEE: That's not how this works,
9 Mr. Finnigan. Restate -- rephrase your question.

10 MR. FINNIGAN: Thank you, your Honor.

11 Q. (By Mr. Finnigan) Sir, Mr. Chodak is
12 President of OVEC as we sit here today?

13 A. I believe so. I do not believe that he
14 took that position during the audit period though.

15 Q. And Mr. Chodak is also an executive
16 officer of AEP Ohio.

17 A. As I stated before, he is the Executive
18 Vice President of Generation.

19 MR. NOURSE: And I object. Can you read
20 the question and answer again, please. Can I ask the
21 reporter to read the question and answer.

22 (Record read.)

23 Q. And my next question was, in addition to
24 being an executive with AEP Generation Resources, is
25 he also an executive officer of AEP Ohio?

1 A. Not to my knowledge, no.

2 Q. Now, I've reviewed the FERC Form 1 for
3 OVEC for 2020. And it lists three persons who are
4 the executive officers of OVEC. The first is Paul
5 Chodak. We already spoke with him -- or about him.
6 But I did want to ask about Mr. Chodak. He is
7 actually employed by what company?

8 A. I believe he's employed by American
9 Electric Power Service Corporation.

10 Q. Then the FERC Form 1 also lists, as an
11 executive officer, Justin Cooper. And it states that
12 he is the Vice President, Chief Operating Officer,
13 and Chief Financial Officer of OVEC; is that true?

14 MR. NOURSE: I object, your Honor. I
15 mean, Mr. Finnigan is reading from a 2020 filing. I
16 don't dispute the facts in that filing but this is
17 confusing the record because some of these officers
18 have changed since the time of the audit report and
19 the current time and I would just ask that we talk
20 about what's relevant in this case and that is the
21 audit -- the audit period.

22 EXAMINER SEE: Any response,
23 Mr. Finnigan?

24 MR. FINNIGAN: Yes.

25 EXAMINER SEE: Briefly. Go ahead.

1 MR. FINNIGAN: Your Honor, I will limit
2 my questions to 2018 and 2019 to try to address
3 Mr. Nourse's objection.

4 EXAMINER SEE: Thank you.

5 MR. NOURSE: Thank you.

6 Q. (By Mr. Finnigan) And so let me just
7 rephrase this and ask it this way, Mr. Stegall: Who
8 was the Vice President, Chief Operating Officer, and
9 Chief Financial Officer of OVEC for 2018 and 2019?

10 A. At the moment I can't recall. I know
11 Justin Cooper took that role at some point. I
12 believe the person who held that role before him
13 retired and I had very limited involvement with that
14 individual.

15 Q. Okay. I'm sorry. I didn't hear you.
16 Did you say you couldn't recall the name of that
17 individual?

18 A. I couldn't recall the name of the person
19 who was in that role prior to Mr. Cooper, no.

20 Q. Okay. And Mr. Cooper took over when?

21 A. I don't know the exact date.

22 Q. Okay. Well, without, you know, we're not
23 sure of which person was there when but whomever that
24 was, was that person associated with AEP in any way?

25 A. Are you referring to the person in

1 Mr. Cooper's role prior to Mr. Cooper?

2 Q. Yes.

3 A. To my knowledge, that individual was an
4 OVEC employee.

5 Q. Okay. Did he have any association with
6 AEP?

7 A. Not to my knowledge.

8 Q. And who was the Secretary and Treasurer
9 of OVEC in 2018 and 2019?

10 A. That I don't know. I do know that we
11 provided the Board meeting minutes as part of
12 discovery in this case and all of that would have
13 been identified in those Board meeting minutes. I'm
14 certain we can go to that discovery and get answers
15 to these questions.

16 Q. Well, what those minutes don't tell is
17 what their relationship to AEP is, and that's why I
18 am asking you these questions to establish the
19 affiliate relationship, okay?

20 So my question was, this person who is
21 the Secretary and Treasurer, was that person
22 associated with AEP in any way?

23 A. Without a name, I can't provide you an
24 answer.

25 Q. How about Cassandra Martin?

1 A. I don't recognize that name.

2 Q. All right. Secretary and Treasurer of
3 OVEC.

4 A. Like I said, I don't recognize that name.

5 Q. Who's the current Secretary and Treasurer
6 of OVEC?

7 MR. NOURSE: I am sorry. During the
8 audit period?

9 MR. FINNIGAN: Well, no. I'm trying to
10 see if I can help him remember who that was, and I
11 thought that by asking who the current Secretary and
12 Treasurer is, that might help him remember who it was
13 during the audit period.

14 MR. NOURSE: And, Mr. Finnigan, we are
15 happy to stipulate to the minutes we provided in
16 discovery or if, you know, if you want the witness to
17 pull those up and look at them, we can do it that way
18 if that would help.

19 MR. FINNIGAN: I'm just -- I'm just
20 trying to establish this affiliate relationship, and
21 if, you know, we can do this by stipulation, I would
22 be happy to do that and save time, but what I would
23 like to stipulate is just certain information about
24 what's in SEC filings and OVEC annual reports and
25 FERC Form 1's, and the FERC Form 1's for AEP Ohio.

1 And I am just trying to establish that certain
2 executive officers of OVEC are also executive
3 officers of AEP, and certain directors of OVEC are
4 also employees and executives with AEP.

5 I could go down the list very quickly and
6 you can tell me if you will stipulate to this and
7 then save a lot of questioning.

8 MR. NOURSE: Yeah. We did disclose all
9 this in discovery. I am just -- I don't know that,
10 you know, for a historical time period, trying to ask
11 the names. If you have the names and you want to ask
12 him if they are AEP-affiliated people, that might be
13 quicker, but, otherwise, I am happy to stipulate to
14 the officers of OVEC during the audit period and
15 whether or not they were AEP employees.

16 MR. FINNIGAN: Yeah. And directors as
17 well. So here's who I have as the directors, Steve,
18 if you are willing to stipulate this: Christian
19 Beam, a Paul Chodak, Julie Sloat, and Raja
20 Sundararajan, S-u-n-d-a-r-a-r-a-j-a-n.

21 MR. NOURSE: That's a good pronunciation.
22 Yeah, I think if you ask the witness those names and
23 whether there's an AEP affiliation, if that's what
24 you are after, we could do that a lot quicker.

25 MR. FINNIGAN: Okay.

1 MR. NOURSE: Those were people involved.

2 MR. FINNIGAN: Okay.

3 Q. (By Mr. Finnigan) Let me ask you this,
4 Mr. Stegall, are the following individuals all
5 directors of OVEC: Christian Beam, Paul Chodak,
6 Julie Sloat, and Raja Sundararajan?

7 A. I'm not sure if they are all currently.
8 I believe over the audit period I believe all of them
9 were at some point on the Board of OVEC.

10 Q. And were they also executive officers of
11 AEP during that time?

12 A. Christian Beam was the President -- I
13 believe is the President of Appalachian Power, and
14 his participation in the Board is probably due to
15 that role. I'm not sure what role he held before
16 that.

17 Raja Sundararajan, he was, at one point,
18 President of AEP Ohio. I don't know if his
19 participation in the Board overlaps with him in that
20 role. But without -- without being date specific
21 and, honestly, you know, I don't track when
22 executives move in and out of their positions, so
23 without hard evidence in front of me it's hard to say
24 the overlap.

25 Q. But you can at least say of the four

1 people whom I mentioned, they were -- are they all
2 currently executive officers of AEP?

3 A. So, as I mentioned, Christian Beam is the
4 President of Appalachian Power. I don't know if that
5 qualifies him as an executive of AEP by your
6 definition. And Raja Sundararajan is now an
7 executive, a Senior Vice President, at AEP. You
8 mentioned Julie Sloat. She's either a Senior Vice
9 President or Executive Vice President at AEP. And
10 the fourth name, Paul Chodak, I don't recall.

11 Q. Okay. And Appalachian Power is a
12 subsidiary of AEP.

13 A. Yes, that's correct. It's an affiliate
14 of AEP Ohio.

15 Q. Those four individuals were all employees
16 of AEP during the audit period when they served as
17 directors of OVEC.

18 A. I want to make sure I am not agreeing to
19 something that we are -- where we are splitting
20 hairs. Once again, Christian Beam was the President
21 of AEP -- or, of Appalachian Power. So whether that
22 qualifies him as an AEP employee by your definition.
23 In my mind, I wouldn't say he is an Appalachian Power
24 employee. Appalachian Power is an AEP company. That
25 puts him in the AEP banner but I don't know that

1 makes him an official AEP Service Corporation
2 employee if that's what you are asking.

3 Q. Okay. And the other three, though, would
4 be employees of AEP Service Company during the audit
5 period.

6 A. Once again, without seeing exact
7 timelines, I know that Raja Sundararajan was
8 President of AEP Ohio at one point. So, without
9 knowing exact dates of when he was President of AEP
10 Ohio versus when he was a -- on the Board of
11 Directors for OVEC, I can't give you an exact yes or
12 no. He may have been on the Board as the President
13 of AEP Ohio or he may be on the Board as under his
14 current role.

15 Q. And Mr. Chodak and Ms. Sloat were
16 employees of AEP Service Company during this time?

17 A. Yes. To my knowledge, yes.

18 Q. Now, what is AEP Service Company
19 Commercial Operations and how do they relate to OVEC?

20 A. So the Inter-Company Power Agreement, or
21 ICPA, identifies that the three AEP affiliates that
22 are sponsoring companies of AEP -- of OVEC have a
23 participant on the OVEC Operating Committee.

24 And AEP Service Corporation as the entity
25 or the department in the AEP banner that manages the

1 interaction with the regional transmission
2 organizations and their energy markets and capacity
3 markets, they have the expertise to -- to offer
4 valuable information or actively participate in the
5 Operating Committee, so they provide the
6 representative on behalf of the three AEP operating
7 companies.

8 Q. So during the audit period, did AEP
9 Service Company Commercial Operations have a
10 representative who served on the Operating Committee
11 of OVEC?

12 A. Yes, they did.

13 Q. Was that Stephen McKee?

14 A. For the duration of the audit, I believe.
15 I know that Ed White was the participant prior to
16 Steve, and I don't know the exact handoff from when
17 Steve stepped in to replace Ed, but, yes. It was one
18 of those two individuals.

19 Q. Okay. And regardless of which one it
20 was, you don't know anything about what their
21 activities were with respect to the OVEC Operating
22 Committee as far as making commitment decisions into
23 the PJM day-ahead energy market, do you?

24 A. The commitment decisions are established
25 in the operating procedures.

1 Q. Well, I didn't ask you where the
2 commitment decisions were established. I am just
3 asking what your knowledge is and, you know, I may
4 want to ask you where I could find those, but right
5 now I am just asking you what your knowledge is, not
6 where I can find these.

7 So let me ask you, you know, whether you
8 could answer this with a yes or no question, or if
9 you can't, tell me why. But do you know anything
10 about Mr. McKee's activities with respect to the OVEC
11 Operating Committee regarding commitment decisions
12 into the PJM day-ahead energy market during the audit
13 period?

14 MR. NOURSE: Your Honor, I just object to
15 Counsel instructing the witness how to respond. I
16 instruct Mr. Stegall to answer the question directly
17 however he sees fit.

18 EXAMINER SEE: Mr. Stegall, if you are
19 able to give a yes or no answer, you may do so. If
20 it requires an explanation, you may also do that.

21 A. My understanding of Mr. McKee's efforts,
22 and like I said, I don't know when the handoff
23 between Ed White and Steve McKee occurred, so I am
24 going to make the assumption Steve McKee was during
25 the audit period, but Steve McKee's participation in

1 the Operating Committee is documented in the
2 Operating Committee meeting minutes. And that's --
3 that is -- that is the documentation that I read
4 probably a week or so ago, preparing for this
5 hearing.

6 MR. FINNIGAN: Your Honor, at this time I
7 would like to refer to a deposition transcript that
8 Mr. Stegall gave a couple of weeks ago, and I would
9 like to have that presented to the witness so that I
10 may read from it. And he may refer to it. I have a
11 copy of it that I could send by e-mail if he doesn't
12 have it.

13 MR. NOURSE: I have a copy. For the
14 record, I am handing the witness a copy of his
15 deposition transcript.

16 EXAMINER SEE: Okay.

17 Q. (By Mr. Finnigan) Okay. For the record,
18 Mr. Stegall, do you recall that you gave a deposition
19 in this proceeding on December 23, 2021?

20 A. Yes, I do.

21 Q. You've been handed a copy of that
22 deposition transcript and you have that before you?

23 A. Yes, I have it in paper form.

24 Q. Please turn to page 26.

25 A. Okay.

1 Q. Please refer to line 7, and I am going to
2 begin reading at that point.

3 "Question: And do you know anything
4 about what Mr. McKee's activities were with the
5 employees of OVEC as far as the commitment decisions
6 go?

7 "Answer: No, I do not."

8 Have I read that correctly?

9 MR. NOURSE: Your Honor, I just object.
10 I don't think this is a proper use of the deposition.
11 The witness just said that his knowledge about
12 Mr. McKee's activities were based on records that he
13 reviewed recently in preparation for the hearing.
14 And after -- after the deposition last month.

15 MR. FINNIGAN: Your Honor, I'm sorry. I
16 am just trying to do standard impeachment of the
17 witness. And I've heard -- I am just trying to find
18 out what he knows about the commitment decisions.
19 And at the deposition he said he knows nothing about
20 them. And when I answered -- asked here, he said he
21 tried to send me over some written procedure
22 somewhere. And I am just trying to get on the record
23 what does he know. And this is standard impeachment
24 where, at the deposition he said he knew nothing, and
25 I am just trying to ask him to confirm his statement

1 from the deposition in the record of this case that
2 he knows nothing about this.

3 MR. NOURSE: Yeah, your Honor, I object
4 to Mr. Finnigan's characterization saying that he
5 knows nothing about commitment decisions. The
6 question here is about a certain individual and their
7 activities, not that topic. So that's completely
8 inaccurate.

9 MR. FINNIGAN: And, your Honor, for the
10 record, I was only asking if I read that question and
11 answer from the deposition correctly. That's all I
12 was intending to ask.

13 EXAMINER SEE: Overruled.

14 MR. NOURSE: There's no basis for
15 impeachment at this point.

16 EXAMINER SEE: Overruled. Go ahead.

17 Q. (By Mr. Finnigan) Okay. I'll go ahead
18 and repeat it.

19 So referring to page 26, line 7, I will
20 read you that portion:

21 "Question: And do you know anything
22 about what Mr. McKee's activities were with the
23 employees of OVEC as far as the commitment decisions
24 go?

25 "Answer: No, I do not."

1 Have I read that correctly?

2 A. While you have read that correctly, as I
3 indicated, I looked at the Operating Committee
4 meeting minutes between this deposition and appearing
5 today.

6 Q. Okay. Well, I didn't ask what else you
7 did. I was only asking did I read that correctly. I
8 can read it again if you would like to hear it again.

9 A. And --

10 MR. NOURSE: I object, your Honor. He
11 already answered yes with an explanation, so there's
12 no reason to read it again.

13 MR. FINNIGAN: No, he didn't say yes.
14 That's all I was trying to get. I'll take a simple
15 yes.

16 EXAMINER SEE: Thank you.

17 He answered the question, Mr. Finnigan.
18 Go ahead. Move on.

19 Q. (By Mr. Finnigan) Now, isn't it true that
20 one of the things that an operator takes into account
21 in making a commitment decision are factors like
22 startup costs, shutdown costs, and expected revenues
23 over some period of time?

24 A. Those are elements that are reviewed
25 prior to a commitment decision.

1 Q. Okay. Now, other than possibly following
2 what may be in the Operating Committee procedures as
3 far as committing plants goes, do you personally know
4 anything about what OVEC does on a daily basis in
5 terms of what information they take into account in
6 making commitment decisions?

7 A. I am going to refer you to page 9 of my
8 testimony where I provided an answer beginning on
9 line 2. This was also information I believe we
10 provided in discovery in this case.

11 Q. Well, I've read your direct testimony and
12 I wasn't asking you to repeat your direct testimony.
13 All I'm asking you is this question, you know, you've
14 told us that OVEC follows their operating procedures.
15 But aside from what may be written in their operating
16 procedures, do you personally know what OVEC does on
17 a daily basis in terms of what information they take
18 into account in making their daily commitment
19 decisions?

20 A. So I am going to refer you again to my
21 testimony, line 7. There is a daily unit status
22 report from each plant. I am going to back up a bit
23 in my testimony, beginning on line 4. Availability,
24 including applicable unit derates, potential unit
25 liabilities, and outage status and expected unit

1 return-to-service dates.

2 Q. But do you know how OVEC commits its
3 units in terms of whether it's the same type of
4 analysis that you just described about taking into
5 account startup costs, shutdown costs, and expected
6 revenues over a period of time. Do you know whether
7 they take that into account?

8 A. Unit commitment is established in the
9 operating procedures as approved by the Operating
10 Committee.

11 Q. Okay. But do you know whether they take
12 it into account -- that into account in making their
13 daily decisions?

14 A. Once again, the commitment decision is
15 established in the operating procedures.

16 Q. Okay. Please turn to page 60 of your
17 deposition transcript.

18 A. Okay. I'm there.

19 Q. And please refer to line 8. I am going
20 to read you that question and answer.

21 "Okay. So you don't know how OVEC
22 commits its units, whether it does that same type of
23 analysis?

24 "I know that OVEC follows the operating
25 procedures established by the Operating Committee.

1 Beyond that I don't know what they do on a daily
2 basis."

3 Have I read that correctly?

4 MR. NOURSE: Your Honor, I just again
5 object because the first part of that answer is
6 exactly what he said a moment ago. Mr. Finnigan
7 didn't ask the follow-up question to get the same
8 information that was in the deposition so I don't
9 think it's impeachment at this point.

10 MR. FINNIGAN: Your Honor, I am just
11 trying to establish that the witness -- the witness
12 doesn't know what OVEC does on a daily basis in
13 making their commitment decisions. If we can
14 stipulate that, I will move on. It's proving to be a
15 little bit difficult in getting a yes or no answer.
16 That's why I'm forced to impeach him with his
17 deposition testimony. And alls I was asking him was
18 whether I correctly read his question and answer at
19 the deposition. I think that's a simple question he
20 could answer with a yes or no, and I'll move on if he
21 does that.

22 MR. NOURSE: You can't just read the
23 deposition transcript into the record with no purpose
24 of impeachment or refreshing. That's --

25 MR. FINNIGAN: My purpose is impeaching.

1 He did tell me during the hearing, a moment ago, that
2 OVEC follows the Operating Committee procedures so I
3 understand that. But what I was trying to ask is
4 whether he has any knowledge besides what may be
5 written in the operating company procedures. That
6 was my whole question and he kept referring me back
7 to the procedures and I was trying to impeach him by
8 establishing in the deposition he said that beyond
9 what's in the written procedures, he knows nothing
10 about OVEC's practices in making their daily
11 commitment decisions. That's all I am trying to
12 establish.

13 MR. NOURSE: Well, your Honor, the
14 question that was asked before we went to the
15 transcript was not anything like he just said in
16 qualifying without referencing the committee
17 procedures. So if that's the new question, I think
18 we can go there without the deposition transcript.

19 MR. FINNIGAN: Okay. Well, your Honor,
20 let me do that, try to address Mr. Nourse's point
21 here.

22 EXAMINER SEE: Okay.

23 MR. FINNIGAN: I will withdraw the prior
24 question.

25 Q. (By Mr. Finnigan) And I will ask you

1 this. Okay. So you don't know how OVEC commits its
2 units, whether it does that same type of analysis
3 that we were discussing before, do you?

4 A. Are you asking me about unit commitment
5 and how OVEC commits its units or are you asking me
6 about an analysis? Because I hear two questions.

7 Q. I am asking you -- I'm asking you what
8 type of analysis OVEC might take into account in
9 making their commitment decisions and I am following
10 up on what you talked about before in terms of what
11 AEP takes into account. You said that they take into
12 account things like startup costs, shutdown costs,
13 and expected revenues over a period of time, and now
14 I am trying to get at whether OVEC does the same
15 thing and that's my question, what OVEC does.

16 A. You keep referring to commitment
17 decisions and I keep telling you commitment decisions
18 are identified in the operating procedures. So I'm
19 not sure what commitment decisions you are referring
20 to, but my -- my nonlegal understanding of the ICPA
21 and the operating procedures is the commitment
22 decision is established there and I don't know that
23 OVEC has a whole lot of leeway aside from if the
24 units are unavailable or some other -- some other
25 sort of obligation like a mandated RTO capability.

1 Q. Okay. I was just asking about your
2 personal knowledge and, okay, you've identified that,
3 you know, the written operating procedures for OVEC
4 are what they follow, but I am just asking to your
5 personal knowledge, what do you know about the
6 analysis that OVEC takes into account in making their
7 commitment decisions in addition to what might be
8 written in the operating procedures.

9 MR. NOURSE: Your Honor, I just object
10 because I agree with Mr. Stegall. This question is
11 not clear. Again, if he's asking is there any
12 independent knowledge about beyond the procedures
13 that applies here. The premise of the question that
14 there is daily decisions when the Operating
15 Committee -- or operating procedures govern is part
16 of a disconnect I think we are having here. We keep
17 going in a loop.

18 MR. FINNIGAN: Your Honor, I don't
19 understand what the confusion is. I am trying to
20 establish whether the witness has any personal
21 knowledge what analysis OVEC might take into account
22 in making the commitment decisions besides what's in
23 the written operating procedures. And, you know, if
24 he knows of anything else, he can tell me. If he
25 doesn't, he can tell me that and it's that simple of

1 a question.

2 A. You keep losing me on the whole
3 commitment decision. The commitment decision is
4 identified in the operating procedures. If you are
5 asking about any sort of other analysis outside of
6 the commitment decision which is established in the
7 operating procedure, then that -- that's a different
8 topic.

9 Q. I didn't hear the end of that answer.

10 A. I said that's a different topic. The
11 commitment decisions are established in the operating
12 procedures. So if you are -- if -- it is OVEC's --
13 my understanding is, based on the operating
14 procedures, it's OVEC requirement that it offer its
15 units into the market with a commitment status
16 established in the operating procedures.

17 Q. So if -- if there's nothing in the
18 operating procedures that addresses whether OVEC
19 takes into account things like startup costs and
20 shutdown costs and expected revenues over a period of
21 time, if the Operating Committee procedures say
22 nothing about that, then that would indicate that
23 OVEC doesn't take that information into account in
24 making its commitment decisions on a daily basis into
25 the PJM day-ahead energy market.

1 A. Is there a way you can rephrase that?
2 You said a lot. I am not quite sure what you are
3 asking.

4 Q. Sure.

5 Well, I am just really trying to get at
6 what analysis OVEC takes into account when making its
7 daily commitment decisions. All I am getting at.
8 We've established -- we keep going round and round
9 that there is some information in the Operating
10 Committee minutes that may address this. But I'm
11 just asking you whether you know of any other
12 information they might take into account in making
13 their daily commitment decisions. That's all I am
14 asking.

15 A. I am going to refer you back to my
16 testimony. The unit status and availability,
17 applicable unit derates, potential unit liabilities,
18 and outage status.

19 Q. Okay. And I am going to refer you back
20 to the deposition. So if we could turn to page 60,
21 line 8. I am going to ask you if I am -- if I read
22 this question and answer correctly. If you -- if you
23 have any trouble answering this with a yes or a no,
24 let me know that. Is this a question that you are
25 able to answer with a yes or no? And this goes, in

1 large part, to my reading ability. Referring to
2 page 60, line 8.

3 "Question: Okay. So you don't know how
4 OVEC commits its units, whether it's done that same
5 type of analysis?

6 "Answer: I know that OVEC follows the
7 operating procedures established by the Operating
8 Committee. Beyond that I don't know what they do on
9 a daily basis."

10 Have I read that correctly?

11 MR. NOURSE: Your Honor, okay. I don't
12 see how you are impeaching the witness here. You are
13 just reading from the deposition transcript. Can you
14 clarify that, Mr. Finnigan?

15 MR. FINNIGAN: Yeah. I will. I am
16 trying to impeach the witness by a prior inconsistent
17 statement. He said at the deposition that OVEC
18 follows the Operating Committee procedures in making
19 its commitment decisions. He also said at the
20 deposition that he knows nothing else beyond that. I
21 am just trying to establish for purposes of this
22 record that he doesn't know anything other than
23 what's written in the Operating Committee procedures.

24 MR. NOURSE: I think --

25 MR. FINNIGAN: I will move on if he can

1 tell me if I have read the sentence correctly or not
2 so I can get it into the record of this proceeding.

3 MR. NOURSE: No. I think the confusion
4 is, again, you are reading a question from the
5 deposition that talks about OVEC commitment and then
6 you are shifting into this daily -- the daily
7 activity which Mr. Stegall, I think, has explained
8 numerous times the distinction there. So, again, I
9 don't think it's impeachment. I think it's a
10 misunderstanding, I guess I will say it that way.

11 MR. FINNIGAN: Okay. Well, to clear up
12 that misunderstanding, alls we really need to do is
13 allow the witness to answer whether I read that
14 question and answer correctly.

15 THE WITNESS: Can you go back. Your
16 question asked me about the same type of analysis.
17 Can you go back in the deposition and identify the
18 analysis that we are referring to?

19 MR. FINNIGAN: Yes. Certainly.

20 THE WITNESS: We talked about a lot of
21 things that day. I just want to make sure I am
22 answering your question.

23 MR. FINNIGAN: We just talked about that
24 a few moments ago in this hearing, too, when we were
25 talking about the startup costs, shutdown costs, and

1 expected revenues. But let's go to where we were --
2 I will orient you where we were talking about that in
3 the deposition too.

4 Q. (By Mr. Finnigan) Okay. Now, let's turn
5 to page 54 of the deposition transcript at line 11,
6 and I will ask you if I am reading this correctly.
7 Are you there at that page?

8 A. Yes.

9 Q. Okay. On page 54 at line 11, you were
10 asked a question: "Okay. And is one of the things
11 that the operator takes into account in making that
12 decision is to weigh the startup and shutdown costs
13 against the expected revenues over some period of
14 time."

15 "Answer: I think that is a component but
16 not the only component."

17 And then there was some discussion about
18 other components.

19 So that's, you know, orienting you as to
20 what the analysis was that was under discussion.

21 Then we turn to the OVEC plants about
22 what analysis do they do.

23 And then we ended up where we are now on
24 page 60 with I was just trying to establish whether
25 you know what analysis they do besides what's in the

1 written operating procedure. And if you know whether
2 they take into account these things like, you know,
3 startup and shutdown costs, and expected revenues,
4 you can tell me. But if you don't know, you can tell
5 me that too. That's all I am trying to get at.

6 A. Okay. Okay. Once again, I misunderstood
7 your question. We asked about commitment decisions,
8 something that's established in documentation. But
9 if you are asking me if I think they do some sort of
10 analysis that takes into account prices and startup
11 and shutdown costs, that is the thing that I don't
12 know.

13 Q. Okay. That's all I was getting at. I
14 apologize. I was probably unclear in my question
15 but, thank you. With that, I will move on.

16 Now, what we were talking about a moment
17 ago, how AEP takes into account their startup costs,
18 shutdown costs and expected revenues over a period of
19 time in committing its plants into the day-ahead
20 energy market, that's a good utility practice, isn't
21 it?

22 A. As I told you at the deposition, I
23 believe that is a good utility practice.

24 Q. And, in fact, you would need to use that
25 approach if you are going to maximize the economic

1 value of the unit.

2 A. It's a variable in the decision-making
3 process but it's not the sole variable.

4 Q. Okay. But wouldn't you agree that that's
5 the approach that AEP uses in that AEP's objective is
6 to maximize the economic value of every unit?

7 MR. NOURSE: Objection. Are you asking
8 about plants that AEP operates?

9 MR. FINNIGAN: Yes.

10 MR. NOURSE: Excluding OVEC.

11 MR. FINNIGAN: I am trying to establish
12 what AEP does in taking into account these startup
13 costs, shutdown costs, and expected revenues is good
14 utility practice. That's what I am asking.

15 MR. NOURSE: For plants that AEP owns and
16 operates, correct?

17 MR. FINNIGAN: Yes. For plants that AEP
18 owns and operates, correct.

19 A. Yes. For plants that AEP --

20 MR. FINNIGAN: That's what we were
21 talking about in the deposition at this point.

22 A. Sorry. I am crosstalking here.

23 Q. I am sorry. I didn't hear. Was there --
24 I didn't hear.

25 A. So for plants that AEP owns and operates,

1 yes, taking those things into account as part of your
2 decision-making process is, in my opinion, good
3 utility practice.

4 Q. And that's how you would maximize the
5 economic value of the units, isn't it, or at least
6 one important factor?

7 A. I would agree that it -- that it is a key
8 factor but once again not the only one.

9 Q. And that would be in the customers' best
10 interests to do that kind of analysis, wouldn't it?

11 A. It is in the customers' best interests
12 for AEP for the plants that it operates to do such an
13 analysis but, once again, if you are talking about
14 data, a lot of this data is market expectations on a
15 forward-looking basis so there's still a significant
16 amount of uncertainty so it's -- there is
17 professional judgment involved.

18 Q. Okay. And then this process that AEP
19 follows is -- is aimed at getting the least-cost
20 supply for customers.

21 MR. NOURSE: Objection. Were you
22 finished with your question?

23 MR. FINNIGAN: Yes.

24 MR. NOURSE: Yeah, I object. Again, we
25 are getting into, you know, other AEP activities for

1 plants they own and operate and for integrated
2 utilities that actually serve load and are going into
3 the market every day to try to optimize and do the
4 least cost. Those are all things that, again, are
5 not applicable here and I think it confuses the
6 record to get into that without explaining all those
7 distinctions and I don't think it's relevant because
8 they don't apply.

9 MR. FINNIGAN: Okay. Your Honor, I think
10 the Commission is well able to weigh the evidence in
11 terms of how much weight to give to one item or
12 another item but in this case the Commission directed
13 that the purpose of the case was to review the
14 prudence of all the costs flowing through the PPA
15 Rider. And what I am trying to establish here is
16 what AEP does, it's good utility practice and in the
17 best interests of customers to get a least-cost
18 supply and that's prudent. And I'm trying to set
19 that as the standard that OVEC should follow too.
20 That's -- that's what we're getting at so that's why
21 I am going into what AEP does as good utility
22 practice.

23 MR. NOURSE: Again, I would just ask,
24 your Honor, that this is -- this is talking about
25 load-serving integrated utilities which has no

1 application to Ohio or to AEP Ohio or OVEC, so I
2 think it's -- it's confusing the record and is going
3 to be used in a way that's misleading.

4 There's nothing that the Commission said
5 in the PPA Rider that suggests AEP Ohio is supposed
6 to be serving load, No. 1, or participating in the
7 daily market and trying to replace the OVEC asset
8 with something else. It was a financial hedge during
9 the market. I understand OCC disagrees with the
10 PUCO's decision and the Supreme Court's decision
11 upholding that. But this is not a case -- this is
12 not an opportunity to collaterally attack those
13 decisions and try to impose, you know, concepts under
14 the law that applied decades ago in Ohio and do not
15 apply today.

16 MR. FINNIGAN: Your Honor, I apologize.
17 I am not trying to attack the Commission's prior
18 rulings. However, they did say that in the future
19 prudence reviews like today they would do this fuel
20 adjustment clause analysis where one of the issues is
21 whether the Company has procured a least-cost supply
22 for consumers and that's the only reason I am asking
23 this question.

24 MR. NOURSE: I disagree with that.

25 MS. WHITFIELD: Your Honor, could I be

1 heard for just a moment? This is Angie Whitfield on
2 behalf of Kroger. I would just like to object to
3 Mr. Nourse's objections. He is essentially
4 testifying to what he wants to be put in the record
5 here. If he has an objection to the particular form
6 of the question or thinks it calls for speculation or
7 is misleading, he can say that, but he doesn't need
8 to go into a diatribe of what he is interpreting is
9 happening here and giving his argument against what
10 OCC is attempting to do.

11 EXAMINER SEE: Thank you.

12 MR. NOURSE: Thank you, Ms. Whitfield.
13 That's not what I am doing. I'm making legal
14 arguments and not testifying, unlike some of the
15 activities so far in this case.

16 MS. WHITFIELD: Sorry. That was my dogs.
17 I apologize.

18 I was going to suggest perhaps we make
19 the objection as to what our form is, and then if you
20 want to hear legal argument, your Honor, you request
21 it.

22 EXAMINER SEE: Well, thank you,
23 Ms. Whitfield. Thank you, Mr. Finnigan and
24 Mr. Nourse.

25 If we could just be direct in our

1 objections and their response and let's focus on
2 posing witnesses -- posing questions to witnesses
3 appropriately.

4 With that, the objection is overruled.

5 Mr. Stegall, if you need to have the
6 question read back, we can do that.

7 THE WITNESS: Please, your Honor.

8 EXAMINER SEE: Karen.

9 (Record read.)

10 A. My understanding is the process is
11 designed to both maximize the units over their life
12 as well as take into account expectations of the
13 market. So it's a -- it is a complex -- for the
14 load-serving entities who are in, you know, I believe
15 the Southwest Power Pool term is load resource
16 entities that AEP system --

17 Q. My question --

18 A. -- the fully integrated utilities.

19 Q. But my question simply was --

20 MR. NOURSE: Let him finish.

21 MR. FINNIGAN: I'm sorry.

22 EXAMINER SEE: Go ahead and finish your
23 question -- your answer, Mr. Stegall.

24 A. The best practice is to take many factors
25 into account. And as much as we would love least

1 cost to be the best option, you still have
2 contractual obligations, operational characteristics
3 of plants, things like that that you have to take
4 into account.

5 Q. But is the process that AEP follows at
6 least aimed at getting the least-cost supply for
7 customers?

8 MR. NOURSE: Objection, asked and
9 answered. Same exact question.

10 MR. FINNIGAN: Well, no, your Honor, I
11 didn't ask it in terms of what the objective was or
12 what it was aimed at.

13 EXAMINER SEE: Very close, but go ahead
14 and answer the question, Mr. Stegall.

15 A. Like I said, the objective is to maximize
16 the economic value of the asset over its life.

17 Q. Okay. But in addition to that, is there
18 any objective aimed at obtaining the least-cost
19 supply for customers?

20 A. That is an objective weighed in with a
21 lot of other factors such as the performance of the
22 unit, obligations under the contract, things like
23 that.

24 MR. FINNIGAN: Your Honor, may we take a
25 short break at this time?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXAMINER SEE: Yes. Let's go off the record.

(Discussion off the record.)

(Thereupon, at 12:32 p.m., a lunch recess was taken.)

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Friday Afternoon Session,
January 14, 2022.

- - -

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

Mr. Finnigan.

MR. FINNIGAN: I'm sorry. I was on mute.
Can you see me okay and hear me okay now, your Honor?

EXAMINER SEE: Yes.

MR. FINNIGAN: Okay. Thank you.

- - -

JASON M. STEGALL

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

CROSS-EXAMINATION (Continued)

By Mr. Finnigan:

Q. Good afternoon, Mr. Stegall.

A. Good afternoon.

Q. Did you perform any comparison analysis
to show how much revenue would have been derived if
an economic commitment had been used for the OVEC
plants?

A. I didn't catch the first part of the
question. Did you ask me if I performed such an
analysis?

1 Q. Yes.

2 A. No, I did not. Excuse me. Such an
3 analysis would require a lot of information, some of
4 which is the information that OVEC supplies to the
5 PJM market on a daily basis. This is not information
6 to my knowledge that they share with the sponsoring
7 companies.

8 Second, you would need information on
9 what the estimates of prices were at the time the
10 decision was made. And in addition, you would also
11 need a series of information about performance, any
12 concerns the operators have had in the moment that
13 commitments are made to indicate any sort of estimate
14 of risk of failure of the units.

15 Q. Okay. Now, do you know whether the
16 actual results of the costs that are passed through
17 the PPA Rider were any different from what the
18 original projections were expected to be?

19 A. I didn't evaluate the original
20 projections as part of my analysis. I only compared
21 the costs to the OVEC bills to market parameters and
22 I identified those in my testimony.

23 Q. Is it true that in Michigan, the Company
24 submits five-year projections of the costs of the
25 OVEC plants to the Michigan Commission?

1 MR. NOURSE: Object for relevance.

2 MR. FINNIGAN: Your Honor, it's relevant
3 to the prudence of all costs flowing through the PPA
4 Rider. The expected costs would be relevant to
5 comparing that to the actual costs to know if the
6 financial hedge is performing as expected.

7 MR. NOURSE: Well, I disagree that it's
8 relevant to this proceeding as to how the financial
9 hedge is performing, but also trying to say whatever
10 information was submitted to another commission
11 shouldn't be discussed in this record. I think it is
12 doubly irrelevant.

13 EXAMINER SEE: The objection is
14 sustained.

15 MR. FINNIGAN: I'm sorry. I apologize,
16 your Honor. I didn't hear.

17 EXAMINER SEE: It's -- the objection is
18 sustained, Mr. Finnigan.

19 MR. FINNIGAN: Thank you, your Honor.

20 I would just like to make a brief
21 proffer. If expected -- or if allowed to testify on
22 this point, I believe the witness would testify that
23 the Company does, in fact, submit a five-year
24 projection to the Michigan Commission of the costs
25 from the OVEC plants each year that it does a fuel

1 filing in the state and that those costs would show
2 what the expected costs were for the years that are
3 subject to this audit and would indicate that the
4 projected costs that were filed with the Michigan
5 Commission were much less than what the actual costs
6 have been during a 2018-2019 time period. And that's
7 all, your Honor. I will move on to the next
8 question.

9 EXAMINER SEE: Your proffer is noted.

10 Thank you.

11 MR. FINNIGAN: Thank you.

12 Q. (By Mr. Finnigan) Sir, do you have any
13 information on whether the PPA Rider will be a net
14 credit or a net charge over the life of the rider?

15 MR. NOURSE: Objection. The life of the
16 rider has already terminated and I don't know of any
17 relevance certainly going forward and it's not
18 relevant to the audit period.

19 MR. FINNIGAN: Well, the audit period
20 would include part of the life of the rider, the
21 years 2018 and 2019. So I'm asking this as a
22 foundational question to get to that.

23 MR. NOURSE: Are you -- I'm sorry. Are
24 you asking about what the record in the PPA Rider
25 showed with the original projection? He already said

1 he didn't do a projection here.

2 Q. (By Mr. Finnigan) Here's my question,
3 Mr. Stegall: Do you have any information on whether
4 the PPA Rider will be a net credit or a net charge
5 over the life of the rider?

6 MR. NOURSE: I object. It has no ongoing
7 relevance. And the question doesn't make sense.

8 MR. FINNIGAN: And, your Honor, the years
9 2018 and 2019 are part of the life of the rider.

10 MR. NOURSE: But he's asking whether it's
11 a net credit based on a projection and that's not the
12 historical period. That's why I asked whether he was
13 talking about the original PPA rider case.

14 MR. FINNIGAN: I am asking that, your
15 Honor, and that goes to whether the Company should
16 have been aware that the PPA Rider was not performing
17 as expected during 2018 and should have done
18 something about it.

19 MR. NOURSE: Well, your Honor, I disagree
20 with, you know, this factual statement that Mr. --
21 Mr. Finnigan is making there. But certainly, you
22 know, I think the Commission expected the rider to
23 operate based on net costs and that's exactly how it
24 operated. And to suggest that it's not operating,
25 again is just another form of the collateral attack

1 argument that the Intervenors want to try to open
2 this case up with.

3 EXAMINER SEE: The -- the objection is
4 overruled.

5 Mr. Stegall, you can answer the question
6 and explain as you feel necessary.

7 THE WITNESS: Could I get the question
8 read back to me, please.

9 MR. FINNIGAN: Your Honor, I can ask it
10 again to save time.

11 EXAMINER SEE: Please do.

12 Q. (By Mr. Finnigan) Sir, excuse me. Do you
13 have any information on whether the PPA Rider will be
14 a net credit or a net charge over the life of the
15 rider?

16 A. No, I do not. I haven't done that
17 analysis.

18 Q. I would like to direct your attention to
19 the concept of seasonal operation. Regarding
20 seasonal operation, do you know what the savings
21 would be from lower demand charges or lower
22 maintenance charges for the OVEC plants?

23 A. No, I do not.

24 Q. Did AEP Ohio ever do any analysis of
25 whether customers would benefit by converting the

1 OVEC plants to seasonal operation?

2 A. Well, I am not aware of any analysis. I
3 did indicate that the capacity revenues earned by AEP
4 Ohio over the two-year audit period, \$40.2 million,
5 and if -- if, depending on how you implement a
6 seasonal operating strategy, you are forgoing that
7 42 -- \$40.2 million of revenue, so any -- any savings
8 would have to exceed that level of cost -- or that
9 level of revenue.

10 Q. Okay. And what we have had so far is
11 that the costs have greatly exceeded the revenues so
12 you talked in your direct testimony about there being
13 30 million revenue from the energy side and then
14 40 million revenue from the capacity side, but are
15 you aware that the costs that were flowed through the
16 PPA Rider for 2018 and 2019 were over \$70 million?

17 A. I want you to keep in mind, of the two
18 numbers that I gave you, the capacity revenues was
19 gross. I didn't net it against the demand charge.
20 The energy revenues were net. I did net them against
21 the energy charge. So I want to -- I want to be
22 careful when we add those numbers because there is a
23 demand and a transmission component and the
24 implementation into PJM incorporated a PJM charge
25 component into the OVEC ICPA bill over this period.

1 So the Company's calculation of revenue
2 requirements for the rider establishes what the -- on
3 a quarterly basis, what the net was between what OVEC
4 bills and the revenues incurred -- and the revenues
5 received. But when we talk about seasonal operation,
6 and you are talking about comparing the difference
7 between O&M savings and a loss of what's in the audit
8 period was \$40.2 million.

9 Q. Okay. But you mentioned that you didn't
10 factor in any savings from O&M and demand charges.
11 And let me ask you this: I'll represent to you that
12 the auditor testified in this case, subject to check,
13 the costs flowed through the PPA Rider for 2018 were
14 \$25.4 million and for 2019 were \$49.1 million. Were
15 you aware of that?

16 MR. NOURSE: I object, your Honor. I
17 think, No. 1, subject to check, I think it's already
18 borne out in this case as being a false premise.
19 That's not going to happen. And secondly, I think
20 the auditor's testimony talked about reconciliation
21 differences, too, with those balances that are
22 reflected in the audit report. So I don't think
23 those numbers were accurate as stated by
24 Mr. Finnigan.

25 MR. FINNIGAN: Well, your Honor, the

1 auditor testified she was willing to accept, subject
2 to check -- she was here three days where she could
3 have checked that, but she said, subject to check,
4 she agreed the amount of costs charged under the PPA
5 Rider for that period were what I just mentioned. I
6 am just asking this witness if he was aware of that.
7 And I will also ask it subject to check.

8 EXAMINER SEE: And the witness can answer
9 the question.

10 A. I am not aware of the exact number. I am
11 aware that the PPA Rider was a charge to customers
12 over the audit.

13 Q. Okay. Thank you.

14 Now, did AEP Ohio ever ask OVEC to do an
15 economic commitment for a unit other than Clifty
16 Creek 6?

17 A. Well, I am not aware of any analysis.
18 Keep in mind that there is no analysis to support
19 commitment because commitment is designated in the
20 operating procedures.

21 Q. Sorry. I didn't hear the last part of
22 that. I heard the "I am not aware" part.

23 A. I'm not aware of any analysis; and any
24 commitment decision is established in the operating
25 procedures.

1 Q. Okay. And are you aware of any analysis
2 that AEP Ohio did to assess what the economic
3 outcomes were of the commitment decisions done by
4 OVEC.

5 A. Aside from the quarterly calculation of
6 revenue requirement under the rider?

7 Q. Aside from that.

8 A. Okay. No. Aside from that, which is
9 filed I believe with the Commission on a quarterly
10 basis, I am not aware of anything.

11 Q. Now, and do you know -- strike that.

12 Now, you've talked earlier about the OVEC
13 Operating Committee following these Operating
14 Committee procedures but are you aware of what
15 factors the Operating Committee took into account in
16 deciding to designate the units as must run?

17 A. I just want to clear something up you
18 said in your question. The Operating Committee
19 writes and approves the operating procedures. They
20 don't follow them. It is OVEC that follows the
21 operating procedures in accordance with the
22 procedures written by the Operating Committee and
23 approved by I believe the standard is two-thirds of
24 the Operating Committee.

25 Q. Okay. I appreciate that. Thank you.

1 And did you -- is there anything else you
2 would like to add?

3 A. To my -- my understanding as far as what
4 is evaluated is each sponsoring company has its own
5 requirements and the Operating Committee attempts to
6 balance all of those requirements, whether you are
7 talking about a fully-integrated utility
8 participating in an RTO, whether you are talking
9 about a, for example, Kentucky utility that does not
10 participate in an RTO, or you are talking about the
11 Ohio utilities that serve load that don't have
12 generation.

13 Q. Could you please turn to page 128 of your
14 deposition transcript.

15 A. Okay.

16 Q. Okay. I'm sorry. I'm going to back up a
17 moment and let's go to page 127 and take a look at
18 line 17. And I am going to ask you if you were asked
19 this question at your deposition and gave this
20 answer. Line 17, Question: "Okay. So my question
21 for you is are there any formal analyses or
22 documentation of the factors that the OVEC Operating
23 Committee took into account during 2018 and '19 when
24 determining to commit all but one of the units at
25 Kyger and Clifty Creek as must-run units?"

1 "Answer: I want -- I want to make sure
2 you understand. Some of these factors aren't static.
3 They will change based on conditions. The other
4 thing is I am not aware of any -- any specific
5 attempt to quantify everything beyond, you know, what
6 I know that generators in PJM submit certain
7 information as part of PJM protocols."

8 And then, "Question: Okay. So you don't
9 know which specific factors that the Operating
10 Committee took into account specifically for 2018 and
11 '19, do you?"

12 "Answer: No, I do not." Or, "No, I
13 don't."

14 Have I read that correctly?

15 A. You've read that correctly, and I don't
16 believe my answer contradicted that. My answer said
17 they take into account the interests of three
18 different types of owners. I don't know what they --
19 I can't quantify it as I said in my deposition. I
20 still can't, but it's subject to a two-thirds vote
21 which means that there's enough people in the
22 Operating Committee that would approve of it.

23 MR. FINNIGAN: That's all the questions I
24 have. Thank you, Mr. Stegall.

25 THE WITNESS: Thank you.

1 MS. HENRY: I believe NRDC is next. I
2 will start whenever you like.

3 EXAMINER SEE: I'm sorry, Ms. Henry. I
4 said counsel for NRDC and just realized I was on
5 mute. Go ahead.

6 MS. HENRY: Thank you so much, your
7 Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Ms. Henry:

11 Q. Good afternoon, Mr. Stegall.

12 A. Good afternoon.

13 Q. I'm Kristin Henry. I am counsel for
14 NRDC. Nice to meet you.

15 As the Manager of Regulatory Pricing and
16 Analysis and the only AEP Ohio witness in this
17 docket, do you believe that the Commission has
18 authority to issue a disallowance for PPA Rider
19 charges that were imprudently occurred -- that were
20 imprudently incurred?

21 MR. NOURSE: Objection. Obviously this
22 question is a legal question of the Commission's
23 authority.

24 MS. HENRY: Your Honor, I phrased it as
25 the Manager of Regulatory Pricing and Analysis and

1 the only AEP Ohio witness in this docket. And as you
2 know, you've made a number of objections to strike
3 our testimony and saying we're trying to expand the
4 scope of this docket. I am just trying to get an
5 understanding of what AEP thinks the Commission's
6 authority is.

7 MR. NOURSE: Well, again, we'll be
8 discussing that in the legal briefs, your Honor, and
9 it's not an appropriate question for the witness.

10 EXAMINER SEE: With the caveat that
11 Mr. Stegall is not an attorney, he can give his
12 opinion.

13 Go ahead, Mr. Stegall.

14 A. It's not a question I've thought about.
15 Once again, I am not an attorney. I don't know that
16 even if I had an opinion, it would be worth much.

17 Q. Okay. What -- you have no opinion about
18 whether they can issue a disallowance?

19 MR. NOURSE: Objection, asked and
20 answered.

21 MS. HENRY: I am just confirming he has
22 no opinion whether the Commission has the authority
23 to issue a disallowance for imprudence.

24 MR. NOURSE: Your Honor, I object. He
25 asked -- he already answered that question.

1 EXAMINER SEE: The question has been
2 asked and answered. Move on, Ms. Henry.

3 Q. (By Ms. Henry) Okay. As the Manager of
4 Regulatory Pricing and Analysis and the only AEP Ohio
5 witness in this docket, do you believe the Commission
6 has the authority to -- to require improvements in
7 the commitment and dispatch of OVEC units if it is
8 needed to protect the ratepayers?

9 MR. NOURSE: Object, legal conclusion.

10 MS. HENRY: I am asking for his opinion
11 as the AEP witness in this docket.

12 MR. NOURSE: It doesn't change the fact
13 it's a legal argument, your Honor.

14 EXAMINER SEE: And Mr. Stegall can give
15 his opinion as a non-attorney.

16 Go ahead, Mr. Stegall.

17 A. Ms. Henry, I haven't given any thought as
18 to what the Commission can or cannot do.

19 Q. Okay. OVEC sells energy from the OVEC
20 plants into the PJM market; is that correct?

21 A. I would like to qualify that. I believe
22 that's the case with the exception of there is a few
23 sponsoring companies that are not members of PJM.

24 Q. Okay. AEP Ohio sells all of OVEC's
25 capacity that it's entitled to under OVEC IC -- ICPA

1 into the PJM capacity auction; is that correct?

2 A. That is correct and I stated so in my
3 testimony.

4 Q. And OVEC is responsible for offering
5 ancillary services into the PJM marketplace, correct?

6 A. Yes. I think that goes with their daily
7 operations in the PJM market. They are submitting
8 the required information to participate in both the
9 energy markets and the ancillary service markets,
10 however it is applicable.

11 Q. Okay. I am going to ask a series of
12 yes-no questions. Unless it's really essential to
13 elaborate, I know a lot of counsel here would like it
14 if we could speed things along, so if it's not
15 necessary to elaborate and it's a yes-no question, I
16 will ask for your cooperation, if it's possible.
17 Okay?

18 A. Okay.

19 Q. AEP Ohio does not use any of the energy,
20 capacity, or ancillary services obtained under the
21 OVEC ICPA to provide services to its own customers,
22 correct?

23 MR. NOURSE: I object. If this is a
24 question of how the PPA Rider was approved and
25 operates, if she can clarify that. There is no

1 context to this.

2 Q. (By Ms. Henry) AEP Ohio does not use any
3 of the energy obtained under the ICPA to provide
4 services to its own customers, correct?

5 MR. NOURSE: Object. Are you asking
6 whether they serve load, Counsel?

7 MS. HENRY: Yes, sir.

8 MR. NOURSE: That's a different question.
9 He can answer.

10 A. AEP Ohio does serve load.

11 Q. The PPA Rider is a charge if the OVEC
12 plants cost more than they earn in the PJM energy,
13 capacity, and ancillary service markets; is that
14 correct?

15 A. That's my understanding of how the
16 revenue requirement for the rider is established.

17 Q. Okay. And the PPA Rider is a credit if
18 the OVEC -- and the PPA Rider is a credit if the OVEC
19 plants earn more in the PJM energy, capacity, and
20 ancillary services markets than they cost; is that
21 correct?

22 A. Yes.

23 Q. You can refer to Figure 16 of the audit
24 if you want to, but it's just a general question, you
25 may not need to, the PPA Rider is usually a charge to

1 AEP Ohio customers; is that correct?

2 A. During the audit period, I believe that
3 was true.

4 Q. And the rider is -- the PPA Rider is
5 calculated by adding up all of the AEP Ohio's OVEC
6 demand, energy, and transmission charges under the
7 ICPA and offsetting those costs with all of the PJM
8 revenues from energy, capacity, and ancillary service
9 markets, correct?

10 A. Yes. That's my understanding of how it
11 works.

12 Q. PJM operates two energy markets; is that
13 correct?

14 A. Yes, the day-ahead market and the
15 real-time market.

16 Q. I am going to ask you some questions
17 about PJM's day-ahead market, okay?

18 A. Okay.

19 Q. OVEC is responsible for committing or
20 bidding the energy from the OVEC units into the PJM
21 marketplace, correct?

22 A. So the -- the commitment decision is
23 something that's identified in the operating
24 procedures, so OVEC is implementing the procedures
25 established by the Operating Committee.

1 Q. Okay. I am going --

2 A. And then as far as bidding goes, it's my
3 understanding that bids refer to the purchase of
4 demand, and the offer is what's referred to when you
5 are selling generation into the market.

6 Q. Okay. So is OVEC the one who is
7 responsible for interfacing with the PJM marketplace?

8 A. When -- by "interfacing," you mean
9 supplying all information in accordance with the PJM
10 protocols?

11 Q. I mean that -- if they have -- if they
12 are committing energy to the PJM marketplace, it's
13 OVEC itself that does that, correct?

14 A. OVEC submits --

15 Q. It's not the -- I'm sorry. Go ahead.

16 A. I was going to say OVEC submits all the
17 information required by PJM protocols to participate
18 in the energy and ancillary markets on a daily basis.

19 Q. Okay. There are four general categories
20 that a generator identifies to schedule their energy
21 in the PJM day-ahead marketplace; is that correct?

22 A. Yes. And I identified all four of those
23 in my testimony.

24 Q. Yeah. Page 8 -- page 8, line 17, if you
25 want to refer to it, sir. I believe -- and is it

1 correct the four categories are economic, must run,
2 emergency, and not available?

3 A. Yes.

4 Q. And if a unit is scheduled as must run,
5 PJM will dispatch that unit at least at its economic
6 minimum, correct?

7 A. I want to be careful about terms here
8 because to me "dispatch" is something specific. So
9 if a unit is committed as -- as must run, it is
10 selling at a minimum its economic minimum in the
11 market. PJM may determine that it is economic above
12 that economic minimum, but it is -- it is guaranteed
13 to commit a certain amount of energy equal to its
14 economic minimum.

15 Q. Thank you, sir.

16 And generally an economic minimum is the
17 stable output for thermal generation units; is that
18 correct?

19 A. That's the lowest level of stable output.
20 I think that's the way I would describe it.

21 Q. Thank you, sir.

22 And to be clear, a unit could be
23 scheduled as must run regardless of its cost to
24 operate, correct?

25 A. If a unit is committed as must run, it is

1 on an economic minimum without any decision being
2 made by the market.

3 Q. You could schedule an expensive gas
4 peaker as must run, and PJM would still follow those
5 scheduling instructions, correct?

6 A. While I believe that's the case, I
7 believe the economic minimum for peaker plants that
8 you are referring to is very low.

9 Q. All right. If the unit is scheduled as
10 economic, it's the market operator, or PJM, that has
11 the responsibility for unit commitment; is that
12 correct?

13 A. I want to rephrase that a little bit.
14 Just once again, terms are hanging me up here, but if
15 a unit is committed as economic, it is the market
16 making the decision to turn it on.

17 Q. Okay. I'm fine with plain language. I
18 am sure everybody appreciates plain -- plain language
19 answers like that.

20 A. I get tripped up over "commitment" and
21 "dispatch." Like I said, in my mind they are very
22 specific terms. I want -- I would rather speak in
23 plain language if that's possible.

24 Q. I mean, even Dr. Fagan tripped up on some
25 of that language. If you want to use plain language

1 about turning on, I am happy to do that for
2 everybody's sake.

3 So when a unit is scheduled as economic,
4 it might operate or turn on on some days, and it
5 might not operate on other days depending on what PJM
6 commits it to, correct?

7 A. So I just want to rephrase your question
8 in a -- since we are going plain language here. If
9 the unit is committed as economic, PJM may determine
10 to turn it on some days and not turn it on on other
11 days.

12 Q. Okay. And so when a unit is scheduled as
13 economic, it might cycle, turn on and off, correct?

14 A. That's correct.

15 Q. Okay. And it's possible that a generator
16 might not turn on at all if it's scheduled as
17 economic, correct?

18 A. Yes.

19 Q. And PJM's commitment decisions are based
20 on the system operate -- is if the system operator
21 assesses that the unit will be economic to operate
22 relative to other generation sources; isn't that
23 correct?

24 A. I think we're -- you are sort of
25 oversimplifying, and I am not trying -- I am trying

1 to be as accommodating as possible here.

2 So my understanding on the economic
3 commitment is PJM will determine what -- what the
4 level of load it needs to serve is, determine a price
5 based on the resources that are offered, and then --
6 and then go backwards and determine what units that
7 are economic need to be turned on to meet load at
8 that time. I'm not sure if that's exactly the
9 question you asked. I just want to make sure we are
10 clear on the --

11 Q. Yes, that's helpful. Let me -- I am
12 going to say it in a layperson's terms and see if it
13 accurately kind of reflects what you said. But the
14 market operator will take all of their bids of
15 energy, and they will stack them from lowest to
16 highest, you know, if we are going to use like a
17 visual analogy. And then they will figure out where
18 demand is, how high up the stack they need to go in
19 order to meet demand, and whatever the bid price is
20 for that highest, you know, one to meet demand,
21 everybody below the stack will get that price, right?
22 That's how they kind -- the market works in laymen's
23 terms.

24 A. With the exception of the fact that bids
25 are demand, and offers are generation, so it will --

1 it will stack the offers, slightly rewording what you
2 said, and then determine which offers are needed to
3 meet the demand.

4 Q. Okay. And people if -- if a generation
5 source is offered as a must run, it's kind of at the
6 bottom of the stack regardless of -- of the price,
7 it's kind of at the lowest tier, right, because they
8 have self-scheduled in a sense?

9 A. I'm not exactly sure specifically how PJM
10 would -- would do it. In my mind, if PJM determines
11 that the level of demand for a particular hour is,
12 we'll say, a thousand megawatts and you have a
13 hundred-megawatt unit or, say, a unit with a
14 hundred-megawatt-minimum economic output and it's a
15 must run, then PJM is then going to make the
16 calculations based on 900. Start with a thousand,
17 it's got a hundred megawatts of must-run supply, so
18 now it's making the calculation based on the 900
19 that's still available.

20 Q. Okay. So the first one is up -- the
21 first ones out of the gate are the must runs.

22 A. I am sorry. I didn't understand what you
23 said.

24 Q. When they are trying to determine the
25 amount of demand, the first thing they'll do is

1 figure out how much, they add up all the must run --
2 all of the must-run offers, correct, and then they
3 will figure out demand after that. Is that what you
4 were saying?

5 A. So they are figuring out demand first. I
6 think they use the must run as an immediate offset,
7 sort of take it off the bottom, and then based on the
8 stack of generation now they are deploying whatever
9 resources they need to meet demand in that particular
10 hour.

11 Q. Okay. And if -- if a unit is offered as
12 must run, the price they get is going to be that --
13 that price that -- they had to go up the stack to
14 meet demand, correct? Everybody gets the same price.

15 A. Yes. Everybody gets the same price.

16 Q. And that price --

17 A. With the exception would be the
18 congestion component of the LMP.

19 Q. Actually I was just about to -- so the
20 LMP is the locational marginal price and that is the
21 price that is -- that all offers are received,
22 correct?

23 A. So the LMP has three components. It has
24 an energy component, a lost component, and a
25 congestion component. I believe in a particular hour

1 the energy component and the lost component are set,
2 and the congestion is location specific.

3 Q. Okay.

4 A. So they are setting the energy price, but
5 based on the flow of electrons and the available
6 transmission capacity and capabilities, they are
7 adjusting the price to accommodate the operating
8 characteristics of the grid on a transmission basis.

9 Q. And that's the node, correct, kind of the
10 nodal price?

11 A. Yes, that's the nodal price.

12 Q. Thank you.

13 And these -- these commitment decisions,
14 they submit them to -- to PJM on a daily basis,
15 correct?

16 A. It's a commitment status. It's
17 essentially a field that you are submitting in the
18 data you provide.

19 Q. And it's done on daily basis, correct,
20 sir?

21 A. I believe it's -- it's done on a daily
22 basis, but I believe it's provided hourly, so you
23 would say for a particular day I am going to offer
24 this unit in as must run for the entire day.

25 Q. Got it.

1 A. And when I say that, you're assuming the
2 unit is online. I think there's different variables
3 if the unit is offline.

4 Q. Yeah. We'll get to that in a second. In
5 your -- in the course of your work for AEP Service
6 Corp. -- is it okay if I refer to it as AEP Service
7 Corp? Do you know what I mean when I say that?

8 A. Yes, I do.

9 Q. Okay. In the course of your work for AEP
10 Service Corp., during the audit period you helped
11 make decisions for certain thermal units to see if
12 they would be scheduled as must run, economic,
13 emergency, or not available, correct?

14 A. Specifically I -- I am more of a witness
15 to those decisions. I don't make them. The
16 day-ahead market operations team makes decisions in
17 the market. I consult with them. I sit in on their
18 meetings. I have access to their management and
19 their teams but that's -- you know, they make the
20 decisions. I am just there to help.

21 Q. Okay. You have that, shall we say that
22 window into operations at AEP, but you don't have
23 that same level of window with the OVEC commitment
24 process; is that correct?

25 A. Beyond what's in Operating Committee

1 meeting minutes for the audit period, no.

2 Q. So the extent of your knowledge is the
3 Operating Committee -- the Committee meeting minutes
4 and the -- and the procedure handbook?

5 A. I'm sorry. I didn't quite catch that
6 question.

7 Q. Okay. I will withdraw that, and I will
8 come back to that.

9 A. Okay.

10 Q. So in -- in the AEP thermal units that
11 you have insight into, which does not include the
12 OVEC units, you -- AEP typically relies on a six-day
13 projection of PJM market prices along with other
14 information about startup costs in order to make its
15 decisions; is that correct?

16 A. They don't strictly rely on it. It is a
17 data point that goes into their decision-making.

18 Q. And you look at that because it's a way
19 to maximize -- to maximize profits, correct?

20 A. You're balancing the maximization of
21 profit in the short term with maximization of profits
22 over the life of the unit as well as the operating
23 characteristics, what the unit is capable of. I
24 think there's a lot of variables that go into it.
25 Economics is -- is a component, but it's not the one

1 and only.

2 Q. Yes. Understood. So it's not the one
3 and only, but you would consider it to be a very
4 important component.

5 A. I would consider it to be important, but
6 once again, all the operating characteristics of the
7 plants and there's other important components as
8 well.

9 Q. Yeah. Okay. Okay. So OVEC commits the
10 OVEC units. Do you want me to use the term "commits"
11 or "offer"? Which do you prefer?

12 A. Well, commitment decision is deciding of
13 those four statuses that we talked about already. So
14 if that's what you want to address, we can talk about
15 commit.

16 Q. Okay.

17 A. If you are talking -- or attributing data
18 to PJM, if that's --

19 Q. No, we'll do -- let's do the commit,
20 okay, so that way we are on the same page. When I
21 say "commit," it's deciding between the four
22 different categories, okay?

23 A. Okay.

24 Q. All right. So OVEC commits the OVEC
25 units into the PJM ahead -- day-ahead energy market,

1 correct?

2 A. So they submit the data in, but the
3 commitment decision is something well laid out in the
4 operating procedures.

5 Q. Okay. Let's take -- then let's break
6 that apart. OVEC -- are you saying OVEC has no
7 discretion in their commitment? All -- they just
8 follow the scheduling, the scheduling department's
9 directive.

10 A. The Operating Committee has procedures
11 established, and I want to say it's Section 9.05 of
12 the Inter-Company Power Agreement that sets the
13 authority of the Operating Committee. And one of
14 the -- one of the things the Operating Committee has
15 discretion over or has control over is the commitment
16 status of the unit. So the Operating Committee has
17 established operating procedures that govern that
18 decision and that decision is laid out in those
19 procedures. But it's up to OVEC to actually submit
20 the data. So we talked about commitment status being
21 something you submit as part of PJM protocols. OVEC
22 is the one that hits the button to send the data.

23 Q. Okay. So during the audit period, when
24 OVEC made these commitment decisions, it offered the
25 units as must run in accordance with the OVEC

1 Operating Committee procedures, correct?

2 A. Yes, yes.

3 Q. So with the exception of Clifty Creek
4 Unit 6, OVEC's commitment decision was pretty much
5 always the same. If the unit was in service and
6 available; it was offered as must run, correct?

7 A. Yes. That's my read of the operating
8 procedure.

9 Q. And when OVEC made those daily commitment
10 decisions, it did so in accordance with the Operating
11 Committee procedures, correct?

12 A. We may be splitting hairs here. The
13 Operating Committee made the decision, and OVEC made
14 the commitments.

15 Q. When OVEC made those daily commitment
16 de -- when OVEC committed the units daily, it did not
17 rely on projections of market prices, correct?

18 A. I don't know if they did an economic
19 analysis. Once again, my understanding of the
20 operating procedures, my interpretation is what I
21 just told you that OVEC commits it because the
22 operating procedures say if the unit is available,
23 you will commit it as must run.

24 Q. So you have no idea if they use a profit
25 and loss statement.

1 A. No. And I have never seen one that
2 they've prepared.

3 Q. Okay. So you've never seen a profit and
4 loss statement for the OVEC units prepared.

5 A. You are add -- once again, I want to make
6 sure we are talking about the same thing. Profit and
7 loss statement as in expectation of market prices,
8 OVEC's variable costs or incremental costs, and in --
9 and the expected result; and, no, I haven't seen an
10 analysis of that sort.

11 Q. Okay. And then let me just do a
12 follow-up question. What is your understanding of
13 what is a profit and loss statement?

14 A. So my -- my understanding is based on --
15 this came up already. The transcript of my -- I
16 explained in my deposition, there is a
17 forward-looking expectation of how the market is
18 going to operate over a set period of time, and then
19 a layering in of unit output and prices, and then an
20 expectation of what the net margin would be.

21 Q. And they call it a "profit and loss
22 statement" because if your variable cost of
23 production is higher than what the -- than the
24 revenue you will earn on the market, then the
25 generator would experience a loss, correct?

1 A. On a net energy margin basis, yes.

2 Q. And it's called a "profit and loss
3 statement" because it would receive a profit if the
4 variable costs of production were lower than the --
5 what they would receive on the market, correct?

6 A. I'm comfortable if we agree that profit
7 and loss is variable costs and market -- expected
8 market energy revenues, I am comfortable with that.

9 Q. I was talking on a variable basis so
10 that's great. And often they will refer to it as
11 kind of an energy margin is either can be positive or
12 negative depending on how -- which side -- you know,
13 which side of the line it falls on shall we say.

14 A. Yes. And what -- when we talk margins,
15 just so we're clear, we are talking about total
16 dollars in margin, not a per-megawatt-hour
17 calculation.

18 Q. I am just going to take a moment, sorry.
19 Have a sip of water.

20 Okay. So, generally speaking, variable
21 costs of production are the variable costs that a
22 utility incurs to generate the next unit of
23 electricity; is that correct?

24 A. So in my experience there's two things.
25 There is variable costs which is essentially an

1 average of total variable expenses divided by output.
2 And then there's incremental costs. And incremental
3 costs are based on the curves you are submitting to
4 PJM on a daily basis. It says for the next
5 megawatt-hour over a certain threshold and with the
6 endpoints being minimum economic output and maximum
7 economic output, what is the level of cost for that
8 next megawatt-hour.

9 So I want to make sure we say incremental
10 or we say variable. If you are asking the
11 incremental, that's something slightly different.

12 Q. That was a helpful explanation. Thank
13 you, sir.

14 Fixed costs of production such as capital
15 costs and fixed operation and maintenance costs,
16 those are not included in an energy market offer,
17 correct?

18 A. That's -- yes, that's my understanding.
19 We are talking generally. That's my understanding.

20 Q. Thank you, sir.

21 And if a unit is must run, it's possible
22 that the nodal locational marginal price is lower
23 than the unit's variable cost of production, correct?

24 A. Yes, that's possible.

25 Q. And in that case the generator would not

1 recover its variable operating costs, correct?

2 A. For that particular hour, yes.

3 Q. Okay. And the energy margin is all of
4 the revenue earned at the marketplace that exceeds
5 the variable cost of production, correct?

6 A. If that's the agreed-upon definition, I
7 am willing to agree to that; energy revenues minus
8 variable costs.

9 Q. Okay. And it's possible a unit could
10 have months with a negative energy margin, correct?

11 A. It's certainly possible.

12 Q. And it's possible that a unit that had
13 months of a negative energy margin could have a
14 positive energy margin over the course of the year,
15 correct?

16 A. While that's possible, keep in mind that
17 where -- whatever months you have a negative margin,
18 you would have to have a much larger positive margin
19 in other months so, yes, it's possible but that means
20 that somewhere out there there is other months where
21 the market was, you know, really high priced and
22 you're making a lot of money on a variable energy
23 basis.

24 Q. So a positive energy margin does not
25 equal a maximized -- just because there is a positive

1 energy margin doesn't mean that it's the maximum
2 energy margin that could have been achieved. Could
3 we agree to that?

4 A. I would -- I would go beyond that. Just
5 because the margin is positive, doesn't mean it's the
6 maximum; just because the margin is negative, doesn't
7 mean that you couldn't have done worse.

8 Q. Fair enough. Thank you, sir.

9 It's possible you could have a plant that
10 has a negative energy market -- a negative energy
11 margin, say, in the shoulder seasons but it has a
12 high enough positive energy margin during the summer
13 peak season that it could kind of offset those
14 losses, correct?

15 A. That's certainly possible but keep in
16 mind that the shoulder season is typically when, you
17 know, large units are doing planned outages. So,
18 yes, it's certainly possible but keep in mind the
19 operational characteristics of a plant is that when
20 they are not expected to be needed during high demand
21 times such as shoulder months, they will take the
22 unit offline and do their major maintenance projects.

23 Q. Okay. So basically having a positive or
24 a negative energy margin, unless you kind of drill
25 down into it, you are not really sure if you have

1 maximized -- you've maximized how much money could be
2 earned; is that correct?

3 A. As we stated a minute ago, just -- I
4 can't look at a positive energy margin and think that
5 you couldn't have done better or a negative margin
6 and think you couldn't have done worse.

7 Q. Thank you for that.

8 I was wondering, can you tell me all of
9 the documents that you reviewed in preparation for
10 filing your -- you filed -- let's see. Hold on a
11 second. Your testimony was filed on?

12 A. December 22 is the date that I have.

13 Q. Yeah, that's the date I have, the file
14 stamp date. Can you tell me all the documents you
15 reviewed in preparation for this prefiled testimony?

16 A. I -- I reviewed some reports out of PJM
17 on the energy and capacity revenues. I looked at
18 some OVEC bills. I read through operating procedures
19 for the period in question. I believe we provided
20 Board of Director meeting minutes in discovery. I
21 read those.

22 Q. Anything else, sir?

23 A. I perused through sections of the ICPA
24 and the operating procedures, I believe there were
25 two different versions that were in effect during the

1 audit period.

2 Q. Anything else, sir?

3 A. That's all that I can remember at this
4 time.

5 Q. Okay. And what -- let's see.

6 I am going to have you turn to your
7 testimony on page 11, starting on line 3. Just take
8 a second to refresh your memory with that. And let
9 me know when you are ready, sir. Sorry.

10 A. Go ahead and ask your question.

11 Q. Okay. You talk about a positive
12 32 million -- a \$32 million positive energy margin in
13 this -- in this -- on this page; is that correct,
14 sir?

15 A. Yes. On line 11.

16 Q. Okay. And that basically means that the
17 revenues from the energy market minus the energy
18 charges created a \$32 million positive energy margin,
19 correct?

20 A. That's correct.

21 Q. Did you attempt to quantify if this was
22 the highest or the maximum energy margin that OVEC
23 could have achieved during the audit period?

24 A. I don't have all of that information to
25 do so. It would require me to almost go back and

1 re-dispatch OVEC on an hourly basis, I would have to
2 take into account ramp rates, shutdown costs, startup
3 costs, whether or not OVEC has fuel and whether or
4 not the fuel supply could replace a higher level of
5 dispatch. There is a lot of operational variables
6 that I couldn't quantify in such an analysis and I
7 indicated in my testimony. I didn't do a re-dispatch
8 analysis because I don't have that data.

9 Q. Okay. So you did not do that analysis,
10 correct?

11 A. Yes, that's correct.

12 Q. Thank you.

13 We talked about some of the documents
14 that you reviewed ahead of time when you were
15 preparing your testimony and you noted that you
16 looked into some PJM materials. Did you look at the
17 PJM demand comparison reports? For 2018-2019?

18 A. No, I did not.

19 Q. Did you look -- you didn't look at any of
20 the PJM demand comparison reports?

21 A. No. I looked at some summary reports on
22 financial data.

23 Q. Is it correct that the PJM demand
24 comparison reports provide projections of the PJM
25 market prices?

1 A. I didn't look at the report, so I don't
2 know.

3 Q. Okay. Do you know if looking at the PJM
4 comparison reports would provide a -- projections of
5 the economic value of running the OVEC units?

6 A. I haven't looked at the reports. I would
7 need to understand how they are developed, how far
8 forward they go. You know, as -- as Dr. Fagan said
9 yesterday, you know, even price projections get less
10 reliable the farther out you go from the initial day
11 you make the projections.

12 Q. Did you review any predictive decision
13 documents that OVEC used or could have used to make
14 its commitment decisions?

15 A. I already admitted I didn't look at any
16 predictive documents that OVEC used. If OVEC did
17 something, that's not something that we're privy to.

18 And as far as predictive reports to the
19 market, I think, once again, there's -- there's a lot
20 of data there. You would have to take into account,
21 even with an expectation of price, what the unit was
22 capable of in the moment, what their operators were
23 thinking in the moment.

24 And so while you can do an economic
25 analysis and spreadsheets can be very easy, but

1 managing plants and talking to operators and
2 understanding risk of equipment failure and its
3 impact, that's the hard part of this, any sort of
4 analysis.

5 Q. You've read my mind because we are about
6 to go there, okay? Did you review any actual
7 day-ahead locational marginal prices for PJM in 2018
8 for the Kyger Creek or Clifty Creek nodes?

9 A. The report that I ran to determine the
10 energy revenues included the LMPs. I didn't do any
11 sort of trending analysis of the LMPs themselves, but
12 I did see the LMPs.

13 Q. So you saw the LMPs. On what granular
14 level?

15 A. On an hourly basis and by component.

16 Q. And you did that for both 2018 and 2019.

17 A. Yes. To come up with the numbers we were
18 just discussing in the paragraph starting on line 11,
19 page 11 of my testimony.

20 Q. And did you review the actual delivered
21 fuel costs for the OVEC units in 2018 and 2019?

22 A. When you say "delivered fuel costs," do
23 you mean the fuel expense and billed under
24 Section 5.02 of the ICPA?

25 Q. Yes. The ones that flow under the ICPA.

1 A. So that would have been the fuel that was
2 actually burned. I looked at those 24 reports over
3 that period in order to come up with the
4 \$114.8 million number I came up with on line 14 of
5 page 11.

6 And I do want to take this moment to
7 point out that even the data there, that is total
8 fuel costs, they calculate an average on the section
9 of the ICPA bills, they calculate an average per kWh,
10 but, as I stated a few minutes ago, variable costs
11 and incremental costs are different and units are
12 dispatched on incremental costs.

13 Q. Let's go to page 12 of your testimony,
14 lines 16 through 19. You state that OVEC's Operating
15 Committee would change to an economic commitment
16 status if there was a substantial change in the
17 market and a sustained period of low prices or other
18 circumstances develop that warrant consideration of
19 an economic commitment; is that correct?

20 A. Yes, that's what it says. That's what I
21 say.

22 Q. Would you consider a week a sustained
23 period?

24 A. So you can't ask a period length without
25 evaluating, you know, once again, the operational

1 factors of the plant. Even the startup and shutdown
2 costs, you know, if you shut down a plant and it has
3 a five-day downtime, is it going to take you one day
4 to shut down, five days to cool the turbine before
5 you can even begin your startup sequence which may be
6 another day. So one decision to shut down would take
7 it out of commission for a week.

8 Like I say, it's a -- you would have to
9 take into account all the factors. My -- the cost
10 incurred to start OVEC as a unit, you know, and then
11 whatever -- whatever incremental O&M associated with
12 cycling, would that exceed the value of shutting it
13 down? And that's the question you have to answer.

14 And so I can't say one week without doing
15 that analysis, knowing what kind of price level we
16 are talking about, how comfortable the people that
17 are evaluating the prices are with looking out at a
18 week's worth of pricings and, you know, making some
19 sort of guess. It's a -- it's not a simple decision.

20 Q. Did you ever review the actual day-ahead
21 locational marginal energy prices and the production
22 costs of OVEC units to determine if there was
23 whatever sustained period of time with a negative
24 energy margin that would have warranted an economic
25 commitment during the audit period? Did you ever do

1 that analysis? Did you ever determine if there was a
2 sustained period of time that would have warranted an
3 economic commitment?

4 A. I can't do that analysis without
5 understanding what OVEC's startup costs are, what the
6 operational metrics they are submitting to PJM are,
7 and once again what -- any -- anything I would do
8 would be from the comfort of 2020 hindsight. So
9 you're asking me if I can experience the same level
10 of risk as someone -- someone making a decision in
11 real time. Looking out after the fact, I can't do
12 that, and so I did not do that analysis.

13 Q. Do you find that sometimes hindsight
14 knowledge is helpful if you are operating a plant
15 economically for ratepayers?

16 A. There would have to be qualifications
17 on -- you know, I can't just say straight-up yes or
18 no. You can use prior situations to try and learn
19 but so there may be -- there may be. I mean, there
20 may be a learning opportunity in any situation,
21 successful or unsuccessful, but once again, to -- to
22 make -- to look at something in hindsight and assume
23 that the person in the moment has the same level of
24 comfort and information that you did is, I think,
25 unreasonable.

1 Q. Okay. Okay. And I'm actually -- and
2 thank you. That's helpful to know. And I think
3 that -- let me ask you this, do you think a utility
4 has a continuing prudence obligation to serve its
5 customers?

6 A. In what regard? Prudence obligation in
7 what regard?

8 Q. Let's give you a hypothetical. Let's say
9 a utility comes to a commission and says we would
10 like to create a rider and we believe this rider will
11 create millions of dollars in benefit for ratepayers.
12 And then, based on hindsight experience, it comes to
13 light that the rider is not operating as the utility
14 predicted it would. Should the utility take a step
15 back and figure out, in order to best serve the
16 ratepayers, should I figure out why reality is not
17 matching what I forecasted? Is that an obligation
18 that a utility should have to its customers?

19 MR. NOURSE: I just object for incomplete
20 hypothetical. Is this a utility that owns the
21 generation and controls it, operates it, serves load?
22 Anything like that you can provide?

23 MS. HENRY: Okay.

24 Q. (By Ms. Henry) We -- we -- the -- let's
25 just say the utility has some management discretion

1 about how it -- it has some management insight or it
2 has ability to vote on how -- on how the units are
3 run. And now the units are costing more money to
4 their ratepayers than they had projected. And so my
5 question to you is, as the utility, if the facts on
6 the ground don't bear out the forecasted projections,
7 do you as -- do you, who is serving the customers, do
8 you have an obligation to reassess and figure out why
9 things aren't operating as expected? Even if it
10 means you have to get some data that you don't always
11 have.

12 A. I want -- I want to bifurcate my answer
13 here because, one, I think utilities that serve load
14 perform an integrated resource plan study that
15 determines how they are going to serve customers over
16 the long term. Those are updated on a regular basis.

17 I mean, this is for load-serving
18 utilities that own generation, have a generation
19 profile or generation -- have generation resources.
20 You know, that is -- that is something they do.

21 Now, in a situation where a utility
22 doesn't have unilateral control over the underlying
23 source of the costs, I -- that complicates it. So to
24 say the utility should have done something, without
25 having unilateral control to make decisions, that

1 makes it a much more difficult hypothetical to
2 answer.

3 Q. Okay. So let me ask you this, if you
4 have a utility that does not have unilateral control
5 but it is the utility that the Commission has
6 jurisdiction over, okay? What can -- I mean, and we
7 know that -- and under this hypothetical we are going
8 to assume that there was a rider put in place that is
9 costing \$75 million a year to customers, and they
10 don't have unilateral control. Is the only recourse
11 that the customers just have to be price takers or is
12 there some middle ground?

13 A. That's -- that's pretty broad. You know,
14 what -- yeah. There's a lot of variables in my mind
15 I can't quite get my arms around.

16 Q. What can you get your arms around?

17 A. So if a utility doesn't have unilateral
18 control and the customer -- so they -- so, first, I
19 guess does -- does the Commission authorize recovery
20 upfront for such a charge? If it's subject to
21 true-up, is it subject to audit? Did the audit
22 identify any -- anything that should have been
23 disallowed? I mean, I would kind of start with that.
24 You know, if the utility doesn't have unilateral
25 control, I think the question is the underlying

1 asset. What is the underlying asset capable of
2 within the framework which it's governed?

3 Q. Okay. Let's stop and unpack that one a
4 little bit. So let's say that under this
5 hypothetical you have a rider that is not performing
6 as forecasted and costing ratepayers far more than
7 anticipated and now it's come to light that that's
8 the case, do you think the Commission should say,
9 okay, things aren't working as we thought they were
10 working, I think it's time now to have an assessment
11 about whether this is still in the best interest of
12 ratepayers. Is that something that could be done?

13 MR. NOURSE: I'll just interject an
14 objection again. If you are -- it's an incomplete
15 hypothetical. And you are just saying "a rider"
16 without giving any context whether it's a financial
17 hedge or there's load serving or anything else. And
18 you're really asking what the Commission can do which
19 is, again, ultimately a legal question, a
20 jurisdictional question.

21 MS. HENRY: I can rephrase.

22 Q. (By Ms. Henry) Let's say that there was a
23 rider put in place that was supposed to operate as an
24 economic hedge. In this hypothetical, the rider was
25 projected to last for a number of years and projected

1 to provide hundreds of millions of dollars of benefit
2 to the ratepayers. It turns out in reality the
3 economic hedge did not bear out as it had been
4 forecasted, and instead of being a benefit to
5 economic -- instead of being a benefit to ratepayers,
6 it was a cost.

7 Now, as a utility that doesn't have
8 unilateral control, can it still take a step back and
9 look at whether continuing operation of those units
10 is in the best interest of ratepayers?

11 MR. NOURSE: I'll just object and note
12 for the record that "economic hedge" is not a concept
13 that's been discussed anywhere in this record or in
14 prior Commission decisions. I am not sure what that
15 refers to. And I guess if you don't want to
16 rephrase, with that clarification.

17 MS. HENRY: I think the question is clear
18 enough, and I think if he needs further -- I think we
19 can see what the witness can handle, if that's okay
20 with your Honor.

21 EXAMINER SEE: Mr. Stegall, you can give
22 whatever -- you can request whatever clarification
23 you need. You can provide additional details and
24 nuance in your answer if you need to. Go ahead.

25 A. I want to go back to at least my

1 understanding of riders are supposed to address costs
2 that are significant, variable, and outside of the
3 utility's control. We established in the
4 hypothetical that the utility is not -- does not have
5 unilateral control of the underlying resource. If
6 the rider doesn't perform, I -- I don't know what the
7 proper response of the Commission is. But we have to
8 keep in mind that, one, it's a rider; two, the
9 Commission has an opportunity to review; and, three,
10 if we are specifically addressing this rider because
11 our hypothetical keeps inching closer to the PPA
12 Rider, the Commission conducted an audit, and we have
13 an audit report and two days of testimony by the
14 auditor.

15 Q. Okay. And let's say -- okay. Let's --
16 the auditor recommended several improvements. Are
17 you familiar with -- were you present yesterday
18 when -- I'm sorry, not yesterday. Were you present
19 for the past three days when Dr. Fagan testified?

20 A. So I -- I was present, and I am aware the
21 audit report includes improvements. I think if we
22 are going to refer to something, I would like to pull
23 out the audit report; but, yes, I am aware she
24 proposed improvements, suggested improvements.

25 Q. Okay. And one of those improvements

1 involved changes to the must-run commitment --
2 changes so that OVEC had more flexibility to offer
3 the units on an economic basis as opposed to simply a
4 must-run basis; is that correct?

5 MR. NOURSE: I object. I think this
6 mischaracterizes. Can you direct him to a specific
7 place in the report if you are going to refer to
8 something in the report?

9 MS. HENRY: I can pull it up unless he
10 can answer generally.

11 A. If it's possible, I think for reference
12 purposes I would really love to look at the specific
13 language in the report you are talking about.

14 Q. Sure. It's under the recommendations.
15 Sorry.

16 MR. NOURSE: You could look at page 53 if
17 that's what you want to ask about.

18 MS. HENRY: Okay. Thank you, Mr. Nourse.

19 Q. You want to look at page 53 where it
20 says -- let me know when you are there, sir.

21 A. I'm there.

22 Q. Okay. It says, because the OVEC plants
23 are offered into the PJM DA market as must run, there
24 are times during which the PJM DA prices do not cover
25 the variable cost of running plants -- of running the

1 plants; is that correct, sir?

2 A. Are you on page 53?

3 Q. Oh, on -- let me see. You know, I am on
4 53, but I might have the -- I think there is
5 different page numbering between the confidential and
6 the public versions. Are you in the public version
7 or are you in the confidential version?

8 A. I am in the confidential version. I have
9 access to the public version. I can pull it up.

10 Q. No. I just thought it would be helpful
11 if we were on the same version. Hold on one second.

12 EXAMINER SEE: Let me ask the parties, if
13 it's possible to use the public version so we don't
14 inadvertently offer confidential information into the
15 record if it's possible.

16 MS. HENRY: Your Honor, we will -- I will
17 heed.

18 Q. (By Ms. Henry) Are you comfortable doing
19 that, Mr. Stegall?

20 A. Absolutely.

21 Q. Okay.

22 A. And by public version, I'm looking at I
23 believe it OCC's Exhibit 6.

24 Q. I will have Ms. Kern verify because I
25 don't have it in front of me.

1 MS. KERN: I'm sorry. Tom Lindgren is
2 handling --

3 MS. HENRY: Oh, sorry.

4 MS. KERN: I would need you to repeat the
5 question too.

6 MR. DONADIO: Your Honor, if I can
7 interject. I believe it was previously marked as
8 Staff Exhibit 1 if we are talking about the public
9 audit report.

10 MS. HENRY: Thank you.

11 MS. KERN: Yes, that's correct.

12 Q. (By Ms. Henry) Is that helpful,
13 Mr. Stegall?

14 A. Yeah. I have the public version.

15 Q. Okay. Sir, do you see -- is it okay if I
16 begin questioning? Can you please turn to page 53,
17 sir, and let me know when you are there.

18 A. Yes, I am there.

19 Q. Okay. And is it correct that in the
20 audit report it says, "LEI makes the following
21 recommendations," about halfway down the page; is
22 that correct?

23 A. Yes. I see that. With three bulleted
24 items following that.

25 Q. Yes.

1 A. Okay.

2 Q. And does it say that the must-run offer
3 strategy -- is the first bullet entitled "Must-run
4 offer strategy," sir?

5 A. Yes, I see that.

6 Q. Okay. And does it state that "LEI
7 recommends that OVEC carefully consider when and
8 whether the must-run offer strategy is optimal, as it
9 appears that in some months, it may result in
10 negative energy earnings for the plants"; is that
11 correct?

12 A. That's what the report states.

13 Q. Okay. And then it does state that
14 "Weekly demand on price outlooks can be utilized, for
15 example, to determine whether and how to offer
16 generation during a given block of time, considering
17 start-up costs and other factors"; is that correct?

18 A. That's what it says.

19 Q. Okay. So my hypothetical is going to be
20 this, sir: Hypothetically, if there is a rider and
21 that rider was audited, and the audit says based on
22 hindsight and what we know now this isn't operating
23 at a way that maximized benefits to ratepayers and
24 they would like to see how these units are -- how
25 these units are committed into the market change, can

1 the Commission heed that advice?

2 MR. NOURSE: I am just going to object
3 again. I think, No. 1, the auditor testified already
4 in this proceeding that she did not recommend that
5 OVEC switch to must run, and she didn't have the data
6 to support such a conclusion. And she wasn't making
7 that recommendation, merely to carefully review,
8 carefully consider in the future. It was not a
9 directive or recommendation relative to the audit
10 period.

11 And I think the second -- well, similarly
12 the audit didn't -- the auditor did not reach such a
13 conclusion about ratepayer benefit. So again, if we
14 are talking about a hypothetical, it doesn't relate
15 to the facts of this proceeding. You know, I guess
16 that's fine as long as we are clear, but it shouldn't
17 be used later to apply here with those kinds of
18 differences.

19 Q. (By Ms. Henry) Okay. Mr. Stegall --

20 MR. NOURSE: I did object, so.

21 EXAMINER SEE: Yes. There is an
22 objection.

23 MR. NOURSE: I am going to wait for the
24 Examiner if you are not going to respond.

25 EXAMINER SEE: Did you want to respond,

1 Ms. Henry?

2 MS. HENRY: I think that -- I think if he
3 doesn't -- I think that it would be helpful for the
4 Commission to understand where AEP is on this
5 situation and I think that it would be helpful
6 information for the Commission to consider as its
7 moving forward.

8 EXAMINER SEE: Just a moment.

9 Move on, Ms. Henry.

10 Let's go off the record.

11 (Discussion off the record.)

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

14 Go ahead and continue in your
15 questioning, Ms. Henry.

16 MS. HENRY: Thank you.

17 Q. (By Ms. Henry) Mr. Stegall, can I have
18 you return to page 12 of your testimony. And we are
19 going to again look at lines 16 through 19. And I am
20 going to read you the sentence we were talking about
21 before. Are you there, sir? I don't see your
22 screen. There you are. You state, "OVEC's Operating
23 Committee would change to an Economic commitment
24 status -- status if there was a substantial change in
25 the market and there was a sustained period of low

1 prices or other circumstances develop that warrant
2 consideration of an economic commitment"; is that
3 correct?

4 A. Yes, that's what I believe.

5 Q. Okay. And then I said would you
6 consider -- I asked you earlier if you would consider
7 a week to be a sustained period. Do you remember
8 that question, sir?

9 A. I do. And I believe my response was that
10 there is a lot of factors that would have to be taken
11 into consideration.

12 Q. And those factors -- let's make a list of
13 those factors, and the factors were, if I remember,
14 you said startup time; is that correct?

15 A. So, one, I think you would have to look
16 at a difference in projected price; two, the
17 certainty with which the person evaluating the future
18 believes in that forecast meaning how much of it is
19 weighted towards the end of the week versus the
20 beginning, okay? And that goes back to something
21 Dr. Fagan said yesterday, that forecasts are more
22 reliable the closer they are to the date then -- then
23 less reliable the farther out that you get. You
24 would need to take into account the incremental cost
25 curve as well as average variable cost. You would

1 also need to take into account startup and shutdown
2 costs, startup time, shutdown time, ramp rates,
3 minimum downtime. That's all I can think of as of
4 right now. I mean, I am sure somebody sitting in a
5 control room would -- would raise -- may raise
6 something else.

7 Q. And did you in your analysis look at the
8 24-month audit period and determine -- and to see if
9 there was a sustained period of time? Did you look
10 at all of these factors to figure out if there was a
11 sustained period of time where there were negative
12 energy margins that would have warranted an economic
13 commitment status?

14 MR. NOURSE: During the audit period,
15 Ms. Henry?

16 Q. Yes. If I wasn't clear about that, I
17 said during the audit period.

18 A. So keep in mind out of all those
19 variables that I indicated, average variable cost is
20 I think the only one that we have. I don't have ramp
21 rates. I don't have OVEC incremental cost curves for
22 their 11 units. I don't have the forecast day they
23 would use at the time. So there is a lot of
24 information missing. I didn't do that analysis
25 because I have a thimble of data that I would need,

1 and I really need a library of data to try and do
2 that sort of analysis.

3 Q. So you don't know if there were sustained
4 period of -- sustained periods of time as you would
5 define them in which these plants were operating with
6 negative energy margins that would have warranted a
7 change of commitment status.

8 A. And going back to this negative energy
9 margin, we determined that was based on variable
10 costs or average variable costs, not incremental
11 costs so that -- that adds a whole other wrinkle into
12 any sort of analysis.

13 Q. Let's go back to your statement again on
14 line 16 where you say if there were a period of low
15 prices or other circumstances would develop. So did
16 you look -- is it true you never looked to see if
17 there were sustained periods of time where there were
18 periods of low prices that would warrant an economic
19 commitment status for these units?

20 A. And how are you defining sustained
21 periods of price?

22 Q. I am trying to -- you told me that in
23 order to determine a sustained period of price you
24 would need to have some -- some various factors and
25 you told me you had one of that list, so I am trying

1 to just establish you did not do that; is that
2 correct, sir?

3 A. That's correct. I told you at the
4 beginning I -- I pulled down the energy revenue
5 information out of PJM. I compared it to the charge
6 under Section 5.02 of the ICPA for the 24 months and
7 I came out with, I can give you the exact number, the
8 \$32 million that I identified on page 11 of my
9 testimony.

10 Q. Okay. And as we already established in
11 your testimony, a positive energy margin does not
12 mean the maximum energy margin, correct?

13 A. And a negative energy margin doesn't mean
14 that it's an imprudent action or it is the maximum
15 loss that an entity could have incurred.

16 Q. Okay. And if there is a negative energy
17 margin for a month, that means that plant cost more
18 money to run than it earned, correct, on a variable
19 basis -- or an incremental and variable basis?

20 A. So on a variable basis because, remember,
21 I don't have incremental costs, so on a variable
22 basis, you can -- you can look at a sum of a month,
23 but you would still have to look at hourly data to
24 determine are we talking about one bad weekend over
25 the course of the month and we were -- you know, the

1 unit was relatively positive on an energy margin for
2 all the other days. A month is a long time. I mean,
3 on average it's like 720, 744 hours. You have to
4 determine where the loss is being generated.

5 Q. So do you think that in the future that
6 the future audits should do this dispatch modeling to
7 determine if there are these sustained periods where
8 these plants are uneconomic, is that what you would
9 recommend the Commission do?

10 A. As I stated, there's a lot of information
11 that goes into a re-dispatch analysis. That's just a
12 lot of time. It's a commitment. I don't know if
13 that's the optimal course. I am not -- I am not in
14 the Commission's head. I know that the auditor has a
15 recommendation as far as the must-run strategy. I
16 would hope that the Commission would start there; but
17 once again, the Commission is the Commission, they
18 are in charge, and I am just the guy that analyzes
19 power plants for a living.

20 Q. But that would be helpful information
21 for -- that would be helpful information to know, if
22 there were these sustained periods of time where the
23 plants was uneconomic?

24 A. So like I said, you can look at an hour
25 and compare it to the average variable costs over the

1 course of a month and get -- get an answer. Is the
2 number positive or negative? What's sustained?
3 What's -- what's foreseen? What's -- you know, what
4 determines prudence? That's a whole other question.
5 All we are doing is saying we can hold one number
6 next to the other, see if the answer is positive or
7 negative but that's not your -- that's not your
8 diagnosis. That's just a place to -- that's just
9 telling you where to start looking.

10 Q. Okay. But we can -- but is it fair to
11 say when you have these negative numbers they would
12 be symptoms that maybe warrant further investigation?

13 A. You are asking me to make a value
14 judgment on a number I don't have in front of me. Is
15 it large? Is it small? Is it -- how long does it go
16 on?

17 Q. Let's say --

18 A. Is it sometimes positive, sometimes
19 negative? There is a lot of -- there is a lot of
20 variability there.

21 Q. Let's say 50 percent of the months you
22 have a negative energy margin, would you consider
23 that to be a symptom that they should do -- that they
24 should drill down further, that the Commission should
25 try to find more information to try to figure out how

1 to run this thing better?

2 A. Did you say 50 percent of the months or
3 50 percent of a single month.

4 Q. I said 50 percent of the months.

5 A. I mean, that was not the case here.

6 Q. 12 out of 24 months.

7 A. I mean, that was not the case here but
8 so, I mean, we are not talking about this particular
9 situation.

10 If it was 50 percent, once again I would
11 need to see the numbers. I would at least need to
12 know what the total cost to start all of the OVEC
13 units are before I could even look at a number and
14 get any sort of grounding in whether or not it's
15 large or small when compared.

16 Q. But it's possible for an -- maybe not you
17 but it's possible for that analysis to be done.

18 A. Not a re-dispatch analysis. It is
19 possible to say these -- this is the average cost or
20 this is, you know, for every -- I can determine what
21 the hourly output to AEP Ohio was from OVEC. I know
22 what the average billing cost is. I know what AEP
23 Ohio liquidated its energy share for in the market.
24 I can put those numbers together and add them and see
25 if the number is positive or negative.

1 But once again, that doesn't determine
2 prudence. That doesn't take into account any
3 decision-making. That is just performance after the
4 fact.

5 Q. Do you think that the Commission -- one
6 element of this docket or this proceeding would be to
7 determine the prudence of the rider costs; is that
8 correct, sir?

9 A. Are you referring to what the Commission
10 does or what the auditor did? I'm not --

11 Q. The Commission.

12 A. And can I get that question one more
13 time? Make sure I completely understand it?

14 MS. HENRY: Karen, can I ask you to
15 repeat that? Sorry.

16 (Record read.)

17 A. I don't have a full command of the
18 underlying orders. I read the audit report at one
19 point. So I -- I don't know specifically what the
20 Commission was involved with as far as this case. I
21 know the auditor didn't recommend any disallowance so
22 it -- I think if the Commission requested something,
23 I would assume, I am not an attorney, that the
24 Company would comply.

25 Q. And do you think that in order to protect

1 the public interest, the Commission can also learn
2 from the audit and require different -- and require
3 things in the future to say, okay, maybe it didn't
4 arise to a disallowance in this case, but in the
5 future we really need to see some proactive steps
6 taken to protect the ratepayers based on this audit
7 report and this information, and the Commission has
8 the authority to do that in your opinion?

9 MR. NOURSE: Your Honor, I object. It's
10 just another form of a legal authority jurisdiction
11 question. I mean, she wants to ask if it's -- his
12 opinion or if it's something that could be done by an
13 auditor or something like that but asking what the
14 Commission can do in these circumstances is, I think,
15 primarily a legal matter that shouldn't be addressed
16 by the expert witness.

17 Q. In your opinion is this something an
18 auditor could do?

19 EXAMINER SEE: You can answer that
20 question, Mr. Stegall.

21 A. I believe the auditor did that and made
22 recommendations as part of their work, so I don't
23 even know that I need to believe that they can do it
24 because they did.

25 Q. And you believe they could even take it a

1 step further. Do you believe they could even take it
2 a step further and actually do that re-dispatching
3 analysis to help provide guidance to the Commission
4 on how to move -- for the future?

5 A. A re-dispatch analysis is highly complex.
6 It involves assumptions. I think it would have to be
7 some sort of maybe collaborative effort or something
8 with well-thought-out guidelines because I -- I've
9 seen plenty of parties do it wrong.

10 Q. But it's something that could be done if
11 well thought out and planned.

12 A. If well thought out and planned, all the
13 data was available, I mean there's caveats and I
14 don't know that I can think of all of them as we sit
15 here. A re-dispatch analysis in my mind is it would
16 almost be its own audit in terms of the work
17 involved. You know, can the Commission ask for, you
18 know, some sort of report as part of this filing?
19 I've seen that before in other cases and certainly,
20 you know, if the Commission wants to make
21 recommendations, that's the approach I would hope
22 they would take is to make recommendations so the
23 Company could work with Staff and the Commission and
24 make sure that, you know, the public interest was met
25 within the realm of what the Company is capable of

1 doing under the contract that's established.

2 Q. Do you agree that in an ideal world
3 cycling the OVEC units would have been able to avoid
4 some periods of low price hours?

5 A. I'm not sure I understand your question.
6 Are you saying would I recommend cycling the units in
7 some cases?

8 Q. I did not ask that question. I will --
9 my question is this, let's -- would you agree that
10 there were hours during the audit period in which the
11 prevailing market price of power at the OVEC units
12 was below the operating costs of the units?

13 A. I'm -- I'm certain there were some hours.
14 Whether they amounted to something material in terms
15 of profitability, I mean, we are looking at
16 \$32 million net. I don't know how many of those
17 hours exist, whether they were slightly negative or
18 majorly negative. There's -- so, yes, but to -- but
19 I can't speak to degree.

20 Q. So were you -- sorry. I didn't mean to
21 cut you off. Continue, sir.

22 A. I said I just can't speak to degree or
23 quantity of occurrence.

24 Q. Okay. So let me say this, were you --
25 did you work for AEP Service Corp. when the original

1 PPA came before the Commission?

2 A. Are you referring to 2016?

3 Q. Yes, sir. My memory is I'm pretty sure
4 it was 2016.

5 A. I was not in this role in 2016, but I did
6 work for AEP Service Corporation.

7 Q. Okay. And the rider is made up -- we are
8 going to do this in laymen's terms, but the elements
9 of the rider are -- let me say it this way, are you
10 aware that when they came for the rider, they
11 forecasted that the rider would be in most years a
12 benefit to ratepayers; is that correct?

13 A. Would that be the rider as originally
14 forecast with I think we had, what --

15 Q. It --

16 A. -- AEP Ohio-owned plants included with
17 OVEC or is that just OVEC?

18 Q. I was speaking to the original one that
19 had the PPA affiliate as well as the OVEC.

20 MR. NOURSE: And, your Honor, I just
21 object to that characterization of the Company's
22 original application. I think the order, that
23 memorializes the evidence and decided that case,
24 speaks for itself. I also don't know the relevance
25 of this line of questioning.

1 Q. Let me ask you this, sir, do you know if
2 the -- when the rider was developed, that the
3 forecasts -- that the energy margin would be great
4 enough to offset the demand charges?

5 A. I wasn't part of that filing so, no, I
6 don't.

7 Q. Okay. So you could have a \$32 million
8 energy margin, but if you projected to have a much
9 larger energy margin that would offset all those
10 demand charges, there could be something in how the
11 mark -- in how you're operating your energy and how
12 you are operating in the energy market that's
13 impacting your demand charge, correct? How about
14 this, let me withdraw the question.

15 Is it correct that coal-fired power
16 plants have large fixed and capital costs?

17 A. In general that's my understanding, yes.

18 Q. And in general if you are going to
19 operate a power plant that has large fixed and
20 capital costs, you would hope to earn a positive
21 energy margin to offset those fixed and capital
22 costs, correct, sir?

23 A. Are you saying -- I am not sure if I am
24 getting ahead of you. Are you saying that the entire
25 energy margin should -- should pay for the entire

1 balance of the plant, capital, O&M, fuel,
2 consumables, everything; is that what you are saying?

3 Q. Or more of it.

4 A. More compared to what? I don't --

5 Q. More compared to how it's currently
6 operating and that as you are trying -- if you are
7 going to prudently operate something, you should try
8 to maximize it so that the cost to ratepayers is
9 less.

10 A. So you -- you will want to maximize the
11 value of the unit over its life. I mean, you can
12 look at this in the short term and say you didn't
13 maximize it over a week or a month but in hindsight
14 you are not experiencing the same level of risk as
15 somebody operating in real time. You have the -- all
16 of the information that -- that someone may not have
17 had at the time. I want to make sure that when you
18 talk about maximizing a unit, it is over -- we are
19 specific about a time period.

20 Q. Okay. And did you attempt to quantify
21 your concerns about cycling of the units within
22 the -- by looking at the PJM market losses?

23 A. So I -- cycling cost is something
24 separate from energy costs.

25 Q. I know. And I believe you were saying,

1 sir, correct -- I'm sorry. I thought somebody else
2 spoke. Sorry.

3 There is -- we are talking -- I think
4 that you were saying that there is kind of like an
5 economic life and an engineering life of a unit and
6 you want to kind of find the marriage of the two, is
7 that correct, where you are maximizing not just the
8 economic, how much these units earn over a short
9 period of time, but you also have to look at the
10 engineering life of the unit and make sure you are
11 not degrading that too much and you kind of want to
12 find the sweet spot of those two; is that a
13 layperson's term of how you would look at that?

14 A. I think in general you are trying to
15 maximize your ability to earn revenues with -- you
16 know, without -- without, you know, grinding the
17 plant into the ground because you operated it
18 imprudently.

19 Q. Okay. And one of the ways that you
20 could -- one of the ways you testified in your
21 testimony that could, that you speculate could grind
22 these units into the ground is if you cycle it too
23 much; is that correct, sir? Did you raise that as
24 one of the issues?

25 A. I did, and these units are all based on

1 heat transfer of various components. I mean, if you
2 have ever put a hot frying pan under the water, cold
3 water, you know that that will ruin it. I mean, you
4 are talking about metal expanding and contracting
5 based on how hot it is. That's really what we are
6 talking about with cycling. Am I doing it too fast?
7 Am I causing things to warp and require replacement?

8 Q. And did you ever quantify your concerns
9 about cycling with the PJM market losses during this
10 audit period?

11 A. As I tried to state before, those two
12 concepts are different. I didn't quantify cycling in
13 a way; and, you know, it's very difficult to quantify
14 because you are talking about a lot of hypotheticals
15 to market losses but those are two separate concepts.

16 Q. Well, one of the things we talked about
17 that when you switch from must-run status to an
18 economic dispatch status, that there are a number of
19 factors one would have to consider; is that correct,
20 sir?

21 A. Yes.

22 Q. And one of the elements that's important,
23 but not the only one, would be the profit and losses
24 that you would expect to make on the market; is that
25 correct?

1 A. Yes. That's a component of the analysis.

2 Q. And then there are other elements that
3 would include the start-up time and the start-up
4 costs and all of those and to make sure that you
5 could -- and you would consider those as part of your
6 analysis as well; is that correct?

7 A. Yes. Those would be other components in
8 the analysis.

9 Q. And did you look at any of those other
10 components on an analytical basis when you kind of
11 reviewed this audit period?

12 A. If you are talking about startup times,
13 startup costs, ramp rates, those things, those are
14 data items that OVEC is in possession of that
15 sponsors to my knowledge are not and that OVEC
16 submits to the market.

17 Q. Okay. You did not review any of that to
18 support your testimony.

19 A. I didn't review it because I don't have
20 the data. And as far as I know, OVEC does not share
21 that with the sponsors.

22 Q. Did you look at -- in your testimony you
23 talk about how there can be an overabundance of coal
24 that could lead to unsafe conditions. Do you
25 remember that, sir?

1 A. Yes.

2 Q. Did you ever look at the specific coal
3 inventories of the site to figure out if the -- if
4 those units ran because there was an unsafe
5 overabundance of coal at those facilities?

6 A. I didn't do any sort of analysis in that
7 regard in the audit period. The only fuel
8 inventories I looked at were the items in the audit
9 report.

10 Q. In your testimony you talk about how
11 sometimes a unit has to run because it has to do --
12 it's required for testing; is that correct, sir?

13 A. Yes, that's correct.

14 Q. Okay. And did you look and see if OVEC
15 units ran on a must-run status because of required
16 testing in any period of time during that audit
17 period?

18 A. No, I didn't. Generally with units they
19 have different requirements for testing. You know,
20 specifically if you have an RTO capability test, you
21 would need to determine whether or not you are going
22 to run those, all the units at the same time. There
23 is a lot of variables in that regard. But I didn't
24 take that into account, no.

25 Q. Okay. So you never took that into

1 account either.

2 A. And I do want to note that OVEC is
3 responsible for testing their units, that the
4 sponsors are not responsible for that.

5 Q. What exactly is an advanced -- advanced
6 billing of debt reserve, sir?

7 A. Are you referring to something in my
8 testimony, or are you referring to something in the
9 record?

10 Q. Let me -- hold on one second. I am going
11 to withdraw the question. Oh, sorry. I am going
12 to -- if I say the term "merchant generator," would
13 you know what that term is, sir?

14 A. Can we just agree that it's a generator
15 that does not operate as part of a utility with
16 load-serving obligations?

17 Q. We can agree to that. Is that definition
18 acceptable to you, sir?

19 A. Yes. It's -- in my mind it's a
20 generating unit that is untethered by obligations to
21 retail customers.

22 Q. Okay. And if you are a merchant
23 generator and you have a generation source and let's
24 just -- I am going to give you a hypothetical, sir.
25 If you have a merchant generator that works -- that

1 sells its energy and capacity into an RTO or a
2 market, would -- would the goal of the merchant
3 generator be to earn enough money in the marketplace
4 to offset all of its expenses on average?

5 A. I'm less familiar with merchant
6 generators, much less than I am with regulated
7 utility generators, so I don't know for sure whether
8 they are trying to maximize and pay for everything
9 out of their earnings in the market. I could assume
10 so for sake of argument but I'm not -- I'm not very
11 familiar with merchant generators.

12 Q. They wouldn't want to operate at a loss
13 because that is not a very good business model,
14 correct?

15 A. On a simplistic note, I wouldn't expect
16 them to, but if they have cash flow needs or
17 obligations under contract, that would be a different
18 story.

19 MS. HENRY: Your Honor, could I take a
20 moment just to look -- actually, can we take a
21 5-minute break so I can confer with my co-counsel,
22 see if I have any other additional questions?

23 MR. NOURSE: Could we go off the record
24 for one moment before we break?

25 EXAMINER SEE: Okay. Let's go off the

1 record.

2 (Discussion off the record.)

3 EXAMINER SEE: Ms. Henry, you said you
4 needed a break before we went off the record to
5 confer?

6 MS. HENRY: Oh, I was just wondering if
7 that would be possible, your Honor.

8 EXAMINER SEE: Yes. Go ahead. We will
9 take a 5-minute break here.

10 MS. HENRY: Thank you, your Honor.

11 (Recess taken.)

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

14 Ms. Henry.

15 MR. FINNIGAN: I'm sorry, your Honor.
16 Would it be possible to get estimates of expected
17 cross for others just to get a sense of how much
18 later we will be going?

19 EXAMINER SEE: Mr. Finnigan, we are back
20 on the record. Let me -- just a moment.

21 Ms. Henry, have you had a moment to
22 confer with your co-counsel?

23 MS. HENRY: Yes, your Honor, I did. And
24 at this point in time NRDC has no further questions
25 and turn over to the next -- the next Intervenor.

1 Thank you so much.

2 EXAMINER SEE: Okay. Let's go off the
3 record to entertain Mr. Finnigan's inquiry.

4 (Discussion off the record.)

5 EXAMINER SEE: Let's go back on the
6 record.

7 And I believe counsel for OP&E is next.

8 MR. DOVE: OP&E has no questions, your
9 Honor. Thank you.

10 EXAMINER SEE: Counsel for OEG.

11 MS. COHN: Yes. I just have a few
12 questions.

13 - - -

14 CROSS-EXAMINATION

15 By Ms. Cohn:

16 Q. Mr. Stegall, the audit report mentions
17 that AEP hadn't finalized their ELG compliance
18 strategy at the time of the report, correct?

19 A. You said AEP?

20 Q. Oh, sorry. OVEC.

21 A. And you are referring to a specific
22 position in the report, a specific page?

23 Q. Yeah. It's on page 83 at the end of the
24 first paragraph. I'll wait for you to get there.

25 A. Yes, I see it.

1 Q. Yeah. Do you know if OVEC has finalized
2 its ELG compliance strategy at this point?

3 MR. NOURSE: Your Honor, I would just
4 object. I think we've determined that the discovery
5 and the scope of the proceeding is not going to
6 extend beyond the end of 2019. I am not sure the
7 relevance. Maybe that can be explained.

8 MS. COHN: Your Honor, a number of
9 parties in this proceeding are talking about
10 environmental compliance spending. I am just trying
11 to see the extent to which that's a relevant
12 recommendation or not.

13 MR. NOURSE: Okay. Withdraw the
14 objection for this question.

15 EXAMINER SEE: Go ahead and answer the
16 question then, Mr. Stegall.

17 A. I don't know -- I'm sorry. I don't know
18 the answer to that question. I don't know what OVEC
19 has planned.

20 Q. Okay. So you don't know whether any more
21 regulatory approvals are required to implement that
22 strategy?

23 A. You have to specify what you mean by
24 "regulatory approvals."

25 Q. For instance -- yes. For instance,

1 certificates of public convenience and necessity
2 filings in any of the states where OVEC owners are
3 operating.

4 A. Yeah. I don't have any information in
5 that regard.

6 MS. COHN: All right. Thank you. No
7 further questions.

8 EXAMINER SEE: Counsel for IEU-Ohio.

9 MR. MCKENNEY: Thank you, your Honor.

10 - - -

11 CROSS-EXAMINATION

12 By Mr. McKenney:

13 Q. Good afternoon, Mr. Stegall. My name is
14 Bryce McKenney. I represent Industrial Energy
15 Users-Ohio. How are you?

16 A. I'm fine. Thank you.

17 Q. Good.

18 I am going to start just on page 1 of
19 your testimony. Just a question for my knowledge.
20 On line 15, it says in 1997 you joined the AEP
21 Service Company as an accountant. Are you an
22 accountant?

23 A. No.

24 Q. Okay. Move then to page 8 of the
25 testimony. You note in this page, and we talked

1 about it earlier today, that these units were
2 must-run units; is that correct?

3 A. As -- as I've stated before, per the
4 operating procedures, when the units are available,
5 they will be offered as must run.

6 Q. Must run as it's used here is different
7 from reliability must run as it might be used in PJM;
8 is that correct?

9 A. Yes. Reliability must run is a -- is a
10 PJM designation. It indicates that PJM is making the
11 decision to run the units, not the operator. And in
12 this case the operator has a must-run unit and is
13 making that decision to commit the unit.

14 Q. So the OVEC units were not at any point
15 during the audit period contractually required by PJM
16 to run to maintain reliability, correct?

17 A. So I want -- I hate -- I hate to split
18 and parse words here, but so if under their
19 participation in the RTO in PJM, it's my
20 understanding PJM needs them for reliability. It
21 can -- it can cause -- they can commit them and use
22 this reliability must-run construct to do so.
23 Whether they were designated and committed in the
24 unit by PJM for that purpose, I do not believe that
25 occurred during the audit period, but I didn't

1 evaluate the hourly commitment. I don't have that
2 data. So I believe what you are saying is true, but
3 I don't know for sure because I didn't look at the
4 hourly data.

5 Q. Okay. So the designation "must run" is a
6 discretionary decision by the OVEC Operating
7 Committee; would you agree with that?

8 A. You are referring to the selection of the
9 must-run commitment? The OVEC Operating Committee
10 selects the must-run commitment.

11 Q. That will suffice. Thank you.

12 On page 9 of your testimony on line 14,
13 you state that "With some exceptions, units that are
14 in service and expected to be available in the
15 day-ahead market are offered as Must-Run." Did I
16 read that correctly?

17 A. Yes.

18 Q. Here when you've referred to the "units,"
19 you are specifically referring to the OVEC units; is
20 that correct?

21 A. Yes, all 11 of them.

22 Q. Right, 11 -- strike that.

23 So with some exceptions, when the OVEC
24 units are in service, they are offered as must-run
25 units, correct?

1 A. Yes.

2 Q. You are not saying units in PJM generally
3 are offered as must run.

4 A. No, because in the -- in that sentence
5 beginning on line 13, I specifically refer to the
6 Operating Committee procedures. As far as I know,
7 the Operating Committee procedures only apply to the
8 OVEC units.

9 Q. That's precisely my point. Thank you.

10 On page 10 now, starting at line 1, you
11 state, "In general, there are many factors taken into
12 account when determining unit commitment." In this
13 instance you mean generators in PJM generally,
14 correct?

15 A. Yes, that's correct.

16 Q. So in the next sentence where you say,
17 "Generators in PJM evaluate economics for an extended
18 period and may forecast positive economics over the
19 longer term," you are referring to generators in PJM,
20 correct?

21 A. Yes. That's why I used that term in this
22 sentence.

23 Q. That's right. You are not referring
24 specifically to the OVEC units here, correct?

25 A. That's correct.

1 Q. Your testimony does not include an
2 evaluation of the economics of the OVEC power plants
3 over an extended period, does it?

4 A. Aside from the comparison I did between
5 the energy revenues in the market and the charges
6 paid under Section 5.02 of the ICPA, I did not do an
7 analysis.

8 Q. And then you state that generators "may
9 forecast positive economics over the longer term,"
10 correct?

11 A. That's correct.

12 Q. Generators in PJM may also forecast
13 negative economics over a longer term, correct?

14 A. Yes, that's certainly possible.

15 Q. Your testimony does not include a
16 forecast of the long-term economics of the OVEC
17 units, does it?

18 A. Can you repeat that one more time? I
19 think I missed the first couple words.

20 Q. Your testimony does not include a
21 forecast of the long-term economics of the OVEC
22 units, correct?

23 A. That's correct.

24 Q. And you say then on line 5 that
25 "Coal-fired units have obligations under their fuel

1 contracts that may require them to run or reduce
2 their ability to run in cases where they have an
3 unsafe overabundance of coal or a risk of running out
4 of coal." Did I read that correctly?

5 A. Yes, that's exactly what it says.

6 Q. Your testimony does not include an
7 analysis of coal inventory at the OVEC plants, does
8 it?

9 A. As I believe I stated earlier today, the
10 only analysis of coal I did was reviewing the coal
11 information in the audit report.

12 Q. Likewise your testimony does not include
13 an analysis of the OVEC fuel contracts, correct?

14 A. No. I couldn't analyze the OVEC fuel
15 contracts. I read a couple of them as part of
16 preparation for this filing but -- or for this
17 appearance today but my testimony doesn't address
18 anything specifically regarding individual contracts.

19 Q. There on line 7 you state that
20 "Generating units also have mandatory environmental
21 testing and PJM-mandated testing that require them to
22 be online and performing, regardless of the state of
23 the market." Did I read that correctly?

24 A. Yes. I just want to clarify because I
25 know we are walking through this one sentence at a

1 time. This paragraph addresses units in the market
2 in general and it's based on my experience so I'm
3 willing to submit that all the examples I use in this
4 paragraph here are not things I incorporated into a
5 specific analysis of OVEC but they are things that I
6 have seen in the market.

7 Q. Thank you, Mr. Stegall, but,
8 unfortunately, I am going to need to ask you each of
9 the questions that I have on this particular section
10 because I think it is to clarify in the record you
11 have not conducted any of these analyses. So I would
12 just ask you to bear with me. But I do appreciate
13 you stating that for the record.

14 So your testimony does not include an
15 analysis of mandatory environmental testing
16 requirements for the OVEC units, correct?

17 A. That's correct. I am sure OVEC has its
18 own testing but I didn't analyze it.

19 Q. Your testimony does not include an
20 analysis of PJM-mandated testing requirements for the
21 OVEC units, correct?

22 A. As I just stated, I am sure they have --
23 everyone has testing requirements. I did not analyze
24 OVEC's.

25 Q. Okay. Then on lines 8 through 10, you

1 state, "In addition, generating units have operating
2 limitations and requirements that limit how quickly
3 they can be shut down and restarted and how quickly
4 they can ramp to a stable level of output." Did I
5 read that one correctly?

6 A. That's correct. That's true of every
7 generator.

8 Q. And once again, you are talking about
9 generator units on a general basis as you just noted
10 a minute ago, correct?

11 A. That's correct. This specific
12 information would be submitted to the market by OVEC
13 as part of PJM protocols but, as I stated before,
14 OVEC does that and sponsors do not have that
15 information to my knowledge.

16 Q. And your testimony does not include an
17 analysis of operating limitations of the OVEC units,
18 correct?

19 A. That's correct because as far as I know,
20 the sponsors don't have that information, only OVEC
21 does.

22 Q. Your testimony does not include an
23 analysis of the requirements that limit how quickly
24 the OVEC units can shut down, correct?

25 A. No, it does not.

1 Q. Your testimony does not include an
2 analysis of the limitations affecting how quickly the
3 OVEC units can be restarted either, correct?

4 A. Once again, that's information provided
5 in PJM protocols. I didn't include it because I
6 don't have it.

7 Q. Your testimony does not say how long it
8 takes to restart the OVEC units either, correct?

9 A. Are you defining "restart" as the point
10 from deciding to shut down to the point where the
11 unit is back up to economic minimum?

12 Q. I will rephrase the question.

13 Your testimony does not say how long it
14 takes to restart the OVEC units as that term is used
15 on line 10 of page 10 of your testimony, correct?

16 A. Look -- sorry. Like I said, I did not
17 analyze that information because I don't have it.

18 Q. Your testimony does not provide an
19 analysis of how quickly the OVEC units can ramp to a
20 stable level of output, correct?

21 A. I did not incorporate any sort of
22 analysis of that information because I don't have it.

23 Q. All right. Only a few more and we are
24 moving through this rather quickly, so I appreciate
25 your candor on that.

1 I want to turn to page 10, lines 16
2 through 17. You state that "It may be more
3 economical in the long run to keep these units on
4 even if they lose money in the short run"; is that
5 correct?

6 A. That is correct.

7 Q. Your testimony does not include an
8 analysis of the long-run economics of these plans,
9 correct?

10 A. That's correct. This is something I have
11 seen doing analysis before but this is not something
12 I analyzed for OVEC because this is information I
13 don't have.

14 Q. How long is "long run" as you use it
15 here?

16 A. Well, the day-ahead market only -- is
17 only concerned about the next operating day so
18 typically in a situation like this, you may have a --
19 a price fall over the weekend, but if a unit takes
20 more than two days to shut down and restart, you may
21 keep it on over the weekend to take the loss and
22 avoid the more expensive option to restart it and
23 miss out on say a Monday morning ramp period where
24 you see prices inclined as people get to work or
25 start using energy in their home.

1 Q. So "long run" as you use it here could be
2 as short as three days; is that correct?

3 A. Yes, because you're comparing to the
4 day-ahead market which is only concerned with the
5 next operating day.

6 Q. All right. Now I want to turn to
7 page 12. You state that "OVEC's Operating Committee
8 would change to an Economic commitment status if
9 there was a substantial change in the market and
10 there was a sustained period of low prices or other
11 circumstances develop that warrant consideration of
12 an Economic commitment." Did I read that correctly?

13 A. You did. I'm expressing my belief that
14 the Operating Committee would respond to a changing
15 market environment.

16 Q. Thank you, Mr. Stegall.

17 MR. MCKENNEY: Your Honor, before I ask
18 my next question, I would like to indicate that it is
19 my view that this question has asked the witness what
20 OVEC would do. His testimony was filed in late 2021
21 and, therefore, I think it is reasonable to ask the
22 witness has the OVEC Operating Committee changed to
23 an economic commitment status, but it is my
24 understanding that may violate a decision that you
25 had issued earlier in this proceeding regarding

1 actions it may take after the audit period. However,
2 the question itself does not ask what OVEC would have
3 done. It asks what OVEC would do. And he has
4 offered his speculation as to what OVEC would do and,
5 therefore, I think it is only reasonable to ask
6 whether OVEC has changed to an economic commitment
7 status.

8 MR. NOURSE: Your Honor, I will just
9 object so I can speak to that. I disagree with the
10 characterization. As Mr. Stegall said multiple times
11 already today and in the testimony, he's stating his
12 belief, meaning he's explaining this, you know, as a
13 hypothetical, a -- a parameter to understand must run
14 and that the Operating Committee does look at these
15 things and would -- would change. That's his belief.

16 So with that being said, I think if
17 Mr. -- if Mr. McKenney wants to ask about whether
18 these conditions -- if Mr. Stegall has seen the
19 conditions triggered or if there is a real example or
20 something like that, you know, I don't have an
21 objection to that, but I do think the premise is
22 misstating and mischaracterizing the answer that's
23 already been explained.

24 MR. MCKENNEY: Your Honor, I can ask the
25 questions. Typically the objections would come

1 after, but I do not wish to run afoul of any prior
2 rulings, so I would just ask leniency so that we
3 approach this cautiously.

4 EXAMINER SEE: Go ahead and ask your
5 question, Mr. McKenney. Let's see.

6 MR. MCKENNEY: Thank you, your Honors.

7 Q. (By Mr. McKenney) Mr. Stegall, in the
8 audit period were there circumstances during the
9 audit period that warranted consideration of an
10 economic commitment status for the OVEC units?

11 A. To my knowledge, this did not occur
12 during the audit period.

13 Q. And since, have there been circumstances
14 that would warrant OVEC reconsidering economic
15 commitment status?

16 A. I want to correct part of your question.
17 OVEC doesn't -- this isn't something that OVEC does.
18 This is something the Operating Committee does. So
19 all the owners are in agreement from the Operating
20 Committee.

21 Q. So have there been circumstances since
22 the audit period in which the OVEC Operating
23 Committee would reconsider the economic commitment
24 status?

25 A. In 2020, in response to the COVID

1 pandemic, the Operating Committee granted OVEC the
2 authorization to change the commitment status.

3 MR. MCKENNEY: Thank you, Mr. Stegall.

4 Your Honor, I have no further questions.

5 EXAMINER SEE: Thank you, Mr. McKenney.

6 Just a moment, please.

7 Counsel for OMAEG.

8 MR. DONADIO: Thank you, your Honor.

9 Before I start my cross-examination of
10 Mr. Stegall, I just want to revisit an issue raised
11 by my co-counsel earlier this morning.

12 So as a result of the testimony from
13 yesterday, that made us realize the significance of
14 the e-mail exchanges between Staff of the Commission
15 and AEP, so OMAEG had two additional exhibits. OMAEG
16 Nos. 9 and 10 and we wanted to add this to our
17 exhibit list and address it with the only AEP witness
18 being presented here at this evidentiary hearing.

19 We believe that they are statements of
20 party opponents under Evidence Rule 801(D)(2) and/or
21 business records of AEP's process and involvement in
22 the audit process that we are here to discuss today.
23 And the rule for the business records exception
24 hearsay is Rule 803.6.

25 We had said sent Mr. Nourse an e-mail

1 this morning to see if AEP would reconsider the
2 confidentiality designation of some, or all, of these
3 documents, but we have not heard from Mr. Nourse at
4 this time.

5 MR. NOURSE: Sorry. It's Nourse. I have
6 been kind of busy today. I think if you are talking
7 about the e-mail chain, is that the exhibit you are
8 talking about?

9 MR. DONADIO: Yes, sir.

10 MR. NOURSE: Yeah. Hang on one second.
11 Let me -- sorry, Mr. Donadio. I guess I have a few
12 questions. Perhaps we should go off the record to
13 clarify some of this first, your Honor.

14 EXAMINER SEE: Okay. Let's go off the
15 record.

16 (Discussion off the record.)

17 EXAMINER SEE: Let's go back on the
18 record.

19 And Mr. Nourse and Mr. Donadio can make
20 their representations on the record as to what the
21 parties provided. Go ahead.

22 MR. NOURSE: I can do it, your Honor, I
23 guess. But I think OMA has presented a new Exhibit
24 No. 9 that contains e-mails that were produced during
25 discovery by the Company and wishes to mark it as an

1 exhibit, as a public exhibit, which the Company
2 agrees to that, to not challenge the timeliness or
3 the public nature of it but reserves the right to
4 object to its use at the hearing.

5 EXAMINER SEE: And you have e-mailed that
6 to the parties and to the Bench, Mr. Donadio?

7 MR. DONADIO: I am doing so right now,
8 your Honor.

9 I just distributed OMA Exhibit 9 to the
10 Bench and the parties. It is labeled as a
11 confidential exhibit, but as Mr. Nourse has just
12 stated, the Company has stipulated the information
13 contained in the exhibit is not confidential.

14 EXAMINER SEE: Okay. And I have received
15 what has been identified as OMAEG Exhibit 9.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 EXAMINER SEE: With that --

18 MR. NOURSE: Your Honor -- I'm sorry.

19 EXAMINER SEE: Go ahead.

20 MR. NOURSE: Can you give us one moment
21 to get it to the witness if he is going to be asked
22 about it?

23 EXAMINER SEE: Certainly.

24 MR. NOURSE: We are otherwise not
25 supposed to be on e-mail and such, so he is going to

1 get it through e-mail and pull it up, okay?

2 EXAMINER SEE: Yes, that's fine. Have
3 the other parties received it?

4 MS. WHITFIELD: Yes, your Honor.

5 MR. DOVE: Yes, your Honor.

6 MR. LINDGREN: Yes, Staff has received
7 it.

8 MR. FINNIGAN: Yes, your Honor.

9 EXAMINER SEE: Mr. Nourse, if you could
10 let us know when you have received it and able to
11 give a copy to Mr. Stegall so we can proceed.

12 MR. NOURSE: Will do. Thank you.

13 Okay. Mr. Stegall has the document and
14 has it open if you want to proceed.

15 EXAMINER SEE: Go ahead, Mr. Donadio.

16 MR. DONADIO: Also, your Honor, before I
17 proceed, I just wanted to proffer OMAEG Exhibit 10 as
18 I described earlier. It is a correspondence between
19 LEI and AEP and also contains a draft version of the
20 LEI audit report.

21 EXAMINER SEE: Mr. Donadio, you want to
22 proffer it but --

23 MR. NOURSE: I thought we agreed it
24 wasn't going to be admitted or used.

25 MR. DONADIO: I apologize. I will move

1 on with my questioning. It's okay.

2 EXAMINER SEE: So you wish to strike
3 your -- okay.

4 MS. WHITFIELD: I'm sorry. What was the
5 agreement?

6 EXAMINER SEE: Strike that request --
7 hold on for a minute, Ms. Whitfield.

8 MR. NOURSE: Yeah. We made an agreement
9 off the record as a compromise and did not include
10 proffering Exhibit 10.

11 MR. DONADIO: I apologize for my
12 misunderstanding and can proceed with questioning
13 whenever the Bench and the witness are ready.

14 EXAMINER SEE: Go ahead, Mr. Donadio.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Donadio:

18 Q. So, Mr. Stegall, I just have some
19 questions on the exhibit that has been marked as
20 OMAEG Exhibit 9. As I had mentioned, it is
21 correspondence between AEP representatives and the
22 auditor of the LEI report in this proceeding,
23 Marie -- Dr. Marie Fagan. Can you please turn your
24 attention to the first page of the OMAEG Exhibit 9.
25 Would you agree that the parties involved in this

1 e-mail are Dr. Fagan and Edward J. Locigno?

2 MR. NOURSE: Objection. There is a lack
3 of foundation. He hasn't asked him if he's ever seen
4 these before.

5 EXAMINER SEE: Did you wish to respond,
6 Mr. Donadio?

7 MR. DONADIO: I can lay a proper
8 foundation.

9 EXAMINER SEE: Thank you. And just so
10 that we're clear, there is no discussion about, or
11 ruling about, your either Exhibit -- proposed
12 Cross-Examination Exhibit OMAEG 9 or 10, so we need
13 to address that but proceed with your questions for
14 Mr. Stegall.

15 MR. DONADIO: I understand, your Honor.

16 EXAMINER SEE: Okay.

17 Q. (By Mr. Donadio) Mr. Stegall, are you
18 aware of the audit report performed by LEI in this
19 proceeding?

20 A. If you are referring to the final report
21 issued by LEI, yes, I reviewed it in preparation for
22 appearing here today.

23 Q. Thank you, Mr. Stegall.

24 And I believe you testified earlier about
25 producing certain data or documents in response to

1 Data Requests. Do you remember stating so?

2 A. Well, I wish you could be a bit more
3 specific. I'm not sure if you are referring to -- if
4 you are referring to something I said and in what
5 context.

6 Q. Of course. So I -- correct me if I am
7 wrong, but I believe that you said that you were
8 involved in providing data information or documents
9 to the auditor, LEI, in this proceeding.

10 A. I'm not sure if I said that as part of my
11 testimony; but, yes, I did. Both my team and I
12 worked to provide data to the auditor as part of this
13 audit.

14 Q. And during the audit process, were you
15 aware whether there are communications from time to
16 time from AEP, Staff, and the auditor?

17 A. I'm not aware of anything specific, so I
18 can't say one way or the other.

19 Q. Do you know if AEP would respond to
20 communications in the ord -- ordinary course of
21 business from the auditor in this proceeding?

22 A. I'm sorry. I had trouble understanding
23 some of the words you said in the middle of that
24 question.

25 Q. I'll repeat it.

1 AEP would respond to communications from
2 the auditor in the ordinary course of its business
3 during the audit period, correct?

4 A. If you are referring to discovery and
5 requests for documents issued by the auditor, yes, we
6 had a duty to respond, and we've fulfilled that duty.

7 Q. Did you personally receive any updates as
8 to the status of the audit review when it was
9 underway?

10 A. Are you referring to the audit report, or
11 are you referring to discovery responses?

12 Q. I'm referring to the audit report.

13 A. I believe at one point I received a draft
14 and was asked to review to make sure there was no
15 confidential information that would need to be
16 redacted prior to public issuance.

17 Q. Now, could you please turn your attention
18 to OMAEG Exhibit 9. If you look at the first page,
19 would you agree that it shows correspondence between
20 Marie Fagan and Edward J. Locigno?

21 MR. NOURSE: Objection. There is again
22 no foundation here that this witness was responsible.
23 This is not an audit request. It's an OCC discovery
24 request. And there is no foundation that Mr. Stegall
25 is responsible for this. He already said he hadn't

1 seen it.

2 MR. DONADIO: If I may respond, I am not
3 asking if he's responsible. As a representative of
4 AEP, I was just curious if he was aware of this
5 e-mail or not.

6 EXAMINER SEE: And that question I am
7 going to allow. You can answer the question,
8 Mr. Stegall.

9 THE WITNESS: Can I get that question
10 read back to me, please?

11 EXAMINER SEE: Could you rephrase it,
12 Mr. Donadio?

13 MR. DONADIO: Of course, your Honor.

14 Q. (By Mr. Donadio) If you view the e-mail
15 that is on page 1 of what has been marked as OMAEG
16 Exhibit 9, would you agree it appears to be
17 correspondence between Marie Fagan of London
18 Economics International, LLC, and Edward J. Locigno?

19 MR. NOURSE: Again, I object. I think if
20 he is just going to ask him to read it in when there
21 is no foundation, that's improper.

22 MR. DONADIO: I am not trying to get
23 Mr. Stegall to read the correspondence into evidence.
24 I apologize if it came across that way. I am just
25 trying to explore his knowledge in regards to the

1 communications between AEP and the auditor during the
2 audit period; and if he has no such knowledge, he,
3 is, of course, free to respond in that manner.

4 MR. NOURSE: I'm sorry. Can the reporter
5 reread the last question?

6 EXAMINER SEE: Okay.

7 (Record read.)

8 EXAMINER SEE: So are you withdrawing
9 your objection, Mr. Nourse? I'm sorry. Your mic is
10 not on, Mr. Nourse.

11 MR. NOURSE: I'm sorry. With
12 Mr. Donadio's clarification, I do withdraw regarding
13 this question. Thank you.

14 EXAMINER SEE: Okay. You can answer the
15 question then, Mr. Stegall.

16 A. Yes, it appears to be an e-mail sent from
17 Dr. Fagan to Edward Locigno.

18 Q. And are you familiar with Edward J.
19 Locigno?

20 A. Yes.

21 Q. Is Edward J. Locigno an employee of AEP?

22 A. He is an employee of AEP Service
23 Corporation.

24 Q. Thank you.

25 And in what -- and on the same e-mail you

1 would agree that there is no other parties that are
2 copied on the e-mail, correct?

3 A. Yes, I would agree. The e-mail appears
4 to discuss a site visit that was conducted as part of
5 the OVEC audit. That doesn't sound like unreasonable
6 to me that this would be coordinated between the
7 parties.

8 Q. And in regards to this audit report --
9 sorry, this audit proceeding, have you reviewed the
10 RFP issued by the Commission?

11 A. No, I did not. Not in preparation for
12 this hearing.

13 Q. So if I were to tell you that the RFP
14 requires Staff to be informed about communications
15 between AEP and the auditor, that would surprise you,
16 right?

17 A. As I stated, I didn't read the RFP. I
18 may have at some point over the life of this case but
19 I didn't read it in preparation for this hearing.

20 Q. Thank you, Mr. Stegall.

21 Can you please turn your attention to
22 page 2 of what has been marked as OMAEG Exhibit 9.

23 A. Yes. I'm there.

24 Q. Do you see where the first paragraph
25 says, "LEI is currently auditing the PPA of another

1 participant in the OVEC ICP. It might be convenient
2 for the OVEC folks to have to provide only one
3 virtual SV." I'll end the quote there.

4 MR. NOURSE: Your Honor -- your Honor, I
5 object. I was waiting to see, if Mr. Donadio is
6 going to go through each e-mail and read things and
7 ask the witness what it means when he already said he
8 wasn't privy to these e-mails, he wasn't a party, he
9 hasn't reviewed them, then I will just renew my
10 objection. I think that lacks foundation and is an
11 inappropriate use of a record like this.

12 MR. DONADIO: If I may respond? I am not
13 going to go through each e-mail in this chain and
14 read it into the record. I simply want to ask
15 Mr. Stegall as to -- certain questions regarding the
16 content of the e-mails since he is a representative
17 of AEP and has provided testimony in this hearing in
18 support of the audit report.

19 MR. NOURSE: Well, again, your Honor, we
20 were very broad in distributing information in
21 discovery and that has nothing to do with the more
22 narrow standard of what's admissible in the hearing,
23 let alone trying to use things without foundation.
24 So again, there is nothing that was indicative of
25 Mr. Stegall being responsible for this discovery, and

1 there's been no foundation, and I just object to
2 continued use and having either counsel or the
3 witness just read from -- from the document.

4 MR. DONADIO: If I may respond. My
5 understanding is that --

6 EXAMINER SEE: Briefly, Mr. Donadio.

7 MR. DONADIO: Yes, your Honor.

8 My understanding is that Mr. Stegall was
9 involved with responding to certain Data Requests
10 from the auditor and also has reviewed information
11 that is pertinent to the audit, which, in this
12 e-mail, would be a site visit. I just want to
13 explore whether he has knowledge in regards to that
14 or not. And if he doesn't --

15 MR. NOURSE: I think you've already
16 explored --

17 EXAMINER SEE: Let him finish,
18 Mr. Nourse.

19 MR. NOURSE: I'm sorry. Were you not
20 finished?

21 MR. DONADIO: It's okay. I actually was
22 finished, but I appreciate it. Thank you, your
23 Honor.

24 MR. NOURSE: My apologies.

25 EXAMINER SEE: Please continue,

1 Mr. Nourse.

2 MR. NOURSE: I think you have already
3 explored the lack of knowledge. And again, just
4 because this witness was responsible for certain Data
5 Requests from the auditor or prepared data, you know,
6 in discovery, that does not include this document.
7 That does not include this disclosure. And again,
8 it's not probative or relevant and has no foundation.
9 Just because we produced it in discovery doesn't mean
10 it can just be read into the record.

11 MR. DONADIO: This line of questioning --
12 I'm sorry, your Honor.

13 EXAMINER SEE: I am going to sustain the
14 objection at this point. You can continue with your
15 cross-examination.

16 MR. DONADIO: Thank you, your Honor.

17 Q. (By Mr. Donadio) I will be moving on to a
18 different topic, Mr. Stegall. I know that earlier
19 today you had answered some of these questions on
20 voir dire in regards to Ms. Bojko, so I apologize if
21 it's repetitive, but it's necessary. Are you ready
22 to proceed?

23 A. Yes.

24 Q. Thank you.

25 So you are not an attorney, correct?

1 A. No, I am not an attorney.

2 Q. And you do not hold a Bachelor of Science
3 degree in economics, correct?

4 A. My Bachelor of Science is in accounting.

5 Q. Thank you.

6 And you do not hold any post-Bachelor
7 degree in economics, correct?

8 A. While I don't hold a post-Bachelor degree
9 in economics, my Master's of Business Administration
10 included economics as part of the curriculum.

11 Q. And this is your first time testifying
12 before the Public Utilities Commission of Ohio,
13 correct?

14 A. Yes. This is my first time before this
15 Commission.

16 Q. Thank you.

17 And to be clear, you have never
18 personally worked directly in power plant operations,
19 correct?

20 A. As I stated earlier today, while I have
21 never worked in a power plant operations, I meet with
22 those individuals on a regular basis.

23 Q. Nor have you ever been personally
24 responsible for making unit commitment decisions; is
25 that true?

1 A. While I have never made a unit commitment
2 decision, I have had a window into that process. I
3 do perform an advisory role when our day-ahead
4 operations team is working on these sorts of process.

5 MR. DONADIO: I would ask that the Bench
6 strike everything after no. It wasn't responsive to
7 my question.

8 MR. NOURSE: I object. I disagree with
9 that, your Honor. I mean, again, the witness is just
10 giving a full response to the question, and I think
11 the exact same answer was already given earlier on
12 the record when Ms. Bojko was here. I haven't
13 objected to multiple attorneys for the same party,
14 the same witness, but if it's just going to be
15 repetitive, you know, that could be -- that could be
16 an objection.

17 MR. DONADIO: If I may respond, your
18 Honor?

19 EXAMINER SEE: Go ahead, Mr. Donadio.

20 MR. DONADIO: The reason I'm re-asking
21 some of the voir dire questions, it's my
22 understanding that the voir dire was not part of the
23 evidentiary record, so I am just trying to ensure
24 that it makes it to the evidentiary record. So I
25 apologize that it's repetitive. I know it's been a

1 long hearing process for everyone but that is my
2 intent.

3 And in regards to having different
4 attorneys for the same party, AEP did the same thing
5 at the start of the hearing. And also unfortunately
6 with how long the hearing has been running, there is
7 scheduling conflicts which is why there are two
8 attorneys for OMA but, thank you.

9 MR. NOURSE: No, AEP did not do the same
10 thing. I disagree but, you know, I think the
11 practice has been to discuss or get advanced
12 permission, not after the fact.

13 EXAMINER SEE: The practice is as to each
14 individual witness. I think we were informed of some
15 time commitments earlier today by counsel for the
16 parties. With that, let's make an effort to get
17 through this proceeding efficiently -- as efficiently
18 as possible. And Mr. Stegall's answer will stand.
19 Let's move on.

20 MR. DONADIO: Thank you, your Honor.

21 Q. (By Mr. Donadio) Mr. Stegall, you weren't
22 on the OVEC Operating Committee during the audit
23 period, were you?

24 A. No, I was not.

25 Q. Nor have you ever been a member of the

1 OVEC Operating Committee, correct?

2 A. I have never been the Company's official
3 representative on the Operating Committee.

4 Q. Nor did you participate in OVEC Operating
5 Committee meetings as a nonvoting member during the
6 audit period, correct?

7 A. I have not participated during the audit
8 period.

9 Q. Thank you, Mr. Stegall. I am going to be
10 moving on to other portions of my cross. Thank you
11 for entertaining the questions that you've already
12 heard today.

13 So if you could please turn your
14 attention to your testimony, and I am looking at
15 page 17, line 18.

16 A. Okay.

17 Q. So I -- as I read that, it states that
18 any cap on future environmental spending is outside
19 the scope of the audit. I -- is that a correct
20 reading?

21 A. That's what I say right there, yes.

22 Q. Thank you.

23 And are you aware that -- strike that.

24 Can you please turn your attention to
25 page 75 of the LEI audit report which I believe was

1 marked previously as Staff Exhibit 1.

2 A. Okay.

3 Q. So doesn't this audit report on this page
4 state that "OVEC's environmental compliance
5 activities are within the scope of this audit, as the
6 Commission has specifically asked for this analysis"?

7 A. Are you referring to page 75, 7-5?

8 Q. I apologize. My numbers are clearly off.
9 If you give me one second, I can find the correct
10 citation.

11 MS. WHITFIELD: On the top of page 76,
12 just to speed things along. Sorry.

13 MR. DONADIO: Oh, no. I appreciate it.

14 Q. Top of page 76. My apologies,
15 Mr. Stegall. And I can repeat the question if you
16 need me to.

17 A. Please.

18 Q. So at the top of page 76, does it state
19 that "OVEC's environmental compliance activities are
20 within the scope of this audit, as the Commission has
21 specifically asked for this analysis"?

22 A. Well, that's what it says. The statement
23 that you read doesn't make any specific references as
24 far as the period, whether they are talking about the
25 audit period or going forward.

1 Q. And you said that you have read the audit
2 report, correct?

3 A. Yes.

4 Q. So you're general -- it's fair to say you
5 are generally aware of the recommendations contained
6 in the audit report, right?

7 A. Yes, I'm generally aware.

8 Q. And are you familiar with LEI's
9 recommendation in the audit report that the
10 Commission should implement a cap on capital
11 spending?

12 A. Can you refer me to a page that I can --

13 Q. Sure. Page 92, I believe of the audit
14 report. And I believe it's under Section 8.3.2 at
15 the top of page 92.

16 A. I see the recommendation for a cap along
17 with the addition by the auditor that OVEC is not
18 allowed to earn a return on capital projects.

19 Q. Would you agree that one of the purposes
20 of the audit report is to identify areas of
21 improvement for the subject of the audit?

22 A. I believe that's how Dr. Fagan
23 characterized it in her testimony.

24 Q. So in regards to a cap on environmental
25 spending, you aren't contending that the Commission

1 lacks authority to impose a cap of zero dollars, are
2 you?

3 A. I've been asked what I think -- several
4 questions about what I think the Commission can and
5 cannot do. I am not an attorney. I don't have the
6 background to evaluate what the Commission is
7 statutorily allowed to do. I would note, as I noted
8 in my testimony, that the projects were necessary for
9 economic and safety purposes so I would hope that the
10 Commission would evaluate any recommendation and
11 understand that there is a safety component here and
12 that, you know, the safety of OVEC staff should be
13 something that would be taken into account.

14 MR. DONADIO: I would move to strike the
15 portion of Mr. Stegall's response that was
16 supplemental to the question that I had asked. I
17 merely asked if he believed that the Commission had
18 authority to impose a cap of zero dollars on AEP's
19 environmental spending, not whether there were safety
20 concerns or other considerations to be taken into
21 account.

22 MR. NOURSE: Well, your Honor, I think
23 the witness first explained that he is not offering
24 any opinions about the Commission's jurisdiction, and
25 then simply went on to explain the basis for his --

1 his reference statement and testimony. I think
2 that's part of a full answer.

3 MR. DONADIO: I was just exploring the
4 witness's statement that spending is outside the
5 scope of the audit. I just wanted to explore his
6 knowledge as to that statement.

7 EXAMINER SEE: And the witness has given
8 you an answer, and it will -- your request to strike
9 that portion is denied.

10 MR. DONADIO: Thank you, your Honor.
11 I'll move on.

12 Q. (By Mr. Donadio) So we discussed today at
13 this hearing a little bit about coal purchase and
14 inventory, so I am going to ask you some questions
15 about that. Do you know whether OVEC's coal
16 forecasts in the aud -- strike that.

17 Do you know whether OVEC's coal forecast
18 in the audit period assumed that the coal units will
19 commit regardless of energy market prices?

20 A. I don't know how OVEC develops their coal
21 burn forecast and what assumptions they are
22 including.

23 Q. And do you know whether during the audit
24 period OVEC's coal inventory levels exceeded OVEC's
25 recommended inventory?

1 A. I believe the auditor has a statement in
2 the audit report that the inventories did exceed
3 what -- the desired levels. But once again, coal --
4 coal is procured to meet the -- to be there when it's
5 needed, and it has to take into account the delivery
6 cycle and the availability of the coal itself. So
7 you may have periods where inventory levels get high
8 and I would expect them to whittle down over a period
9 unless you have, you know, a nature event that
10 affects market demand or the unit's availability.

11 Q. Thank you, Mr. Stegall.

12 For purposes of this question let's
13 assume that OVEC's coal forecast strategy during the
14 audit period assumed a must-run commitment
15 designation. Couldn't reducing coal procurement in
16 response to energy market prices reduce the coal
17 inventory during the audit period?

18 A. I believe that OVEC is basing their coal
19 inventory needs on full load, so it really depends on
20 how they are calculating full load. If you are a
21 full load burn, I think if you are a -- if you are
22 talking about coal and coal inventory, it is a
23 question of what level of reliability you think you
24 are going to need to meet and what level of coal do
25 you need to ensure that you can meet that level of

1 reliability. So if -- there is a lot of -- there is
2 a lot of operational factors that go into account and
3 coal is not a just-in-time resource.

4 Q. Thank you for that answer, Mr. Stegall.

5 Having reviewed the audit report, are you
6 aware with its finding -- or statement, rather, on
7 page 71, the third bullet point down from the top of
8 the page that OVEC did not conduct any fuel
9 procurement audit during the 2018-2019 audit period?

10 A. I see the statement as the third bullet
11 at the top of the page, but I don't see any context
12 as to what they expected in these internal audits of
13 fuel procurement.

14 Q. And do you know whether, during the audit
15 period, OVEC paid above-market prices for coal from
16 any of its suppliers?

17 A. Are you defining "above market" as spot?
18 Because these contracts are entered into in various
19 periods of time. Market is a perspective as of a
20 pinpoint in time. You may have a long-term contract
21 that was in the market at one point and not in the
22 market at another. You may sign a contract that is
23 below market, and by the time you burn the coal it is
24 not.

25 Q. Yes. I am referring to the spot price,

1 what was used in the audit report, I believe.

2 A. In comparison to spot price is -- it is a
3 comparison point but keeping in mind that coal is not
4 a just-in-time resource, you have to purchase your
5 coal in advance of when you need it. So you can
6 compare to spot. You may -- you may come up with
7 a -- an adverse result that appears that the contract
8 is above market, but you would still need to take
9 into account when the contract was signed, what the
10 market was at the time it was signed, and what the
11 availability of coal in the market was.

12 MR. DONADIO: Thank you, Mr. Stegall. If
13 you could just give me a moment to review my notes, I
14 believe I am close to being done with my
15 cross-examination.

16 Thank you, your Honor. Thank you,
17 Mr. Stegall. No further questions.

18 EXAMINER SEE: You have to click the
19 button to be heard.

20 Okay. Thank you, Mr. Donadio.
21 Counsel for Kroger.

22 MS. WHITFIELD: Thank you, your Honor.

23 - - -
24
25

CROSS-EXAMINATION

1
2 By Ms. Whitfield:

3 Q. Good afternoon -- or, yeah, I guess it's
4 afternoon still, Mr. Stegall. My name is Angie Paul
5 Whitfield. I am representing The Kroger Company, and
6 I have a few questions for you today. I am going to
7 hope to avoid repeating anything. I might have to a
8 little bit, to lay some foundation, so just bear with
9 me.

10 A. Okay.

11 Q. This is a follow-up to Mr. -- well, let
12 me strike that.

13 Let me start back a little bit in your
14 testimony. If you could go back to page 3, line 4.
15 You -- in -- on page 3, you are describing the
16 history and original purpose of OVEC; is that fair to
17 say?

18 A. I am describing the history. I think
19 that's fair to say.

20 Q. Okay. And just to be clear, OVEC no
21 longer provides electric service to the Department of
22 Energy facility, correct?

23 A. Yes, that's correct as far as I know.

24 Q. And you would agree that OVEC did not
25 provide such electric service to the DEO facility

1 during the audit period, correct?

2 A. I'm not entirely sure. There may have
3 been some winding down that occurred at the beginning
4 of the audit period. I am really not sure.

5 Q. Okay. So you are not aware that that --
6 actually the DOE service ended in 2003?

7 MR. NOURSE: I object. That's not
8 correct. And I would like to know what you are
9 basing that on if you are going to ask him that.

10 MS. WHITFIELD: Well, I am not answering
11 the questions here, Steve. I am asking him. If he
12 doesn't know --

13 MR. NOURSE: You're stating a fact --

14 MS. WHITFIELD: Excuse me. Mr. Nourse, I
15 am still speaking. I'm still speaking. Mr. Nourse,
16 I'm still speaking.

17 If he wants to say it's incorrect or he
18 wants to say he doesn't know, then he can answer it.
19 It's not -- I am not on the stand. I am not
20 answering questions now.

21 MR. NOURSE: No, but you interrupted my
22 objection after your question. I was saying that you
23 are not -- you have no basis for that and it's
24 incorrect. So I would like you to state a
25 foundation. You can't just ask him false things.

1 EXAMINER SEE: The witness can --
2 Mr. Stegall can answer the question to provide any
3 caveat or correction he believes necessary if he
4 knows. So the objection is overruled.

5 Go ahead, Mr. Stegall.

6 A. I am not aware of any significant date in
7 2003.

8 Q. You are familiar with the Inter-Company
9 Power Agreement, correct?

10 A. Yes, I am.

11 Q. Okay. And if I refer to this as the
12 ICPA, you know what I am talking about, correct?

13 A. Yes.

14 Q. Okay. And as you note on page 7 -- I'm
15 sorry, page 4, line 7 to 9 in your testimony, the
16 ICPA requires the sponsoring companies to pay all of
17 OVEC's costs, does it not?

18 A. Yes. It's a cost-based contract.

19 Q. The ICPA does not, however, require or
20 give authority or even speak to whether the
21 sponsoring companies can pass those costs on to its
22 customers, does it?

23 A. The ICPA is between the sponsoring
24 companies and OVEC.

25 Q. And I appreciate that. But what I am

1 asking is does the ICPA provide any provision or give
2 any authority to the sponsoring companies to pass
3 those costs on to their representative customers?

4 A. Cost recovery is something a state
5 commission would address. It's not something that
6 would be addressed in a contract like this.

7 MS. WHITFIELD: Your Honor, I am going to
8 move to strike his answer and ask that he be
9 instructed to ask -- answer my question.

10 MR. NOURSE: Your Honor, she may not like
11 the way it was worded, but it was an answer that
12 responded to the question.

13 MS. WHITFIELD: In fact, I asked if the
14 ICPA had a provision.

15 EXAMINER SEE: You can -- he did answer
16 the question. You can ask him again, Ms. Whitfield.

17 Q. (By Ms. Whitfield) Mr. Stegall, can you
18 point me to a provision of the ICPA -- well, strike
19 that. Strike that.

20 Mr. Stegall, are you aware of any
21 provision in the ICPA that authorizes sponsoring
22 companies to pass the costs from COVID -- OVEC onto
23 their representative customers?

24 A. I don't know that a contract such as this
25 one has that authority. As I state, that sounds like

1 something that's under the authority of a state
2 regulatory commission like this one.

3 Q. You are familiar with the OVEC Operating
4 Committee obviously, correct?

5 A. Yes.

6 Q. And you describe OVEC's governance and
7 management structure in your testimony starting on
8 page 4, correct?

9 A. Yes, that's correct.

10 Q. And one of the Operating Committee's
11 responsibilities is to establish and modify
12 scheduling, operating, testing, and maintenance
13 procedures for OVEC, correct?

14 A. Yes, that's correct. I believe that's
15 the language I used in testimony or perhaps out of
16 Section 9.05, yes.

17 Q. And under Section 9.05, the Operating
18 Committee is also responsible for considering and
19 making recommendations for the OVEC Board of
20 Directors regarding any other concerns or problems
21 that may arise which affect the transactions under
22 the ICPA; is that fair?

23 A. I'm not entirely sure about the scope of
24 the recommendations they can make to the Board. But
25 I know the ability to make recommendations to the

1 Board is specifically identified in the ICPA.

2 Q. Okay. And each of the sponsoring
3 companies is entitled to one representative on the
4 Operating Committee with the caveat that if two or
5 more sponsoring committees are affiliates, then only
6 one member will be appointed to the Operating
7 Committee, correct?

8 A. Yes, that's my -- that's my read of
9 the -- what -- the language in the ICPA.

10 Q. And I think we can agree that AEP Ohio,
11 Indiana Michigan Power, and Appalachian Power are
12 affiliates. Can you agree with that?

13 A. Yes, they are.

14 Q. Okay. And so those three affiliate
15 entities have one representative on the OVEC Board,
16 correct?

17 A. You asked me questions about the
18 Operating Committee, and then you just mentioned the
19 Board. Did you mean to ask me about the Operating
20 Committee?

21 Q. I apologize. Yes, thank you for
22 correcting me. Those three affiliated entities, AEP
23 Ohio, Indiana Michigan Power, and Appalachian Power,
24 have one representative on the Operating Committee.

25 A. Yes. One representative for the three

1 operating companies. Not one per operating company.

2 Q. Correct. One for the aggregate.

3 Now, AEP Ohio, including those
4 affiliates, and OVEC each had one representative on
5 the Operating Committee during 2018 to 2019, correct?

6 A. I'm sorry. Can I get that one more time?

7 Q. Yes. AEP Ohio and OVEC each had one
8 representative on the Operating Committee during 2018
9 and 2019.

10 A. The three AEP companies had one
11 representative and then OVEC has a representative on
12 the Operating Committee as well. I don't believe
13 that that representative has a voting right though.

14 Q. Yes. Thank you.

15 AEP employees can participate in the
16 Operating Committee meetings even though they aren't
17 designated as the AEP representative, correct?

18 A. Yes, they can, and they do.

19 Q. And have you participated in those
20 meetings?

21 A. Not during the audit period.

22 Q. And during the audit period, there were
23 four AEP Service Corporation employees that were
24 directors on the Board of Directors for OVEC,
25 correct?

1 A. I think we talked about this earlier
2 today. There were I think four -- four employees in
3 the AEP banner of companies. But I mentioned earlier
4 today, Christian Beam who was the President of
5 Appalachian Power, so I don't know if you want to
6 call him an AEP employee or an Appalachian Power
7 employee. We discussed Raja Sundararajan who, at one
8 point, was President of AEP Ohio. I don't know if
9 his participation in the Board of Directors
10 overlapped with his period as President of AEP Ohio.
11 We mentioned Paul Chodak. Paul Chodak has been an
12 Executive Vice President with AEP Service Corporation
13 for I believe the duration of the audit period. And
14 then I believe the fourth person we mentioned was
15 Julie Sloat. And as far as I know, Julie has always
16 been a -- an executive with AEP Service Corporation.

17 Q. Let me just clarify that because maybe I
18 misunderstood earlier. I thought that the four
19 representatives on the Board of Directors were all
20 AEP Service Corp. employees. Are you saying that
21 that's now not totally accurate?

22 A. I thought I was trying to make that clear
23 this morning and I apologize if I didn't, but I know
24 Christian Beam has been President of Appalachian
25 Power for several years. I believe his participation

1 in the Board of Directors is part of his role as
2 President of Appalachian Power. I am not sure about
3 Raja Sundararajan. I know he was President of AEP
4 Ohio at one time. I don't know if that overlapped
5 with his period on the Board of OVEC or not, but that
6 may. The other two, Paul Chodak and Julie Sloat,
7 were both Service Corp. employees at the time of
8 their participation in the Board.

9 Q. Okay. Under the ICPA, AEP Corp., through
10 it's three subsidiaries, the Ohio Power Company,
11 Appalachian Power Company, and Indiana Michigan Power
12 Company, share 43.47 of OVEC's power participation,
13 benefits, and requirements, correct?

14 A. That number sounds correct. It's
15 approximately 43 or 44 percent but I don't have the
16 exact number off the top of my head.

17 Q. And AEP Ohio receives 19.93 percent of
18 the output in capacity of OVEC, correct?

19 A. By "output" do you mean energy?

20 Q. Yes.

21 A. Yes. AEP Ohio's contractual shares,
22 power participation ratio share, is 19.93 percent if
23 you include Ohio Power and the old legacy Columbus
24 Southern Power share.

25 Q. All right. If you could pull out the

1 audit report that's been marked as Staff Exhibit 1.

2 Do you have that in front of you?

3 A. Yes.

4 Q. Okay. And if you could turn to page 45.

5 Sorry. I have got a lot of binders happening here.

6 The report there in the second paragraph on page 45

7 states that the OVEC Operating Committee held one

8 in-person meeting each in 2018 and 2019 respectively

9 and then six conference calls during that same time

10 period, four in 2018 and two in 2019. Do you see

11 that?

12 A. Yes, I see that. The first sentence in
13 that last paragraph?

14 Q. Yes. Do you have any reason to question
15 or dispute the accuracy of that statement?

16 A. No, I don't.

17 Q. Now if you could turn to page 10 of the
18 report. Isn't it true that the auditor
19 recommendation -- and this is at the -- under 1.4,
20 "OVEC Operating Committee meetings," last sentence --
21 or second-to-the-last sentence, I guess. The auditor
22 recommends more frequent meetings to discuss energy
23 offer strategies. This could help prevent plants
24 running when the energy prices are too low to cover
25 variable costs. Do you see that?

1 A. Yes, I see that, the last two sentences
2 in that section labeled "OVEC Operating Committee
3 meetings"?

4 Q. Yes. And the -- earlier in that
5 paragraph the audit report also notes that the
6 previous auditor recommends that the OVEC Operating
7 Committee meetings should be held more frequently.
8 Do you see that?

9 A. Yes, I see that.

10 Q. And that was to deal with updates on each
11 plant's operating performance, cost of serve, that's
12 a typo, or profit/loss statements for market-based
13 revenues?

14 A. That's what the report says.

15 Q. Okay. To your knowledge during the audit
16 period, the OVEC Operating Committee never considered
17 the recommendation to hold more frequent meetings to
18 address energy offer strategies, did it?

19 A. You would have to be more specific. I
20 don't know what the count was in the prior audit, but
21 we are talking about two person-to-person meetings
22 and then several conference calls. If -- if we are
23 talking about two meetings in the prior audit and we
24 are now -- we now have a total of what, eight, two in
25 person and six via call? To me that's more frequent

1 but that's because I have a comparison point. I
2 don't have a comparison point to address what more
3 frequent is in this regard.

4 Q. Well, isn't it true AEP Ohio said it
5 didn't feel like there needed to be any more
6 meetings?

7 A. Are you referring to something specific?

8 Q. Yes. If you look at that paragraph we
9 were just looking at on page 10, it says "AEP Ohio's
10 response for the current audit indicated that it felt
11 the current meeting schedule was adequate and do not
12 plan to make any changes." Do you see that?

13 A. And I am assuming by "current meeting
14 schedule" they are talking about the schedule of
15 meetings as identified in this audit.

16 Q. Yes. And they felt at that time there
17 needed -- that AEP felt there did not need to be any
18 more meetings, correct?

19 A. Yes. That's based on, once again, two
20 in-person meetings and what did we say? Six
21 conference calls?

22 Q. Yes, yes. But this auditor in this audit
23 period found that you needed -- that the OVEC
24 Operating Committee needed to meet more frequently to
25 discuss energy offer strategies, did it not?

1 A. She recommends that, yes.

2 Q. Now, the audit report also noted the
3 previous auditor recommended that AEP Ohio should
4 provide the PUCO with a study assessing OVEC's
5 potential participation in the ancillary services
6 market, correct?

7 A. Yes. That's my recollection.

8 Q. Isn't it true that AEP did not provide
9 such a study prior to, or during, the audit in this
10 proceeding?

11 A. It's my understanding that the study was
12 still not yet complete, that OVEC participates in the
13 ancillary markets as it has resources to do so but it
14 hasn't adopted a full-on ancillary service market
15 participation, understanding that a lot of times
16 offering in the ancillary service market can take
17 away the opportunity to earn in the energy markets.

18 Q. So the answer to my question is, no, AEP
19 did not provide such a study prior to, or during,
20 this audit in this case?

21 A. My answer was that the study that was
22 supposed to be completed was not complete and ergo
23 the company could not provide a study that was not
24 complete.

25 Q. Thank you.

1 The audit report also noted that the
2 previous auditor recommended that OVEC consider a
3 sliding pressure control strategy to be utilized
4 during low load periods which AEP agreed to address
5 with OVEC and the sponsoring companies, did it not?

6 A. Are you referring to the prior audit
7 report from Vantage Energy Consulting, I believe is
8 their name?

9 Q. Yes. I apologize. I should have been
10 clear. Let me restate my question just to be clear
11 so is it --

12 A. I was just wondering if that was in the
13 record, if there was a way we could pull that up and
14 specifically reference it.

15 Q. Well, I'm actually referring to what's on
16 page 11 in our current audit report. It references
17 what the previous auditor found -- or recommended, I
18 should say. It says, "The previous audit recommended
19 that OVEC consider a sliding pressure control
20 strategy to be utilized during low load periods," and
21 went on to say, "AEP Ohio agreed to address this with
22 OVEC and the sponsoring companies...." Did I read
23 that correctly?

24 A. Yes, and then it concludes that paragraph
25 by saying "it is currently under evaluation."

1 Q. And that was my next -- has that
2 evaluation been completed?

3 A. I haven't seen the completion of that
4 evaluation.

5 Q. Do you know when it is expected to be
6 completed?

7 A. I don't know if it is completed or if
8 it's still yet to be completed. I haven't seen
9 anything in that regard.

10 Q. And prior to drafting your testimony, did
11 you review the prior audit reports regarding AEP's
12 Rider PPA that were referenced in the -- in this
13 current audit report?

14 A. I didn't read the prior audit report in
15 preparation to appear here today.

16 Q. All right. Let's switch gears a little
17 bit. Would you agree with me that, generally
18 speaking, a plant operator will receive net positive
19 revenue as long as the cost of operating its facility
20 remains below the market price of power?

21 A. You would have to be more specific with
22 the cost part. Are we comparing energy revenues to
23 variable costs to incremental costs? I don't know.

24 Q. Well, I'm just more speaking generally.
25 The costs of operating the facility if your

1 revenue -- well, if what you can sell -- the price of
2 the power you can sell it for exceeds your cost for
3 operating to create that power, you get a net
4 positive revenue, do you not?

5 A. Your cost of operation can include six
6 costs. It can include return on capital if you are
7 talking about a regulated entity. "Costs," in my
8 mind, is a bit broad. If you are asking me does --
9 when the price of energy exceeds the variable cost of
10 a megawatt-hour in a particular hour, do we -- does
11 it generate a positive energy margin? I would say
12 yes. But once again, I can tell you what I
13 understand variable cost to be and what the price of
14 energy could be, but when you don't add variable or
15 incremental, it's too broad for me to answer.

16 Q. Well, would you agree that generating
17 units will be unprofitable when they are designated
18 under a must-run status when the units' operating
19 expenses exceed the market for that price for that
20 wholesale power?

21 A. While they may be unprofitable if price
22 is higher than the cost, the variable costs of that
23 particular hour is higher than the price, you would
24 still have to look at what your options are. If my
25 option is to shut down and then turn around and

1 restart, the losses that I may incur in a market
2 wouldn't offset even just the startup costs. So it's
3 a -- it is a decision that needs to evaluate all the
4 variables and you have to look at what's my next best
5 option.

6 Q. Okay. Earlier you testified that OVEC
7 offered all but one of its units as must run during
8 the audit period, correct?

9 A. Yes. In accordance with the operating
10 procedures established by the Operating Committee.

11 Q. You read my mind. That was my next
12 question so I'll skip that.

13 And the unit that was not offered as must
14 run was unit 6 at Clifty Creek, correct?

15 A. Yes. It's my understanding that the unit
16 has some environmental issues that limit the hours
17 that it can run, and for certain periods they offer
18 it economically to make sure that they don't exceed
19 whatever the environmental limitations are.

20 Q. And would you agree as a sponsoring
21 company with the representation -- with the
22 representation on the Operating Committee during the
23 audit period, AEP Ohio had input as to the commitment
24 strategy of the OVEC units?

25 A. They had input, yes. That's

1 established -- that's a right established in the
2 ICPA.

3 Q. Because the OVEC plants were offered into
4 the PJM day-ahead market as must-run units, I believe
5 you testified earlier that there were times in 2018
6 and 2019 where the PJM day-ahead price did not cover
7 the variable costs of running the plants, correct?

8 A. I believe I said that it's likely there
9 are hours during the year where the energy price was
10 below the variable costs. I don't know the number of
11 hours or how frequently that happened. But I did
12 calculate a total for the audit period and arrived at
13 a net benefit of \$32 million. And that is on page 11
14 of my testimony.

15 Q. Okay. And as to that \$32 million figure,
16 you only examined the energy market revenues earned
17 from selling the energy into the PJM market netted
18 against the 114 -- I don't think this is public,
19 114.8 million of energy charges billed to the
20 sponsoring companies, correct?

21 A. These are AEP Ohio-specific numbers so
22 this is AEP Ohio's 19.93 percent share.

23 Q. Yep.

24 A. So when you -- so the 114.8 million
25 wasn't billed to sponsoring companies. It was billed

1 to AEP Ohio. The 146.5 million wasn't the revenues
2 earned by all energy from OVEC. It's just from AEP
3 Ohio's share.

4 Q. Yes. I'm sorry if I misspoke.

5 So to arrive at -- you testified earlier
6 and your testimony reflects on page 11 there --
7 page 11, starting at line 11, that AEP Ohio's
8 customers received a net benefit of 32 million
9 resulting from its participation in the PJM energy
10 markets using the must-run commitment status during
11 the audit period, right?

12 A. Yes.

13 Q. And what I am asking is, to arrive -- to
14 arrive at the \$32 million figure, you only
15 examined -- examined the energy market revenues
16 earned from selling the energy into the PJM market,
17 the 146.5 million, netted against the 114.8 million
18 of energy charges billed to the sponsoring companies,
19 correct?

20 A. Yes.

21 Q. So this \$32 million benefit does not
22 account for any other charges that the sponsoring
23 companies are billed and paid to OVEC, correct?

24 A. That's correct. That's why I specified
25 which section of the ICPA billing was incorporated in

1 my number.

2 Q. And so we are perfectly clear, you aren't
3 suggesting that customers were actually credited
4 \$32 million during the audit period, correct?

5 A. The customers received this benefit.
6 This was not the sum calculation of the revenue
7 requirement for the rider.

8 Q. And, in fact, customers were actually
9 charged approximately \$75 million for the rider
10 during the audit period, were they not?

11 A. For the rider but this discussion is just
12 the energy revenues and energy costs.

13 Q. Now, for the time period of the audit
14 2018-2019, do you know approximately what percentage
15 of time the PJM energy price did not cover the
16 variable costs of running the OVEC plants?

17 A. As I said, I didn't do a calculation of
18 how frequently that occurred.

19 Q. So sitting here today you have no
20 independent knowledge of a percentage of that or how
21 frequently that occurs is what you are saying.

22 A. Like I said, it may have occurred in
23 hours during the year, but overall we are talking
24 about a \$32 million benefit of the units being on,
25 just to AEP Ohio customers.

1 Q. Okay. If we could turn to page 6 of your
2 testimony. Looking at line 18, do you see where you
3 state that "The Commission's 2018-2019 audit of the
4 PPA Rider was intended to examine the costs of the
5 ICPA and revenues from the sale of power and to
6 ensure that accounting procedures accurately and
7 properly allocate revenues to customers"?

8 A. Yes.

9 Q. Would you -- you would agree with me that
10 part of "examining the costs from the ICPA" would
11 include determining whether OVEC and the sponsoring
12 companies through their oversight responsibilities
13 operated the plants prudently and in the best
14 interest of customers during the audit period.

15 MR. NOURSE: I just object to the form of
16 the question when you are suggesting AEP Ohio
17 operated the plant.

18 MS. WHITFIELD: Well, I am -- I did not
19 mean to say they operated the plants, but AEP Ohio is
20 on the Operating Committee that oversees the
21 operation and sets the parameters for operation so.

22 MR. NOURSE: Could I get you to rephrase,
23 please?

24 Q. (By Ms. Whitfield) Mr. Stegall, you would
25 agree with me that part of examining the costs of the

1 ICPA would include determining whether OVEC, managed
2 through its Operating Committee, operated the plants
3 prudently and in the best interests of customers
4 during the audit period.

5 A. I think that is an evaluation that the
6 auditor did. And I think in my evaluation of whether
7 or not the plant was operated prudently, if the plant
8 was turned off for the entire year, the customers --
9 there is a \$32 million credit the customers would
10 never see. So I'm not -- I'm not entirely sure
11 what -- what your question is asking.

12 Q. All I am asking you is, you said that the
13 audit was intended to examine the costs of the ICPA
14 and what I am asking you -- that's in your testimony.
15 And what I am asking you is, you would agree that
16 examining the costs of the ICPA includes
17 determination whether OVEC operated the plants
18 prudently and in the best interest of customers
19 during the audit period.

20 A. While I would agree with that, I would
21 add the caveat, within AEP Ohio's contractual rights
22 to exert its influence over OVEC.

23 Q. Your testimony on page 10, beginning at
24 line 1, states that "In general, there are various
25 factors taken into account when determining unit

1 commitment," correct?

2 A. Yes, as I indicated earlier, these are
3 sort of general statements based on my experience.

4 Q. Okay. And I am going to try not to
5 re-ask what NRDC or IEU or the other parties asked,
6 but I had to step away for a moment so I want to make
7 sure I didn't miss anything.

8 Are there any formal analyses or
9 documentation of the factors that the OVEC Operating
10 Committee took into account during 2018 and 2019 when
11 determining to commit all but one of the units at
12 Kyger and Clifty Creek as must-run units?

13 A. While I am not aware of an analysis, that
14 doesn't mean it wasn't done as I said before, and I
15 believe I said this even in my deposition, there is a
16 lot of information that OVEC submits to the market
17 that it does not share with the sponsoring companies
18 and a lot of that information is data you would need
19 to do some of these analyses, you know, take into
20 account some of these factors I've identified here.

21 Q. And you're not aware of what specific
22 factors were ever actually considered by the OVEC
23 Operating Committee during the audit period, correct?

24 A. Beyond the operational factors that I
25 identified in my testimony, no. I don't know how

1 they're -- what economic analysis did and in what
2 form but I do know that they take into account the
3 operational characteristics of the unit in terms of
4 what it can do for a particular day.

5 Q. But even those listed in your testimony,
6 you don't know which specific factors were ever
7 actually considered by the OVEC Operating Committee
8 during the audit period.

9 A. During the audit period so the daily --
10 the commitment decision is one that variables are
11 submitted to the market -- to PJM on a daily basis.
12 I believe that the establishment of the must-run
13 commitment status and its use is established in the
14 operating procedures so I -- I don't -- I don't know
15 what sort of economic analysis that OVEC is doing
16 once it's been determined by the Operating Committee
17 that's how the units would operate. They may be
18 doing an analysis, but I don't know if they are.

19 Q. And you never did an analysis or
20 requested that an analysis be done for the OVEC
21 Operating Committee -- strike that.

22 You never did an analysis for the OVEC
23 Operating Committee comparing a must-run strategy
24 with an economic dispatch strategy, correct?

25 A. You are talking about a re-dispatch

1 analysis. I talked about that I think a couple of
2 times today, but such an analysis is -- it's very
3 difficult to do, and it would have to incorporate a
4 lot of information. There are operational risks that
5 OVEC is taking into account on a daily basis in terms
6 of unit operation that I don't know how you would
7 effectively capture those after the fact. You are
8 also making assumptions as to the level of risk that
9 the operator in the moment is experiencing versus
10 what you are looking at with a clarity of 2020
11 hindsight.

12 Q. So the answer to my question is, no, you
13 never did an analysis for the OVEC Operating
14 Committee comparing a must-run strategy with an
15 economic dispatch strategy, correct?

16 A. I did not for the reasons I just
17 identified.

18 Q. In your testimony starting on page 7 and
19 I believe through -- page 7, line 18, through
20 page 11, your testimony there is just more general
21 statements and not in any way specific to OVEC during
22 the audit period; is that fair?

23 A. I think it's a mix. So the -- so you are
24 starting on page -- so page 7, starting with
25 Section VII of my testimony, you know, the first

1 Q and A talks about markets in PJM in general, the
2 energy markets in general.

3 The question on page 8 discusses the
4 concept of unit commitment. So that's in general.

5 Then we get into the next question on
6 page 9 at the top, "How does OVEC commit its units in
7 PJM?" That is OVEC specific.

8 And then we get to the question at the
9 bottom of page 9, "Is OVEC's use of the must-run
10 commitment a reasonable market commitment strategy?"
11 That is OVEC specific.

12 And then we get on to, I think you said
13 page 11. So the Q and A on page 11, that is also --
14 the question was, "Was the use of the must-run
15 commitment status reasonable for the audit period?"
16 That is OVEC specific. So it's a mix of generic and
17 OVEC specific.

18 Q. Okay. And other than the last -- or the
19 question on page 11, those prior questions that you
20 referenced were OVEC specific, they are not OVEC
21 specific for the audit period, correct?

22 A. So the question about how OVEC commits
23 its units in PJM that -- I will say during the --
24 that is my understanding of the process during the
25 audit period, and I believe we provided that in

1 discovery. The use of -- OVEC's use of the must-run
2 commitment, I was addressing for the audit period, I
3 mean, I discuss characteristics of OVEC so obviously
4 plant characteristics don't change without
5 significant investment or just -- well, yeah, if they
6 change at all.

7 Q. Okay.

8 A. And then once we get to page 11, I mean,
9 that is -- the question specifically mentions the
10 audit period.

11 Q. And isn't it true that AEP Ohio has never
12 analyzed or commissioned an analysis of the potential
13 benefits for customers from switching to the -- to an
14 economic dispatch strategy from the must run,
15 correct?

16 A. I indicated the difficulties associated
17 with doing a, you know, hindsight analysis, a
18 recommitment analysis. I am not sure that I can add
19 any additional information but, no, that has not been
20 commissioned because of the difficulty involved.

21 Q. And isn't it true that AEP Ohio never
22 conducted an analysis of whether customers would
23 benefit from converting to seasonal operations?

24 A. So they -- I can tell you immediately the
25 costs of seasonal operation is a loss of the

1 \$40.2 million that customers, AEP Ohio customers
2 receive for -- from the sale of OVEC -- AEP Ohio's
3 share of OVEC capacity into the capacity market. I
4 don't know what the O&M savings would be, but at this
5 point you are talking about taking six -- presumably
6 if you are talking about a, you know, three-month
7 summer and three-month winter where the unit would be
8 on, three-month fall and three-month spring where the
9 unit would be off, you know, I don't know what the
10 incremental O&M savings would be, but it would have
11 to supercede 19.93 percent of -- or the 19.93 percent
12 of savings would have to supercede the \$40.2 million.

13 Q. And AEP never did any such analysis,
14 correct?

15 A. They didn't, but it's a high hurdle.

16 Q. And do you know if, during the audit
17 period, OVEC ever analyzed the amount of time
18 necessary to shut down and restart the units?

19 A. I know that start-up time is a -- is a
20 data point that's provided to the market on a daily
21 basis. I believe shut-down time is as well, but I am
22 not 100 percent sure. I am going off memory.

23 Q. But I guess my question is slightly
24 different. Was there a specific analysis done during
25 the audit period as to how much time would be

1 necessary to do those, to do the shutdown and restart
2 of the units?

3 A. Those are market parameters that are
4 supplied on a daily basis. There's a basis to
5 calculate those established in PJM protocols. OVEC
6 is participating in the market. I haven't seen any
7 issuances from the market monitor that they are
8 violating protocol, so I am assuming they are
9 providing that data in accordance with the protocols,
10 and it is included there.

11 Q. Do you know if OVEC's must-run offer
12 strategy during the audit period was similar or
13 different than the offer strategy of competitive
14 generators in PJM at the time?

15 A. If you mean by "competitive generators,"
16 merchant generators that have no obligation as a
17 utility resource, I believe to one of the previous
18 attorneys I said I'm -- I understand the concept. I
19 have never been part of the operations of a merchant
20 generation facility, so I have never studied that. I
21 can't say exactly.

22 Q. Well, would you agree that in determining
23 the reasonableness of the must-run strategy, wouldn't
24 it be helpful to have the benchmark for comparison?

25 A. In -- not necessarily. I think you would

1 need a resource that had similar operating
2 characteristics in order for it to be a valid
3 comparison.

4 Q. So your competitor has to be identical to
5 in all respects for it to be a useful or a reasonable
6 comparison?

7 A. I believe I used the word "similar."

8 Q. In regards to energy here, just energy,
9 you are aware that the auditor in this proceeding
10 recommended that OVEC should reconsider its must-run
11 strategy, correct?

12 A. I am aware of that, yes.

13 Q. Now, if you could turn to -- well, strike
14 that. Let me just check something.

15 With respect to your answer on page 12,
16 starting at line 16 of your testimony, wouldn't
17 sustained losses attributed to the must-run strategy
18 during the audit period count as circumstances
19 warranting the reconsideration of the units'
20 commitment status?

21 A. I don't believe anybody has established
22 the losses are sustained. I identified a \$32 million
23 net benefit in the energy market.

24 MS. WHITFIELD: Your Honor, I am going to
25 move to strike his answer and request he be

1 instructed to answer my question.

2 MR. NOURSE: Well, your Honor, she did
3 use the words "sustained losses" in her question. I
4 think he is entitled to comment on that and that's
5 what he did.

6 MS. WHITFIELD: Actually he used
7 "sustained" in his testimony. That's where I got
8 that word from, your Honor. And I am asking him.
9 You know, he used the word. He should know what he
10 means. If my question was, wouldn't sustained losses
11 attributed to the must-run strategy during the audit
12 period count as "circumstances," again a word from
13 his testimony, warranting the reconsideration of the
14 unit commitment status.

15 MR. NOURSE: Well, your Honor, sure, it's
16 a word he used in his testimony. What he is saying
17 in his answer in response to the question is that
18 it's inapplicable to the audit period and hasn't been
19 established and we believe is inapplicable.

20 MS. WHITFIELD: If it's inapplicable to
21 the audit period, then the question and answer should
22 be stricken. I would renew the motion to strike
23 then.

24 MR. NOURSE: No, your Honor. As we
25 established, this is an illustration, this Q and A is

1 an illustration to explain must run, and there has
2 already been several questions about it. It can't
3 just be stricken at this point anyway.

4 EXAMINER SEE: For clarification,
5 Ms. Whitfield, were you renewing the request to
6 strike this portion of Mr. Stegall's testimony on
7 page 12, lines 14 through 19, or were you asking that
8 his response to your question be stricken?

9 MS. WHITFIELD: Well, my first was, I was
10 requesting that his response to my question be
11 stricken and he be instructed to answer my question.
12 It was just in response to Mr. Nourse saying that it
13 was outside the audit period. Then I said, well, if
14 that's the case, then let's renew my motion to
15 strike.

16 MR. NOURSE: That is not what I said.
17 Would you like me to repeat my response, your Honor?

18 EXAMINER SEE: No. That's fine. I was
19 just trying to get clarification on Ms. Whitfield's
20 statement.

21 Mr. Stegall's answer stands.

22 You can continue to pursue this line of
23 questioning.

24 Q. (By Ms. Whitfield) When you wrote in your
25 testimony, Mr. Stegall, there was a sustained period

1 of low prices, what did you mean by "a sustained
2 period"?

3 A. It's a qualitative measure, not a
4 quantity measure. I didn't have a specific number in
5 mind, I believe, and this -- as I mentioned, I think,
6 a few times today, this Q and A indicates my belief
7 that the Operating Committee has individuals, all
8 who, in my experience, are experienced in analyzing
9 market trends, would adequately respond.

10 And I believe one of the other attorneys
11 even asked me outside of the audit period if there
12 was a specific instance, and I mentioned the loss of
13 demand due to the COVID pandemic. Once again, I -- I
14 made a statement of belief using qualitative
15 statements, and then on cross earlier today I
16 provided a specific example.

17 Q. Well, using your qualified belief,
18 wouldn't sustained, meant in a qualitative point, not
19 a quantitative, losses attributed to the must-run
20 strategy during the audit period count as
21 circumstances warranting reconsideration of unit
22 commitment?

23 A. The must-run strategy only affects the
24 operations in the energy market. And as I indicated
25 earlier in my testimony, the net result of OVEC's

1 participation in the energy market was AEP Ohio
2 receiving a net benefit of \$32 million.

3 Q. Given that customers were receiving
4 substantial charges instead of credits during 2018
5 and 2019, did AEP request that the Operating
6 Committee change its commitment strategy at any time
7 during the audit period?

8 A. Once again, due to the fact that AEP
9 Ohio's share of participation in the energy markets
10 resulted in a \$32 million benefit, I don't understand
11 the impetus of the question. If there is a specific
12 period during the year that you are referring to, we
13 could certainly look at that but, I mean, when I
14 examined the audit period as a whole, the must-run
15 strategy only affects -- it doesn't affect the entire
16 operations covered under the rider. It only affects
17 the operations of the energy market and those were
18 positive for customers.

19 Q. Well, I know you want to keep talking
20 about a \$32 million benefit. But it's true that the
21 rider resulted in a charge to customers, correct,
22 during this audit period?

23 A. Yes. That's not something I ever -- I
24 ever contested. The rider was a charge.

25 Q. Yeah. And it was over \$74 million in

1 charges to AEP Ohio's customers, correct?

2 A. As I said before, I didn't do that
3 calculation. AEP Ohio provided quarterly updates.
4 The auditor provided data. I won't -- I don't know
5 that I can specify a number, but it's in the record
6 in multiple places for reference. If not, then the
7 underlying components, the quarterly updates, the
8 monthly data, whatever, that's all out there in the
9 record. I don't know that -- I didn't do the
10 \$74 million calculation.

11 Q. Isn't it true -- strike that.

12 You stated in your testimony on page 15
13 that AEP Ohio does not possess the necessary
14 information to conduct a retroactive analysis of
15 OVEC's hourly operations during the audit. Do you
16 recall that?

17 A. I recall saying it in testimony. I also
18 recall saying it several times today.

19 Q. Okay. And isn't it true that AEP could
20 obtain that information necessary to conduct a
21 retroactive analysis directly from OVEC?

22 A. I don't know what AEP's rights are in
23 terms of getting data for OVEC. I know that in my
24 interactions with OVEC they don't provide that
25 information to sponsors. That's because you have

1 several sponsors as participants in the PJM market
2 that may provide a competitive advantage one way or
3 the other to them. You also have participants that
4 are outside the PJM market. I don't know how such,
5 you know, sharing such information affects them.

6 Q. Do you know whether AEP has ever actually
7 made a request to OVEC for that information?

8 A. A formal request? I don't know that AEP
9 has ever made a formal request. I have been involved
10 in discussions personally with OVEC outside of the
11 audit period about this data, and they have told me
12 they don't share this with the sponsoring companies.

13 MS. WHITFIELD: Your Honor, I am going to
14 move to strike that last part of his answer where he
15 talks about conversations with OVEC people as
16 constituting hearsay.

17 MR. NOURSE: Well, your Honor, I think
18 he's indicating it's not for the truth of the matter
19 asserted. It's that he's confirming that OVEC in
20 order to probably comply with competitive market
21 rules that obviously to protect the competitive
22 market does not share certain information with --
23 externally, including with the owners, the purchase
24 power parties under the ICPA. That's a fact that he
25 has personal knowledge of.

1 MS. WHITFIELD: Well, your Honor, just
2 like Mr. Nourse just said, he's saying that he was
3 told by OVEC personnel that they don't share this
4 information. That's hearsay. And he is -- he is, in
5 fact, asserting it for the truth of the matter
6 asserted. He is trying to say that in his testimony.

7 MR. NOURSE: No, your Honor. I think --
8 refusing to provide information is conduct and it's a
9 fact that Mr. Stegall has stated he already knows.
10 So it's not relying on the words used in a
11 conversation or the truth of the words that were used
12 in a conversation. It's conduct.

13 Can I just add one thing, your Honor?

14 EXAMINER SEE: Just --

15 MR. NOURSE: Sorry. Did you say yes?

16 EXAMINER SEE: No, I did not.

17 MR. NOURSE: Okay.

18 EXAMINER SEE: Now what were you about to
19 say, Mr. Nourse?

20 MR. NOURSE: Your Honor, just the nature
21 of the question, if anything, speaks to hearsay and
22 she is asking whether AEP Ohio has made a request.
23 Has AEP Ohio ever communicated to OVEC or said can I
24 have this information. And so I think he is entitled
25 to give an answer based on his actual knowledge. I

1 don't think it's hearsay for the truth of the matter
2 asserted.

3 MS. WHITFIELD: Your Honor, could I
4 respond to that?

5 EXAMINER SEE: Yes. Go ahead.

6 MS. WHITFIELD: So, in fact, my question
7 was asking something that AEP did. Did they make the
8 request. You know, he said, formally? I said sure,
9 formally, did they make the request. So that's --
10 it's something AEP did. It's not the hearsay, well,
11 I heard this in conversations from an unknown person
12 who may not be in OVEC, who may or may not be a
13 decision-maker with OVEC on this issue.

14 MR. NOURSE: You didn't ask if he
15 personally made the request, so you are asking about
16 a third party.

17 MS. WHITFIELD: I asked if AEP --

18 EXAMINER SEE: Thank you both. Thank you
19 both.

20 Ms. Whitfield, I am not going -- I am not
21 going to strike that portion of his testimony, but
22 you can ask some additional questions about it.

23 MS. WHITFIELD: Thank you, your Honor.

24 Q. (By Ms. Whitfield) Who was the person at
25 OVEC who supposedly told you they do not share this

1 type of information with sponsoring companies?

2 A. Justin Cooper.

3 Q. And just to be clear, AEP Ohio is a
4 regulated entity that does not participate in the
5 competitive market, correct?

6 A. You will have to be more specific as to
7 what you mean by "competitive market."

8 Q. Well, so you are not aware of whether or
9 not AEP Ohio participates in the competitive market
10 here.

11 A. What competitive market?

12 Q. Let me -- that they don't own generation.

13 A. It's -- it's my understanding AEP Ohio
14 doesn't own generation. They are -- that's my
15 understanding.

16 Q. So they don't participate in the
17 competitive market for generation, correct?

18 A. I mean, they're not a merchant generator,
19 if that's the question that you are asking me.

20 Q. Let me see if I can clarify this.

21 AEP Ohio does not sell its own
22 generation, correct?

23 A. It does not, but as we discussed earlier,
24 there is one representative on the Operating
25 Committee that represents three AEP utilities. The

1 other two AEP utilities do sell their generation into
2 PJM. So I want to be clear that we are -- you know,
3 AEP Ohio is not an individual participant in the
4 market.

5 Q. And my question is that AEP Ohio, I am
6 focusing on AEP Ohio, the party to this proceeding,
7 is not in the competitive market and selling its own
8 generation, correct?

9 A. AEP Ohio does not have generation to
10 sell, my understanding, aside from, you know, the
11 capacity they have from OVEC, they do sell that.

12 Q. So if AEP Ohio is not competing in the
13 competitive market and selling generation, then would
14 you agree that OVEC would not be sharing competitive
15 information with AEP Ohio if it shared the
16 information necessary to conduct the retroactive
17 analysis?

18 A. I don't know how you segregate, you know,
19 information to just one affiliate company. I also
20 don't know if by the fact that they would be sharing
21 it with perhaps AEP Service Corp. there is an effect
22 on competitive market rules. There's a lot of
23 questions I have that I -- I can't answer legally. I
24 am, you know, giving you my understanding.

25 Q. In your communication with Justin Cooper,

1 did you ever explain to him the difference between
2 AEP Ohio and the other affiliates that it is not a
3 competitor?

4 A. I am sure he is aware. That hasn't come
5 up in our conversations. The discussion about this
6 data has come up in various times over the various
7 cases that I have worked for the three AEP utilities
8 where this information has been requested. And I
9 have discussed with him in that regard can we provide
10 it and he says we do not share this information with
11 the sponsors.

12 Q. So I thought you told me earlier that AEP
13 Ohio has not made a formal request for this
14 information, correct?

15 A. Once again --

16 Q. Let me -- I want to limit my question to
17 the audit period just. Did not make a request during
18 the audit period for this type of information.

19 A. Yeah. Unless there was a specific Data
20 Request that said provide certain information, I
21 don't know that we would have talked about it
22 specifically, but keep in mind we get asked this
23 level of information for all of our generating units
24 in many cases, I see all those requests, and when it
25 comes to OVEC, he and I would have a conversation

1 about, well, what are we -- what are we comfortable
2 providing, and generally we fall into the data that
3 AEP Ohio has or AEP as a whole because all of this is
4 processed through the AEP Service Corporation
5 commercial operations, AEP Service Corporation
6 accounting, we would focus on the data that is in
7 AEP's possession.

8 Q. Now, you stated also in your testimony on
9 page 15 that such a retroactive analysis would be
10 expected. Do you recall testifying to that?

11 A. Yes.

12 Q. How much would it cost approximately?

13 A. I don't know because I don't know how
14 many people it would take, what kind of software it
15 would take, what software is available to do that. I
16 haven't done a -- you know, a formal costing
17 analysis.

18 Q. And you also state that such an analysis
19 would be time consuming, correct?

20 A. Yes, especially if you had to do it by
21 hand using spreadsheets.

22 Q. Okay. And have you done any analysis
23 about how much time it would -- approximately it
24 would take?

25 A. No, because as I indicated before, I

1 don't have the data to even begin.

2 MS. WHITFIELD: Your Honor, if I could
3 just have a couple minutes, I think I am done but
4 give me just like 3 minutes, if you don't mind.

5 EXAMINER SEE: Sure.

6 MS. WHITFIELD: Thank you.

7 EXAMINER SEE: Let's take a 5-minute
8 break. Let's go off the record.

9 (Recess taken.)

10 EXAMINER SEE: Let's go back on the
11 record.

12 Ms. Whitfield.

13 MS. WHITFIELD: Thank you.

14 Q. (By Ms. Whitfield) Following up on the
15 conversation we were just having about the analysis
16 and the information requesting, I just want to
17 clarify that the sponsoring company for OVEC is AEP
18 Ohio, correct?

19 A. That is a sponsoring company in the
20 Inter-Company Power Agreement. If you are referring
21 to this particular audit, then, yes.

22 Q. And the subject of this particular audit
23 is AEP Ohio, correct?

24 A. Yes.

25 MS. WHITFIELD: Okay. No further

1 questions, your Honor.

2 EXAMINER SEE: Thank you, Ms. Whitfield.

3 MR. DONADIO: Your Honor, I have a quick
4 matter I would like to address with the Bench, if
5 it's appropriate to do so now.

6 EXAMINER SEE: It depends on the matter.

7 MR. DONADIO: Your Honor, in regards to
8 what had been discussed as OMAEG Exhibit 10, given
9 that the Company is not able to or willing to
10 stipulate that some of the information -- or all the
11 information contained in the document is public,
12 OMAEG is requesting a confidential session to
13 cross-examine AEP's witness in regards to this
14 exhibit, or document rather.

15 MR. NOURSE: Your Honor, okay. We
16 already had an agreement on this and it was already
17 withdrawn, so I don't think there is a chance to
18 reconsider that and retry it.

19 MR. DONADIO: I'm sorry, Mr. Nourse. My
20 understanding was that OMA was not -- OMAEG was not
21 able to use OMAEG Exhibit 10 in this public session
22 and that the -- to proceed and make things move more
23 smoothly, we agreed to only proceed with only
24 Exhibit 9 in this hearing today.

25 MR. NOURSE: Again, my recollection, we

1 can go back and look at the transcript but we said
2 the document was not redacted. It had -- it had
3 edits. It was not -- it was not highlighted for any
4 yellow, you know, specific passages. It was a
5 confidential draft. And consistent with the
6 Exhibit 17 ruling, it shouldn't be admitted, and then
7 you withdrew it. And we already had an agreement off
8 the record to exchange me not objecting to the
9 confidentiality of Exhibit 9 to withdrawing
10 Exhibit 10.

11 MR. DONADIO: Mr. Nourse, in regards to
12 Exhibit 10, I am not debating that AEP considers the
13 information to be confidential. That's why I am
14 requesting a confidential session.

15 MR. NOURSE: That's not the issue.

16 EXAMINER SEE: So the -- so that we can
17 proceed, given that we had already previously
18 discussed, the Bench and counsel for the parties,
19 that we may need to have a confidential session,
20 Mr. -- counsel for OMAEG and Mr. Nourse or other
21 counsel for AEP can discuss this at a later time.

22 MR. NOURSE: Your Honor.

23 EXAMINER SEE: Yes.

24 MR. NOURSE: Mr. Donadio also finished
25 his cross-examination. He didn't have any

1 reservation for confidentiality. He already withdrew
2 Exhibit 10 off the record and on the record, so I
3 don't think there is any later time to talk about
4 this.

5 MR. DONADIO: My understanding was that
6 we were not going to proceed -- proceed with
7 Exhibit 10 today because it's confidential and it
8 would be inappropriate to do so and the Company
9 considers the information in the document to be
10 confidential, not that OMAEG could never use the
11 document which contains communications from AEP Ohio
12 employees.

13 MR. NOURSE: No. Well, the time -- the
14 time has passed, No. 1. And, No. 2, we had a
15 discussion about it being proffered and that was not
16 part of the off-the-record agreement and then you
17 withdrew it and didn't proffer it. I don't
18 understand how we are going back in time after
19 Mr. Donadio finished his cross-examination, your
20 Honor, with no reservation.

21 EXAMINER SEE: Okay. I tell you what,
22 give me a few minutes to look back because I know a
23 portion of the discussion about those two exhibits,
24 OMAEG 9 and 10, were held off the record and what was
25 in the transcript, and I will get back with you in

1 just a moment. Let's go off the record.

2 (Recess taken.)

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

5 Mr. Donadio, after a moment to review --
6 to review the transcript and as I recall -- and had
7 taken an opportunity to confirm with my -- with
8 Ms. Parrot and it does not appear that that was the
9 agreement you struck with Mr. Nourse, nor did you
10 request, prior to concluding your examination of this
11 witness, a confidential session. I am going to deny
12 your request and move forward with the remaining
13 Intervenors that need to cross-examine this witness.

14 MR. DONADIO: Your Honor, at this time I
15 have a motion if I may be heard.

16 EXAMINER SEE: Sorry, Mr. Donadio?

17 MR. DONADIO: I'm sorry, your Honor. I
18 said at this time I have a motion, if I may be heard.

19 EXAMINER SEE: Go ahead.

20 MR. DONADIO: Thank you, your Honor.

21 At this time I would like to proffer the
22 document referred to as OMAEG Exhibit 10. OMAEG
23 seeks to preserve its rights under Ohio Rules of
24 Evidence 103 and Ohio Admin Code 4901-1-15(F) to
25 raise the propriety --

1 MR. NOURSE: Your Honor, I'm sorry to
2 interrupt, but this is exactly what our agreement
3 related to. And as you reviewed the transcript
4 earlier, at 15:46:05 I indicated that our agreement
5 was to not use the exhibit and did not include an
6 opportunity to proffer. Mr. Danada -- Donadio
7 apologized for the misunderstanding and moved on. So
8 I don't think a proffer is possible at this point
9 based on our agreement. It was stated on the record
10 earlier.

11 MR. DONADIO: I will, of course, not
12 proffer the exhibit if that's what the Bench wishes.

13 EXAMINER SEE: It's not what the Bench
14 wishes. It's what appears in the transcript and what
15 seemed -- what is -- was your agreement.

16 MR. DONADIO: Okay. Your Honor, I
17 understand. Thank you.

18 EXAMINER SEE: Okay. Counsel for Staff.

19 MR. LINDGREN: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Lindgren:

23 Q. Good afternoon -- good evening,
24 Mr. Stegall. I just have a few questions here. If
25 you could please turn to page 10, line 6 of your

1 testimony.

2 A. I'm sorry. Can you give me that line
3 number again?

4 Q. Page 10, line 6. And you refer to an
5 unsafe overabundance of coal; is that right?

6 A. Yes.

7 Q. Yes. Can you just explain how an
8 overabundance of coal can be dangerous or unsafe?

9 A. So I will explain my understanding in
10 laymen's terms as best I can.

11 Q. Yes. I understand you are not a coal
12 operator but as best you understand.

13 A. I'm sorry. I had trouble understanding
14 what you just said.

15 Q. Yeah, I understand.

16 EXAMINER SEE: You are cutting out.

17 Q. Just to the best of your understanding.

18 A. So coal piles are essentially conical
19 shaped. It is a pile of coal. At some point the
20 pile will get too steep, and equipment that they use
21 to run the coal, typically a front-end loader, maybe
22 small bulldozer, to move the coal around, it will be
23 at such a steepness that it's unsafe to operate that
24 equipment on the pile.

25 Q. Okay. Thank you.

1 If you could turn to page 12, line 9 of
2 your testimony.

3 A. Okay.

4 Q. With that statement you make there in
5 mind, would you agree that plant operators don't
6 necessarily need to rely exclusively on prices in the
7 PJM day-ahead market to make their decisions on
8 status?

9 A. Yes, I would agree. There is a lot of
10 factors, I have said that several times today, to
11 take into the account the size of expected price in
12 the day-ahead market.

13 Q. All right. All right. Thank you.

14 Would you also agree that besides the
15 day-ahead market, the Operating Committee would
16 consider other forecasts or provisions for a period
17 of greater than one day, it might be helpful in
18 making that decision?

19 A. Well, they should take into account a --
20 you know, a forecast of multiple days, I believe, and
21 I believe Dr. -- Dr. Fagan said yesterday that the
22 forecasts of market pricing tends to be less reliable
23 the farther away you get from the date you make the
24 forecast.

25 Q. Thank you.

1 On page 12, line 16, you state that
2 "OVEC's Operating Committee would change to an
3 Economic commitment status if there was a substantial
4 change in the market and there was a sustained period
5 of low prices or other circumstances develop that
6 warrant consideration of an Economic commitment"; is
7 that correct?

8 A. That's what it states.

9 I just want to warn you, you are cutting
10 in and out a little bit. I am not sure if the other
11 parties on the call hear that as well.

12 Q. I apologize.

13 EXAMINER SEE: If you could move closer
14 to the mic. We are having difficulty hearing you,
15 Mr. Lindgren.

16 MR. LINDGREN: Okay. I'm sorry.

17 Q. (By Mr. Lindgren) I believe you said
18 earlier that was your personal belief. You don't
19 have direct knowledge of that -- of that; is that
20 correct?

21 A. I believe I was asked a question up here
22 on the stand. I responded that during the COVID
23 pandemic there was a period of time where the
24 Operating Committee voted to grant OVEC the
25 opportunity or the discretion to change the market

1 offer status for the unit.

2 MR. FINNIGAN: Your Honor, I object and
3 move to strike, outside the audit period.

4 MR. MCKENNEY: I would oppose that motion
5 to strike.

6 MR. NOURSE: Thank you, Bryce, but I was
7 going to say it's the exact testimony that's already
8 been given multiple times. He was just referring
9 back to it.

10 MR. FINNIGAN: I will withdraw the
11 motion, your Honor.

12 EXAMINER SEE: Thank you, Mr. Finnigan.
13 Go ahead, Mr. Lindgren.

14 MR. LINDGREN: Thank you.

15 Q. (By Mr. Lindgren) Mr. Stegall, as I said
16 earlier, I understand you are not a -- you are not
17 involved in plant operations but are you aware that
18 coal ash is a byproduct, a waste product of burning
19 coal?

20 A. Yes, I am.

21 Q. Thank you.

22 And, consequently, a coal-burning plant
23 needs to have a way to dispose of its coal ash; is
24 that correct?

25 A. Yes, that's my understanding.

1 Q. And are you aware of how the Clifty Creek
2 plant currently disposes of its coal ash?

3 A. No, I'm not.

4 Q. Thank you.

5 Regardless of the specific way that it
6 disposes of its coal ash, are you aware that the
7 operators of the Clifty Creek plant have requested
8 permission from the EPA to continue using that
9 method?

10 MR. NOURSE: Your Honor, I am just going
11 to object. I think Mr. Lindgren is getting into
12 developments after the audit period, after the audit
13 report.

14 MR. FINNIGAN: Your Honor, I -- I would
15 suggest that when the Commission approved this PPA
16 Rider, the Commission stated that one of the
17 important criteria that AEP needed to demonstrate was
18 its compliance with future environmental regulations
19 and that's what it appears that Mr. Lindgren's
20 question is getting at, so I -- I would -- I believe
21 this is relevant evidence.

22 MR. NOURSE: Yeah. Again, during the
23 audit period that OVEC took actions to comply with
24 future regulations, those activities and those
25 investments were reviewed by the auditor. That's not

1 what this line of questioning relates to.

2 MR. LINDGREN: Your Honor, I am just
3 trying to bring up more recent matters to the
4 Commission's attention, possibly to assist in its
5 decision-making. And also, the audit report did
6 contain forward-looking recommendations.

7 MR. NOURSE: It doesn't make it relevant,
8 your Honor.

9 EXAMINER SEE: The objection is
10 overruled.

11 Answer the question, Mr. Stegall.

12 THE WITNESS: Could I have the question
13 read back to me, your Honor?

14 EXAMINER SEE: Yes. Or if Mr. Lindgren
15 wishes to restate.

16 MR. LINDGREN: I am happy to do that.

17 Q. Mr. Stegall, I know you weren't aware of
18 the specific manner that the Clifty Creek plant is
19 currently disposing of its coal ash, but, otherwise,
20 are you aware that the plant operators have applied
21 to the EPA for permission to continue using that
22 method?

23 A. I'm not very knowledgeable about
24 environmental permitting.

25 Q. Thank you.

1 A. I understand permits exist, but I am not
2 familiar with all of them.

3 MR. LINDGREN: Thank you. I have no
4 further questions. Thank you.

5 EXAMINER SEE: Thank you, Mr. Lindgren.
6 Mr. -- Mr. Nourse, any redirect for this
7 witness?

8 MR. NOURSE: Yes, I have one brief area,
9 your Honor, I would like to do. May I proceed?

10 EXAMINER SEE: Go ahead.

11 - - -

12 REDIRECT EXAMINATION

13 By Mr. Nourse:

14 Q. Mr. Stegall, earlier in your
15 cross-examination by Ms. Henry for NRDC, I reviewed a
16 transcript passage that I believe you guys were
17 talking past each other and there was an objection.
18 And the question related to whether the output of the
19 ICPA or the OVEC plant was used to serve load. Do
20 you recall that?

21 MR. FINNIGAN: Your Honor, I am going to
22 move to strike Mr. Nourse's editorial comment that
23 the witness and Ms. Henry were talking past each
24 other. That's something that he could certainly
25 argue in a brief but that's not a proper question for

1 the witness and it's not a proper part of a question
2 that should be included.

3 MR. NOURSE: Your Honor, this is redirect
4 and obviously I have already talked to the witness
5 about clearing this up. I can give you the
6 transcript cite, but it's clearly a statement that
7 doesn't match with anything else in the record about
8 this point, so I just want to correct it.

9 EXAMINER SEE: This is redirect,
10 Mr. Finnigan.

11 Go ahead. Go ahead with your redirect,
12 Mr. Nourse.

13 Q. (By Mr. Nourse) So, Mr. Stegall, can you
14 answer the question of whether the output of the ICPA
15 is used to serve load -- is used by AEP Ohio to serve
16 load?

17 A. It is not. The output of the OVEC units
18 are just sold into the PJM market.

19 Q. Is it your understanding that the -- when
20 you say sold in the market, liquidating the output,
21 AEP Ohio's share of the output for OVEC plants, was a
22 requirement of the prior Commission decisions?

23 A. Yes, that's my understanding.

24 MR. NOURSE: Thank you. That's all I
25 have, your Honor.

1 EXAMINER SEE: Thank you.

2 Any recross on that issue, Mr. Finnigan?

3 MR. FINNIGAN: No, your Honor.

4 EXAMINER SEE: Mr. Mendoza?

5 MR. MENDOZA: I do not have any recross.

6 EXAMINER SEE: Mr. Dove?

7 MR. DOVE: No, your Honor.

8 EXAMINER SEE: Ms. Cohn?

9 MS. COHN: No, your Honor.

10 EXAMINER SEE: Mr. McKenney?

11 MR. MCKENNEY: No, your Honor.

12 EXAMINER SEE: Mr. Donadio?

13 MR. DONADIO: No, your Honor.

14 EXAMINER SEE: Ms. Whitfield?

15 MS. WHITFIELD: No, your Honor.

16 EXAMINER SEE: Mr. Lindgren?

17 MR. LINDGREN: No, your Honor.

18 EXAMINER SEE: Okay.

19 MR. NOURSE: Your Honor, I will renew my
20 motion for admission of AEP Ohio Exhibit 1.

21 EXAMINER SEE: Are there any objections
22 to the admission of AEP Ohio Exhibit 1, the direct
23 filed testimony of Mr. Stegall?

24 MR. DONADIO: Yes, your Honor. OMAEG
25 renews its motion to strike page 9, lines 1, through

1 page 12, line 19, on the basis of the witness's lack
2 of knowledge as to the specific operations of OVEC
3 during the audit period.

4 EXAMINER SEE: And as we had previously
5 addressed the motions to strike, it's so noted.

6 And if there is nothing else, AEP Ohio
7 Exhibit 1 is admitted into the record.

8 (EXHIBIT ADMITTED INTO EVIDENCE.)

9 MR. NOURSE: Thank you, your Honor.

10 EXAMINER SEE: Mr. Donadio.

11 MR. DONADIO: OMAEG would like to move
12 for the admission of OMAEG Exhibit 9 at this time.

13 EXAMINER SEE: Are there any objections?

14 MR. NOURSE: Yes, your Honor.

15 EXAMINER SEE: Hold on.

16 MR. NOURSE: I don't think foundation was
17 shown for that exhibit. The witness hadn't seen it.
18 He wasn't familiar with the content and certainly
19 wasn't responsible for it as the record that was
20 disclosed in discovery to OCC.

21 MR. DONADIO: If I may respond, your
22 Honor?

23 EXAMINER SEE: Yes.

24 MR. DONADIO: So the contents of OMAEG
25 Exhibit 9 are admissions by a party opponent under

1 the Ohio Rules of Evidence, Ohio Rule 801(D)(2), or
2 they constitute a business record of AEP. During the
3 process, the involvement of the audit report,
4 consistent with Rule 803(6), which is a hearsay
5 exception, they should be admitted, and they are
6 probative as to AEP's communications with the auditor
7 during the relevant time period at issue. Thank you.

8 MR. NOURSE: I'll just briefly add, your
9 Honor, even though the -- those arguments could have
10 been a basis for using them in cross-examination,
11 there is simply no foundation for the records, and
12 the witness is not responsible or aware and not
13 knowledgeable about it, so it didn't have any
14 probative value in the record and shouldn't be
15 admitted.

16 MS. WHITFIELD: Your Honor, sorry. On
17 behalf of Kroger, I would just join OMAEG's request
18 on the admission of that. He did lay the foundation
19 that it is a business record, and while Mr. Stegall
20 was not on the face of the document, he was aware of
21 the audit review process, the Data Request collection
22 process, the meetings that were occurring and these
23 documents, those e-mails detail those -- those
24 activities that were happening during the audit
25 process.

1 Secondly, I would also note that these
2 were also just given to give context to the prior
3 e-mails that were introduced and admitted into
4 evidence by AEP Exhibit, I believe, 29, to just, I
5 would say, add context as to the other communications
6 and such that were occurring between AEP and the
7 auditors at that time. Thank you, your Honor.

8 MR. NOURSE: Just to respond to that,
9 your Honor, I think, No. 1, again, we produced things
10 in discovery that are very broad, but in the hearing
11 there is different rules that apply here. And
12 Exhibit 29 was an e-mail from the witness and on the
13 topic she was testifying to. There is no comparison
14 and no relationship to these other e-mails.

15 MR. DONADIO: I would note just because
16 Mr. Stegall may not have specific knowledge as to the
17 contents of OMAEG -- OMAEG Exhibit 9, that does not
18 mean that they are inadmissible under the Ohio Rules
19 of Evidence or they have no probative value to the
20 issues in this proceeding or they cannot be used in
21 regards to other witnesses.

22 MR. NOURSE: Your Honor, if Mr. Donadio
23 wants to use them with a Staff witness later or
24 something, if that's what he is saying, I can't speak
25 to that, but all I am addressing is what happened on

1 the record today. Thank you.

2 EXAMINER SEE: The motion -- the request
3 to admit OMAEG Exhibit 9 is denied. When I go back
4 through the record, I don't believe that Mr. Stegall
5 was familiar with it. He was familiar with the
6 process. And I believe that ruling is consistent
7 with our prior rulings in relation to other items
8 that Intervenors and AEP have requested be admitted
9 into the record. We can take up the issue of this
10 particular exhibit in relation to Mr. Windle when
11 Mr. Windle is -- Windle is presented.

12 MR. DONADIO: Thank you, your Honor.

13 EXAMINER SEE: With that, we'll need --
14 let's go off the record for a minute.

15 (Discussion off the record.)

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

18 As the parties were informed previously,
19 we have made -- the Bench has made an arrangement to
20 continue this hearing next Wednesday starting at
21 9 o'clock. The parties may discuss and work out a
22 new witness order based on witness availability, and
23 we will -- the room has been reserved for this matter
24 Wednesday through Friday of next week. Once the
25 parties have -- if you negotiate a new witness order,

1 that should be immediately communicated to the Bench
2 via e-mail.

3 MR. NOURSE: Thank you, your Honor.

4 EXAMINER SEE: Any questions? With that,
5 the hearing is adjourned until Wednesday at 9:00.

6 And before I totally go off the record,
7 Mr. Stegall, thank you. You are dismissed for now.

8 THE WITNESS: Thank you, your Honor.

9 EXAMINER SEE: Bye-bye.

10 (Thereupon, at 6:12 p.m., the hearing was
11 adjourned.)

12 - - -

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Friday, January 14, 2022, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7214)

- - -

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

1/28/2022 10:49:27 AM

in

Case No(s). 18-1004-EL-RDR, 18-1759-EL-RDR

Summary: Transcript in the matter of the Ohio Power Company hearing held on
01/14/22 - Volume III electronically filed by Mr. Ken Spencer on behalf of Armstrong
& Okey, Inc. and Gibson, Karen Sue Mrs.