BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of The Dayton Power and Light Company to Increase Its Rates for Electric Distribution.	Case No. 20-1651-EL-AIR
In the Matter of the Application of The Dayton Power and Light Company for Accounting Authority.	Case No. 20-1652-EL-AAM
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	Case No. 20-1653-EL-ATA

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PROCEEDINGS

before Ms. Patricia Schabo and Mr. Michael Williams, Attorney Examiners, at the Public Utilities Commission of Ohio, via Webex, called at 9:09 a.m. on Tuesday, February 1, 2022.

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VOLUME VI

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On behalf of the Staff of the PUCO.

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Tuesday Morning Session,
February 1, 2022.

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EXAMINER SCHABO: Let's go on the record.

Good morning. We are here in Case No. 20-1651-EL-AIR, et al. Today is February 1, 2022, and this is the sixth day of direct testimony in our evidentiary hearing that we do expect to have rebuttal testimony in the future.

We are conducting this hearing via Webex. My name is Trish Schabo and with me is Michael Williams and we are the Attorney Examiners assigned by the Commission to hear this case.

I will begin today by taking appearances of counsel. When I call your party name, please just let us know who is present today. You may include business address but you do not have to.

I will start with AES Ohio.

MR. SHARKEY: Thank you, your Honor. Jeff Sharkey, Jeff Ireland, and Melissa Watt from the Faruki firm on behalf of AES Ohio.

MR. HOLLON: Chris Hollon on behalf of AES Ohio also.

EXAMINER SCHABO: Thank you.

For Staff.

MR. MARGARD: Thank you, your Honor. On behalf of the Staff of the Public Utilities Commission, Jodi Bair, Kyle Kern, and Werner Margard, Assistant Attorneys General.

EXAMINER SCHABO: Thank you.

For Ohio Energy Group.

MS. COHN: Good morning, your Honor. On behalf of OEG, Jody Cohn, Kurt Boehm, and Michael Kurtz.

EXAMINER SCHABO: Thank you.

For Ohio Manufacturers' Association Energy Group.

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

EXAMINER SCHABO: For Kroger.

MS. WHITFIELD: Good morning, your Honor. On behalf of The Kroger Company, Angela Paul Whitfield and Jonathan Wygonski with the law firm Carpenter Lipps & Leland. Thank you.

EXAMINER SCHABO: For OCC.

MR. FINNIGAN: Good morning, your Honor. John Finnigan and Ambrosia Wilson on behalf of OCC.

EXAMINER SCHABO: For the University of Dayton.

For IEU-Ohio.

MR. McKENNEY: Good morning, your Honor. On behalf of Industrial Energy Users-Ohio, Matthew Pritchard and Bryce McKenney from the law firm McNees, Wallace & Nurick.

EXAMINER SCHABO: For IGS.

MR. BETTERTON: Good morning, your Honors. On behalf of Interstate Gas Supply, Inc, myself, Evan Betterton, Joseph Oliker, and Michael Nugent.

EXAMINER SCHABO: For OPAE.

Okay. For Walmart.

MS. GRUNDMANN: Good morning, your Honor. Carrie Grundmann of the law firm Spilman, Thomas & Battle, on behalf of Walmart, Inc.

EXAMINER SCHABO: For the Ohio Hospital Association.

For ELPC.

Or Nationwide Energy Partners.

For Direct Energy.

MR. FYKES: Good morning, your Honor. Lucas Fykes and Mark Whitt of the law firm Whitt Sturtevant, LLP, on behalf of Direct Energy.

EXAMINER SCHABO: On behalf of One Energy.

MR. BORCHERS: Good morning, your Honor. Dylan Borchers, Kara Herrnstein, Matthew Warnock on behalf of One Energy Enterprises with the law firm of Bricker & Eckler, and also James Dunn, on behalf of One Energy Enterprises.

EXAMINER SCHABO: Thank you.

ChargePoint.

City of Dayton.

MR. ALEXANDER: Good morning, your Honor. Trevor Alexander and Sarah Siewe for the City of Dayton.

EXAMINER SCHABO: Thank you.

And for OEC.

Is there anyone I have missed?

Off the record we did discuss the matter of the parties' objections. Some of them have been marked, discussed, and admitted to the record. These are the objections to the Staff Report. And some of them I understand the parties will be moving to have them admitted -- I'm sorry, noticed under administrative notice. From the Bench's perspective, each will be equally briefable at the conclusion of the hearing. So they will be treated the same whether or not they have been moved and admitted into the record or whether or not they have been included under administrative notice.

Mr. McKenney, did I leave anything out there?

MR. McKENNEY: I think that's all, your Honor. If you would like, we can go ahead and do that now and request -- would you like us each to request administrative notice of our objections or are you making a ruling that all objections are administratively noticed?

EXAMINER WILLIAMS: All timely objections are timely noticed.

EXAMINER SCHABO: Yes. Or if you would wish to move them into the record as an exhibit, I will also do that. But as Judge Williams said, all timely-filed objections will be noticed for the purpose of briefing.

MR. McKENNEY: Thank you, your Honors.

EXAMINER SCHABO: As I mentioned earlier, we are conducting this hearing via Webex. Brief reminder to leave your cameras on and your microphones off and to flag us down if you are having technical issues. If you drop off the screen and you do not flag us down, we will assume that you are purposefully dropping off the screen unless you are taking an active role in questioning. So if you drop off and you didn't mean to and you want to hear questioning, you need to flag us down through the chat function, text me, call Judge Williams, just let us know.

It is also my understanding that Mr. Margard will be presenting Ms. Bremer this morning.

MR. MARGARD: That is correct, your Honor.

EXAMINER SCHABO: All right. Mr. Margard, are you ready to proceed?

MR. MARGARD: I am. Thank you. Staff would call Dorothy Bremer as its first witness this morning.

EXAMINER SCHABO: Good morning, Ms. Bremer. Can you hear us? Okay. Could you unmute yourself.

THE WITNESS: I can hear you. Can you hear me?

EXAMINER SCHABO: I can. Can you raise your right hand for me.

(Witness sworn.)

EXAMINER SCHABO: Thank you very much.

MR. MARGARD: Thank you, your Honor. I would like to have marked for purposes of identification as Staff Exhibit No. 7, the direct prefiled testimony of Dorothy Bremer filed in this case on January 18, 2022.

EXAMINER SCHABO: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MR. MARGARD: Thank you.

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DOROTHY R. BREMER

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

DIRECT EXAMINATION

By Mr. Margard:

Q. Ms. Bremer, please state your name and business address for the record.

A. My name is Dorothy Bremer. My business address is 180 East Broad Street, Columbus, Ohio.

Q. And do you have before you what's been marked as Staff Exhibit No. 7?

A. I do.

Q. And would you identify that document for us, please.

A. It is my prefiled testimony in this case.

Q. And was this prepared by you or at your direction?

A. Yes.

Q. And have you had an opportunity to review that document prior to taking the stand today?

A. Yes.

Q. And as a result of that review, do you have any corrections or changes of any kind to make to that testimony?

A. No.

Q. And if I were to ask you the questions contained in that document, would your answers today be the same?

A. Yes.

Q. And in your opinion, are those responses true and reasonable?

A. Yes.

MR. MARGARD: Thank you.

Your Honor, I respectfully move for the admission of Staff Exhibit No. 7, subject to cross-examination, and tender the witness for that purpose.

EXAMINER SCHABO: Thank you, Mr. Margard. We will handle exhibits at the end of the witness but Ms. Bremer is available to cross. We will start with the Company.

MR. SHARKEY: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Sharkey:

Q. Ms. Bremer, just a few questions for you.

First of all, would you agree with me that distribution costs, the costs the utility incurs to serve customers, are largely fixed?

A. Yes.

Q. Okay. And if there's two businesses that are neighbors and they have the same peak load, would you agree that it would cost the utility the same amount to provide -- the same amount to provide distribution service to them whether their usage is high or low?

A. Assuming -- assuming the customers have identical characteristics except for their load factors, generally, yes.

MR. SHARKEY: Okay. Thank you, Ms. Bremer. And your Honor, I have no more questions.

EXAMINER SCHABO: Thank you, Mr. Sharkey.

I will move on to OCC.

MR. FINNIGAN: No questions, your Honor.

EXAMINER SCHABO: IGS?

MR. OLIKER: Good morning, your Honor.

EXAMINER SCHABO: Good morning.

MR. OLIKER: I have a few questions for Ms. Bremer.

EXAMINER SCHABO: Please proceed.

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CROSS-EXAMINATION

By Mr. Oliker:

Q. Hi, Ms. Bremer. Just a few questions to follow up on the hypothetical that was provided by Mr. Sharkey. Would you agree that -- your testimony talks about the non-coincident peak cost-of-service analysis?

A. Which part of my testimony are you referring to? I do mention non-coincident peak but I am not sure which section you are referring to.

Q. Okay. So Mr. Sharkey just previously very generally used the term "peak load," correct?

A. I didn't hear the question. Can you -- can you restate that? I need to turn up the volume.

Q. Mr. Sharkey asked you the question about customers with peak load. Do you remember that discussion?

A. Yes.

Q. And am I correct that the question didn't define whether the peak load was coincident peak or non-coincident peak?

A. I don't think I understand your question.

Q. Well, first, you would agree there is a difference between a non-coincident peak load and a coincident peak load.

A. Yes.

Q. Okay. And in the distribution ratemaking process, typically it's a top-down analysis rather than bottom-up? Because you don't evaluate every single distribution circuit in the ratemaking and rate design assessment?

A. We evaluate the Company's proposed cost-of-service study to determine whether it's a reasonable representation of the cost to serve each class, and then we evaluate the Company's proposed rate designs.

Q. Okay. But in your analysis, you do not evaluate peak load of every single circuit in the AES Ohio system, correct?

A. My understanding is that the Company's cost-of-service study includes allocation factors that are based on load study research that was done that evaluated a customer's usage on the system, but whether that was done on a circuit-by-circuit basis, I don't recall.

Q. Okay. And let's go back to the question

Mr. Sharkey asked you about customers with the same level of peak load. Let's assume that there's a circuit that peaks at 4 o'clock in the afternoon. Would you agree that a customer could put solar on their roof and then their usage could increase at 6 or 7 o'clock at night rather than at 4 and that customer may not necessarily be the cost causer on that circuit?

A. We didn't do our own cost-of-service study evaluation. We evaluated the Company's for reasonableness, so I don't know that I can answer that question.

Q. Okay. I just want to -- thank you. And I do appreciate that answer. I definitely don't want you to speculate. But let's go back to the hypothetical Mr. Sharkey asked you about, the customers that have the same load factor causing the same cost to the system. I believe your response was that's true if you have every single characteristic of that customer is the same; is that correct?

A. No.

Q. Can you clarify for me?

A. My understanding of that line of questioning was that assuming the customers have different load factors and everything else was constant. So it's a different hypothetical.

Q. Okay. Well, let's assume two customers have the same level of non-coincident peak. Wouldn't you agree that there can be instances where they have a different level of cost contributions to the system?

A. We don't have a customer-by-customer evaluation of their contributions to the system so I'm not sure how to answer that question.

Q. So the answer is it's possible.

A. The results of that study would be the results of that study.

Q. And another way of saying that is, you have not performed that analysis?

A. Correct.

MR. OLIKER: Thank you. That's all the questions I have.

THE WITNESS: Thank you.

EXAMINER SCHABO: Thank you, Mr. Oliker.

Do we have any cross-examination by Direct Energy?

MR. FYKES: No questions, your Honor.

EXAMINER SCHABO: Okay. One Energy?

MR. BORCHERS: Yes, thank you, your Honor.

CROSS-EXAMINATION

By Mr. Borchers:

Q. Ms. Bremer, good morning. My name is Dylan Borchers on behalf of One Energy Enterprises. Can you hear me okay?

A. I can. Thank you.

Q. Good morning.

A. Good morning.

Q. So you reviewed One Energy's objection No. 13 on issues concerning the Company's cost-of-service study, correct?

A. I did read it, yes.

Q. And the cost-of-service study in this case utilizes a 1 NCP allocation methodology of the distribution-related costs, correct?

A. Correct.

Q. And the Company used the NARUC electric utility cost allocation manual to provide the cost allocation guidelines for the cost-of-service study, correct?

A. That's what we evaluated the cost-of-service study against, yes.

Q. You are aware that the NARUC manual was published in 1992, correct?

A. Yes.

Q. Have there been subsequent updates to the NARUC manual?

A. There are other manuals out there, yes.

Q. Did Staff look at any other manuals in the context of this case?

A. We evaluated the cost-of-service study for reasonableness. The 1992 manual is a reasonable approach to conducting a cost-of-service study. We have read other manuals and other documents around other appropriate cost-of-service study methodologies but we did not evaluate this cost-of-service study against them because the 1992 manual is a reasonable approach.

Q. So your testimony states that the 1 NCP methodology is an accepted methodology to allocate costs for a distribution utility. And I am referring to your testimony on page 8, line 9.

A. Yes.

Q. So when you state that it is an accepted methodology, are you referring to Staff's acceptance or the utility's acceptance or just generally?

A. My understanding is that it's an accepted methodology in the industry and the Commission has accepted cost-of-service studies that include this -- the use of this methodology in the past.

Q. Has Staff conducted any regular survey of trade publications, seminars, workshops, or white papers on electric distribution cost allocation?

A. I'm not sure what you mean by "regular survey."

Q. So you indicated earlier that Staff has reviewed other allocation methodologies, correct?

A. We have read other publications in regards to cost-of-service study and methodologies and rate design, yes.

Q. What -- what are some of those other allocation methodologies?

A. I can't think of them at the moment.

Q. About how often does Staff review other allocation methodologies?

A. I don't know that we review other allocation methodologies. We review the Company's cost-of-service studies as they are presented to us in rate cases. We read other publications and treatises and documentations as we become aware of them and as we have time between case work.

Q. Has Staff conducted an analysis of allocation methods as applied by other utility Commissions in other states?

A. I'm not sure what you refer to by

"analysis" in that question.

Q. How about a review?

A. We have had discussions in the context of other cases around cost-of-service study and rate design issues in other jurisdictions but not in this case specifically.

Q. And as you stated, even if there are other appropriate allocation methods, Staff does not consider these as part of its review of a cost-of-service study in a particular case, correct?

A. We review the Company's proposals for reasonableness and in this case we reviewed the Company's proposal. We found it to be reasonable so we don't then go on to conduct our own cost-of-service study or evaluate it against what could have been under alternative methodologies.

Q. So you've indicated a couple of times that the Company's cost-of-service study was reviewed for reasonableness by the Staff. But you do not consider other allocation methods when making that determination. So what does the Staff look at to determine reasonableness?

A. Well, a cost-of-service study is a complicated analysis with lots of calculations that ultimately assign cost responsibility to classes of customers served by the utility. So we evaluate the cost-of-service study prepared by the Company in this case against the 1992 manual, and determined that the Company generally followed methodologies accepted by that manual, that they applied the calculations, ran through the model, consistently, if we had any questions we discussed them with the utility. We reviewed the Company's testimony as it relates to the cost-of-service study, and overall found it to be reasonable.

Q. So Staff would only consider a different allocation methodology if and when a utility proposes it then, correct?

A. We would consider it if we found the Company's proposal unreasonable.

Q. But until a company proposes a different allocation methodology for a cost-of-service study, Staff will not evaluate other allocation methodologies when it is reviewing a cost-of-service study, correct?

A. We evaluate the Company's proposal. If we find it reasonable, our review ends.

Q. And you indicated that you evaluated the customer's [sic] proposal based off of the 1992 NARUC manual, correct?

A. Yes.
Q. You agree that there have been many changes to the electric distribution grid since 1992, correct?
A. I'm not an engineer. I'm not familiar with the changes to the distribution grid but generally I am aware there is a Smart Grid initiative that is considered and that the utility will be investing in it in the future.
Q. So generally you would agree Ohio's deregulated or restructured the electric system of the investor-owned utilities, correct?
A. I'm aware that the competitive retail electric markets are restructured, yes.
Q. There's more distributed generation on the electric grid now than in 1992, correct?
A. I don't work on distributed generation issues, so I can't answer that question.
Q. So the Company used the 1 NCP methodology to allocate distribution-related costs in its previous rate cases, correct?
A. That's my understanding, yes.
Q. Does Staff evaluate how the 1 NCP methodology was applied in those previous cases?
A. We did not evaluate the cost-of-service

studies and the details in the previous rate cases. We did generally review the E-3.2 in the 2015 rate case. If we -- if we had questions around a specific allocation factor in this case as we were reviewing it, we did compare it to what was included in the last case but we didn't do a review of the cost-of-service study in past cases as we did in this case for this cost-of-service study.

Q. So Staff didn't evaluate whether the application of the same allocation methodology has resulted in consistent allocation results from case to case, correct?

A. I don't recall evaluating the results against previous cases.

Q. So you also address One Energy's Objection 14 concerning the proposed demand charges, correct? And if you need a reference, your testimony, page 6, lines 1 through 5.

A. That's helpful. Thank you. Yes.

Q. When Staff is forming its proposed demand rates, does it evaluate previous years' demand charges?

A. I am not sure what you mean by "evaluate." We calculate -- Staff calculated rates at the approximate midpoint of the Staff-recommended revenue requirement and we do provide in the Staff Report a comparison against the current demand rates.

Q. But you don't look into the demand rates of -- in previous years that would apply to customers, correct?

A. Well, these demand rates would have been in effect since the last rate case. The current ones, right?

Q. So you look back to the last rate case.

A. We look at the current rates, current distribution rates.

Q. You would agree that a primary or secondary customer's distribution bill includes the customer charge, a demand charge, and applicable distribution riders, correct?

A. It would include generally the customer charge, the demand charge, and applicable rider rates for secondary customers, assuming they are on a standard rate, yes.

Q. And you agree generally that the customer charge is a fixed dollar amount, the demand charge is based on kW demand, and the riders are charged on a per kWh basis, correct?

A. It's been a while since I have taken a look at DP&L's rider mechanisms and how they are charged so I don't know.

Q. So looking at a customer's distribution bill holistically with all three of those components in mind, did Staff conduct any analysis of how the demand charge portion of a customer's bill has changed over a period of time in proportion to those other components?

A. Our analysis of the demand rates focused on evaluating the Company's proposed rates against the current, calculating Staff's proposed rates, comparing them to the current, and then an evaluation of the typical bill impacts.

Q. But the bill impact analysis does not take a historic view on how the demand charge portion of the bill may have changed over a period of time in proportion to those other components, correct?

A. We do look at the total bill impacts which would include all components that build up to a customer's bill but we don't trend it over a period of time now.

Q. So I just have a few more questions. And you had a hypothetical from Mr. Sharkey and some follow-ups from Mr. Oliker. I have my own hypothetical. So let's say we have a 1 megawatt transformer and you would agree that there are 8,760 hours in a year, correct?

A. I don't know how many hours there are in the year. I could do the math but I don't know off the top of my head.

Q. We will say that there are, and if the transformer ran at full rated capacity for the entire year, it would have 8,760 megawatt hours of energy pass through it, correct?

A. I suppose you could do the math but I don't -- I can't answer that question.

Q. If we looked at that same transformer but it was only loaded to 10 percent of its rated load for the same year, then it would have an 876 megawatt -- it would have 876 megawatts -- megawatt-hours of energy pass through it, correct?

A. I don't evaluate transformers. I can't answer this question. I'm sorry.

Q. Okay. So you don't consider whether the energy usage may impact differences in fixed capital costs for distribution equipment, correct?

THE WITNESS: Can I have that question reread?

(Record read.)

A. The capital costs analysis is done through -- and the allocation of the costs is done through the cost-of-service study. And the cost-of-service study in this case used a 1 NCP methodology to allocate the demand costs to the various classes.

Q. When you are evaluating that cost of allocation, do you confer with any engineers on how energy usage may impact the capital costs of distribution equipment?

A. We evaluate the Company's cost-of-service study against the manual as we stated before, and if they are generally following the methodologies outlined there, then we don't consider alternatives.

Q. So Staff's evaluation of the cost-of-service study relies on the 1992 NARUC manual, correct?

A. Yes.

MR. BORCHERS: I have no other questions. Thank you for your time.

THE WITNESS: Thank you.

EXAMINER SCHABO: Thank you, Mr. Borchers.

On to the City of Dayton.

MS. SIEWE: Yes, your Honor. Thank you.

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CROSS-EXAMINATION

By Ms. Siewe:

Q. Good morning, Ms. Bremer. How are you?

A. Good morning.

Q. My name is Sarah Siewe. I represent the City of Dayton, and I just have a few questions for you. First, I want to talk about Staff's low load factor recommendation. So the max charge provision details the charges for customers who have high demand but low usage, right?

A. The max charges will apply potentially to any customers, generally the customers that are eligible for paying max charges have high -- higher demand and lower usage than they could use pursuant to that peak demand in a billing period, or in other words, they have lower load factors.

Q. Sure. And so for the purposes of our conversation just to make it easier, can we refer to those customers who have high demand but low usage as "low load factor customers"?

A. Generally. However, I will qualify that it can get complicated because it depends on whether you are talking about low load factors that are -- customers with low load factors that make them eligible for the current max charge rates, and then under the different proposals by the Company and Staff, what's -- what's a low load factor that will make a customer eligible for the max charge rates will shift.

Q. Sure. So let me be more precise. When we are talking about low load factor customers, I am talking about under the Company's proposed low load factor. Does that make sense?

A. Perhaps we should just take each question as you go along.

Q. Sure. Fair enough.

So the maximum charge provision lowers the rates which would otherwise apply to these customers that have high demand but low usage, right?

A. Generally, yes. It's a calculation that the Company needs to perform every billing period for every customer to determine on a whole between three different components which one results in the lower bill, lower total bill.

Q. Understood. And low load factor rates are capped with those max charge provisions for customers whose load factors are 10 percent or lower, correct?

A. Under the Company's proposal, generally speaking, the customers that would be eligible or would take advantage of the max charge rates and pay them would have load factors between 0 and approximately 10 percent.

Q. Great. Thank you.

And if a customer's charges under normal rates then exceed the total under max charge rates, then the Company bills the customer under the max charge rates, right?

A. Yes.

Q. Okay. So the question is, why has Staff proposed protecting low load customers from high demand charges?

A. The low load factor proposal or the max charge proposal isn't a Staff recommendation. It's a provision that's on the Company's tariffs currently. The Company has proposed to increase the max charge rates from the current level to limit how many customers take advantage of the low load factor proposal. My recollection is that currently customers with load factors between 0 and approximately 28 percent are paying max charge rates. We found the proposal to increase the max charge rates reasonable. However, when we evaluated the typical bill impacts to customers under the Company's proposal, we thought a measure of gradualism was more appropriate.

Q. Thank you.

I guess setting aside the Company's proposed change to the percentage, I just want to talk about allowing low load customers to be protected from high demand charges generally. What is the policy behind that that Staff has considered to be reasonable?

MR. MARGARD: I'll just object to the characterization of reasonable. I don't believe the witness said that that policy was reasonable.

MS. SIEWE: Sure. Let me rephrase.

Q. (By Ms. Siewe) Ms. Bremer, you stated previously that you reviewed -- Staff reviewed the Company's proposal and found it to be reasonable, right?

A. We did not find their low load factor max charge rates to be reasonable. We recommended a gradual movement in increasing the max charge rates and limiting the number of customers on the max charge rates.

Q. Sure. But the existence of the max charge provision in general, did Staff find that to be reasonable?

A. We don't reevaluate the provision -- we didn't evaluate whether the provision should or should not exist in the scope of this review. It does exist. The Company proposed to increase the max charge rates to limit the number of customers on the max charge provisions and we evaluated that proposal.

MS. SIEWE: Okay. I appreciate that answer. Thank you, Ms. Bremer.

Your Honor, I have nothing further.

EXAMINER SCHABO: Okay. We will move on to IEU-Ohio.

MR. McKENNEY: Thank you, your Honor. I think any cross I would have would be duplicative; therefore, I have no questions.

EXAMINER SCHABO: Thank you.

OEG.

MS. COHN: No questions, your Honor.

EXAMINER SCHABO: Okay. OMAEG.

MS. BOJKO: Thank you, your Honor. Just a few.

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CROSS-EXAMINATION

By Ms. Bojko:

Q. Good morning, Ms. Bremer.

A. Good morning.

Q. Ms. Bremer, one of the issues that you focused on in your testimony and that you began discussing this morning is the max charge proposal; is that correct?

A. Yes.

Q. And I believe you said that provision is available to secondary and primary customers; is that right?

A. Yes.

Q. And the Staff is proposing to rename the Company's provision to the "low load factor provision"; is that right?

A. The Company proposed the rename. We don't disagree with it.

Q. I see. Okay. And when you use the term "max charge provision" in your testimony, that is sin -- synonymous with "low load factor provision"; is that correct?

A. Yes.

Q. And Staff, as I understand it, generally supports this type of provision; is that fair?

A. We are not taking a position on whether we support or don't support. We evaluated the Company's proposal in this case and found that although their objective isn't unreasonable, the rate impacts under their proposal are unreasonable and we recommended a more gradual increase to the max charge rates.

Q. Well, it's fair to say you're not proposing to eliminate the max charge provision that currently exists; is that correct?

A. That would probably exacerbate the rate impacts to these customers, so no.

Q. Okay. And your testimony responds to certain objections filed by various parties in this case regarding the low load factor provision; is that correct?

A. Yes.

Q. And one of those objections you reference on page 4, line 20, is OMAEG's Objection E; is that correct?

A. Yes.

Q. And you've reviewed OMAEG's Objection E; is that fair?

A. I read it, yes.

Q. You would agree with me that Staff's -- or, you would agree with me, I guess, that the load -- low load factor provision transfers cost responsibility from low load factor customers to non-low load factor customers?

A. I suppose it depends what you mean by "transfer." I tried to explain in my testimony on page 5, for Question 10, we recognize the impact limiting lowering the max charge rates from the Company's proposal will have on the demand rates for the secondary and primary classes. However, when we evaluate the rate impacts to secondary and primary customers that stay on the max charge rates and fall off the max charge rates under the Company's proposal and under Staff's proposal, we think Staff's proposal leads to more reasonable rate impacts.

Q. Right. I'm just speaking generally first about the proposal itself. If the low load factor customer does not pay their proportion of the revenue requirement, then that shortfall or difference is shifted to the other customers in that rate class; is that correct?

A. In the context of a rate case where you have a class revenue requirement that you need to design rates to recover, then lowering the max charge rates will result in less revenues recovered through max charge customers paying those bills and so you are going to have a larger revenue requirement that you are building the demand rate from.

Q. For the other customers, for the non-low load factor customers, they have a larger revenue requirement that they now have responsibility for, correct?

A. Yeah, we recognize the secondary and primary demand rates are going to be higher under the Staff proposal than under the Company's proposal. All other things being equal. However, the rate impacts under the Staff proposal are more reasonable than under the Company proposal. If you evaluate the impacts to customers staying on the max charge and customers falling off the max charge under both proposals, Staff's proposals are more reasonable rate impacts.

Q. You are getting ahead of me. I don't want to talk about Staff's proposal right now. I want to just talk about the low load factor provision. So we'll get there. Let's take two steps back.

The low load provision itself, if the low load customers are paying less, then the non-low load factors, all else being equal, would pay more; is that correct?

A. The way the math works out in the context of a rate case, that demand rate is a little bit higher. Outside of the context of a rate case there is no true-up mechanism wherefore, you know, the customers that have load factors now between 0 and 28 percent, they are paying the max charge rates. There is no true-up mechanism for that.

Q. Right. We are just talking about the rate case and the allocation of the revenue requirement. Okay. So -- so with that, the Company's proposal would reduce the amount that is transferred or cost responsibility that is picked up by the non-low load factor customers, correct?

A. If you are looking at the math of how the rates are calculated and how the demand rate will be calculated for the secondary and primary customers, if you were to calculate the max charge rate at the Company's proposal, then that will offset the revenue requirement that needs to be picked up by the demand rates.

Q. Okay. And Staff isn't disagreeing with the reduction in that cost shifting. Staff is just saying we need to do it more gradually; is that fair?

A. We don't disagree with the increase to the max charge rates. We believe that the impacts of the increase the Company proposed are unreasonable. Customers are going to see, at the Company's revenue requirement, total bill increases over 50 percent, and at the Staff revenue requirement, total bill increases up to 57 percent. We believe those are unreasonable, so we are proposing a measure of gradualism in increasing those max charge rates, yes.

MS. BOJKO: Yes, okay. All right.

I have no further questions. Thank you, your Honor.

THE WITNESS: Thank you.

MS. BOJKO: Thank you, Ms. Bremer.

THE WITNESS: Thank you.

EXAMINER SCHABO: Thank you.

Kroger?

MR. WYGONSKI: Yes, your Honor. Thank you. Excuse me one second. Sorry.

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CROSS-EXAMINATION

By Mr. Wygonski:

Q. Good morning, Ms. Bremer. My name is Jonathan Wygonski, and I represent The Kroger Company in this case.

A. Good morning.

Q. Good morning. So I believe you testified earlier that your direct testimony responds to certain objections filed by various parties in this case; is that correct?

A. Generally, yes.

Q. Okay. And turning to page 4, lines -- line 21 of your testimony, it looks like you are responding to Kroger Objection F, correct?

A. Yes.

Q. Okay. And on lines 9 through 16 of your testimony on page 4, Staff is recommending -- Staff is not opposing the Company's proposal to raise the maximum charge rates, thereby lowering the low load factor eligibility, correct?

A. Correct.

Q. And so you would agree with me that increasing the maximum charge rates will result in fewer customers being eligible to take service under the low load factor provision, correct?

A. Fewer customers will be paying max charge rates as you increase the max charge rates, yes.

Q. Okay. And by doing this, the customers' bills who are eligible for the low load factor provision would be capped at the max charge rate, correct?

A. The customers will pay the bill calculated at the max charge rates for the base distribution rate, the RSC, and the transmission rider. All of the other riders that are applicable to them will still be at the standard rate.

Q. Okay. And so -- I am a sorry. One second.

Okay. And so for those customers who pay their base distribution rates under the low load factor provision, that would result in less revenues from those low load factor customers to offset the class revenue requirement used to calculate the class demand rate in rate class, correct?

A. The way you are going to calculate the secondary and primary demand rates is you are going to take the class revenue requirement based on whatever the ultimate revenue requirement increases and the class allocation determination is, and then you are going to evaluate how many revenues are expected through the customer charges and through the other provisions and what's left is going to be divided by the class demand for the test period and that will result in the demand rate. So as you increase the max charge rates, we recognize that the demand rate will lower.

Q. Okay. And -- but that would result in other customers in the rate class paying more, correct?

A. It depends on what you mean by "paying more." That demand rate will be slightly higher under the Staff proposal than under the Company proposal all else being equal in this case. However, if you look at the bill impacts to customers and the total bill impacts to customers, both staying on the max charge rates and falling off the max charge rates, Staff's proposal will result in lower bill impacts.

Q. So that results in those customers paying more for the demand rate, correct?

A. What customers are you referring to? I don't understand the question.

Q. Customers who would not take service under the max charge provision.

A. Customers who do not take service under the max charge provision are going to pay the standard rates.

Q. But -- excuse me. Let me rephrase.

So customers who do not take service under the maximum charge provision currently pay more than their cost to serve for that demand rate, correct?

A. Can you -- can I get that question reread? I think I didn't hear part of it.

Q. Sure. Customers who do not take their service under the maximum charge provision currently pay more than their cost to serve for the demand rate, correct?

A. I don't know that that's true. I mean, currently the customers with load factors between 0 and about 28 percent pay the max charge rates and the customers that aren't on the max chart rates pay the standard rates, but the Company is before us for a rate increase proposing to increase the standard rates, so I don't know that I can -- I can say that with certainty.

Q. So by increasing the maximum charge rates, low load factor customers will pay more of the revenue requirement of the class, correct?

A. Can you say that question again, please? Or have it reread?

Q. Yes. By increasing the maximum charge rates, low load factor customers will pay more of the revenue requirement of the class, correct?

A. Are you referring to increasing the maximum charge rates from the current maximum charge rate or are you comparing the Staff proposal to the Company proposal? I don't think I understand your question.

Q. Raising -- I am referring to raising the provision from where it is currently at.

A. Okay. So -- can I have that question one more time now that I understand the context?

Q. Sure.

So by increasing the maximum charge rates, current low load factor customers will end up paying more of the revenue requirement of the class, correct?

A. By increasing the max charge rates, the current low load factor customers that currently take advantage of the max charge rates, not all of them will be on the max charge rate anymore. So you are going to be looking at different groups of customers if you are comparing the current customers on the current max charge rate versus customers that would be considered -- have load factors that would make them eligible for the proposed max charge rate, whatever that is. So you are looking at two different groups of customers then because customers will be falling off so then your evaluation is over kind of the whole class's impacts, right?

Q. Right. Thank you. And so by doing that though, that will result in less subsidization between customers in the rate class, correct?

A. What do you mean by "subsidization"?

Q. There will be fewer customers taking

service under the maximum charge provision who have the revenue capped, so the remaining customers will not pay as much to compensate for that cap charge, correct?

A. I think we have gone over the calculation to the secondary and primary demand rate. So mathematically, as you increase the max charge rate, you are going to lower the revenue requirement that needs to be recovered through the demand rate, so we recognize that under the Company's proposal, the demand rates, all else being equal, will be slightly lower than under the Staff's proposal.

Q. So -- okay. I am going to move on.

So you would agree with me that eliminating or limiting subsidization among customers in a rate class is a good thing, correct?

A. Generally, yes.

Q. Okay. And so looking at page 4, lines 10 through 11 of your testimony, you state that Staff recommends increasing -- I'm sorry. That should be -- I have the wrong reference there. No, that's correct. So I'm sorry. On page 4, lines 10 through 11 of your direct testimony, you state that "Staff recommends increasing the max charge rates gradually," correct?

A. Yes.
Q. And on page 5, lines 11 through 12, you state that "Staff's proposal takes into account the principle of gradualism," correct?
A. Yes.
Q. So to do this -- oh, I'm sorry. Generally speaking, Staff is proposing that AES increase the max charges incrementally to eliminate subsidization, correct?
A. I don't know that that's true. We're recommending that in this case the max charge rates be increased and we are proposing a different rate design methodology for calculating the max charge rates. However, the impact and the purpose is to minimize the rate impacts, the total bill rate impacts, and to eliminate rate shock for the customers that would be falling off the max charge rates and staying on the max charge rates under the Company's proposal.
Q. Okay. And to do that, Staff recommends a smaller increase to the maximum charge for the primary rate class than AES requested, correct?
A. Correct.
Q. And you also recommend a smaller increase to the maximum charge for the secondary rate class

than AES requested, correct?
A. Correct.
Q. Now, but -- and going back to what you said. Staff has only recommended a single smaller increase at this time, correct?
A. We're only -- our recommendation focuses on the proposal in this case. We are not making any recommendations for what should happen in the future.
Q. Okay. So Staff has not -- Staff has not recommended any additional incremental step increases in subsequent years, correct?
A. Not in this case.
Q. So Staff is not recommending a gradual step increase to the max rates in this proceeding.
A. Not as a part of this Staff Report or my testimony, no.
Q. And are you aware -- excuse me.
Are you aware of any other pending Commission proceedings that are litigating or dealing with the low load factor provision?
A. I'm not.
Q. And so even though in your testimony you use the word "gradually," you are not recommending step increases, correct?
A. We're not recommending step increases.

Q. Okay. And has Staff made any recommendation that AES Ohio should increase the maximum charge rate further in any other cases?

A. I am not aware.

Q. Okay. So to your knowledge, the provision is -- this increase to the provision has only been addressed in this rate case, correct?

A. I'm aware it has been an issue in past cases. I am not aware if it is currently being discussed or addressed in other cases. The evaluation here is for the distribution max charge rates proposed in the distribution rate case so that's what my testimony focuses on.

Q. Okay. Ms. Bremer, do you know how many rate cases AES has filed over the last 20 years?

A. I'm not positive.

Q. Okay. So would any further increases to the max charge provision, would they only be addressed in future base distribution cases?

A. The base distribution max charge rates, it's my understanding they would be addressed in a distribution rate case, yes.

Q. Okay. So is it your testimony that there has to be a gradual step increase to the max charge rate, but you are not recommending a step increase at this time?

A. That's not my testimony. My testimony is that the Company's proposal is unreasonable because it relates -- it results in unreasonable rate impacts for customers; and, therefore, the max charge rate should increase to a level that's lower than the Company's proposal.

Q. Okay. Has Staff performed any analysis to determine when Staff would support future increases to the low load factor provision?

A. No.

Q. And has Staff performed any analysis to determine how high the maximum charge rate should be ultimately set?

A. I don't know that I understand the question.

Q. So if Staff is only recommending a gradual increase to the max charge provision, has Staff performed any analysis to determine if they would support future increases to that provision beyond what they are recommending in this case?

A. No. A future evaluation will be based on the facts and circumstances in that case. In this case we evaluated the Company's proposal. As part of the Data Request process, we did ask the Company to perform various scenarios, calculate max charges and demand rates under various scenarios, and we evaluated those. But we did not do a forward-look hypothetical into the future as far as I know.

Q. Okay. So even though you say "gradually increase," under your proposal the next increase to the max charge provision would not occur until the next base distribution rate case, correct?

A. That's my general understanding, yes.

Q. And do you know when that would happen?

A. No.

Q. Okay. Ms. Bremer, we are going to move on to page 6, lines 12 through 19, of your direct testimony. So at that portion of your testimony, you sponsor the updated Staff Report Tables 6 and 7, correct?

A. Correct.

Q. And this portion of your testimony responds to Kroger Objection E; is that correct?

A. Question 12 on line 6 responds to One Energy's Objection 14 and IEU's Objection 5.

Q. I'm sorry. I'm looking at -- I'm looking at the answer at the bottom of page 5 on lines 18 through 19 -- 17 through 19.

A. I think I reference Kroger Objection E on the bottom of page 6 in line 19.

Q. I'm sorry. Did I say page 5?

A. Yes.

Q. My mistake. Yes. Page -- page 6, lines 17 through 19.

A. Yes, I'm there.

Q. All right. And just to back up, I am not sure if I said page 5 earlier. On that -- on those lines, you are sponsoring the -- on lines 12 through 19 of page 6, you are sponsoring the updated Staff Report Tables 6 and 7, correct?

A. Yes. They are attached to my testimony in this case.

Q. Okay. And so you mentioned that these tables include updates to the secondary class customer charges, right?

A. Yes.

Q. And these updates were made because AES originally calculated the secondary rate class customer charges in error, right?

A. There was an error in the calculation and I think some of the links in the calculation that we did not identify in the course of our review so we make those corrections now as part of my testimony.

Q. Okay. And AES admitted that it had

initially calculated those charges in error, correct?

A. I believe that's in the Company witness testimony.

Q. Okay. And the rate class customer -- the secondary rate class customer charges in the Staff Report had initially carried that error forward.

A. Correct.

Q. And so these updated tables correct that error, correct?

A. Yes, that's what my testimony says.

Q. And does AES agree with this correction to your knowledge?

MR. MARGARD: To the extent you know.

A. My understanding is that the Company witness agrees with it, yes.

MR. WYGONSKI: Thank you.

One second, your Honor. Let me see if I have anything further.

I have no further questions, your Honor. Thank you, Ms. Bremer.

THE WITNESS: Thank you.

EXAMINER SCHABO: Thank you.

Walmart?

MS. GRUNDMANN: Yes, your Honor.

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CROSS-EXAMINATION

By Ms. Grundmann:

Q. Good morning, Ms. Bremer. Hold on a second. I had forgot to pin you. I am going to do my very best to not retread any of the ground you have gone through this morning. I have a couple of follow-up questions, but if you feel like you have already answered this question, please let me know because my goal is not to do it again.

A. I understand. Thank you.

Q. I think in response to questions from Ms. Bojko on behalf of OMAEG, I want to confirm what you said. Did you indicate that the Company's low load factor provision would result in approximately a 50 percent increase for some customers under the Company's revenue requirement and approximately a 57 percent increase under Staff's proposed revenue requirement?

A. No. So under the Company's proposed revenue requirement, we evaluated various scenarios and load factor and the max charge rates and the typical bill impacts. Under the Company's proposed revenue requirement, we saw total bill increases over 50 percent up to about 70 percent total bill increases. Under the Staff's proposed revenue requirement, the approximate midpoint in the Staff Report in DR156, the Company ran typical bill impacts under their proposed 10 percent max charge rates, and we saw total bill increases of approximately 57 percent up to. And then under the Staff's proposal at the Staff's approximate midpoint, those were brought down significantly.

Q. Okay. So what I thought I heard you say this morning is that the bill impacts under the Company's proposed revenue requirement were lower than the bill impacts under the Staff's proposed revenue requirement and you are --

A. They aren't and I apologize if I misspoke.

Q. That's okay.

A. The Staff Report has an increase over 50 percent. We saw typical bill impacts between 50 and up to approximately 70 percent for some customers. And then I think we were trying to be conservative in the Staff Report and say over 50, so I kind of had that 50 percent stuck in my head.

Q. I understood because it was a mathematical confusing situation for me, so I wanted to clarify.

You've talked a lot this morning about

the concept of gradualism, right?

A. Yes.

Q. And would you agree with me -- and I will explain them but there are a couple of different types of gradualism. One type is that you say we agree on the endpoint, but we don't agree on how to get there, so we propose to get there more gradually as opposed to all at once.

A. I struggle with this a little bit because I think we evaluated this a little bit in negotiations in this case, and I don't know that --

Q. I'm not --

A. I don't know that those scenarios, we can talk about them now. I think I hear what you are saying, and the trouble is the reason we are recommending lower max charge rates than the Company proposes because the endpoint result -- resulted in unreasonable rate impacts.

Q. Well, but so let me back up. I am not talking about your specific proposal. I am talking about a concept.

A. Okay.

Q. Okay? So, in concept, some people apply the concept of gradualism because they agree on the end result but think they need to take more gradual

steps to get there. Would you agree with that?
A. Yeah.
Q. Okay. And so in this case do you -- did I hear you correctly that in concept only, you do not oppose the low load factor max charge provision proposed by the Company except for the fact that it has unusually high bill impacts on certain customers?
A. Our concern is around the rate impacts, yes.
Q. So in the absence of high bill impacts, you don't oppose the Company's proposal in this case.
A. If the rate impacts were more reasonable, then we wouldn't oppose it. However, the rate impacts are what they are.
Q. And but would you agree with me that as it relates to the concept of gradualism that you and I discussed a moment ago where we agree on the endpoint but we get there more slowly, that ultimately it would be positive from a cost causation principle to move over time closer to the Company's proposed low load factor max charge provision?
A. Again, I struggle with this a little bit because we evaluated a gradualism step and movement as part of the negotiations so -- but I don't think we have a recommendation as to what the level should

be in the future. I don't have a proposal for this is where it needs to be or this is where it needs to get to in terms of who should be paying max charge rates or shouldn't.

In this case, customers under the Staff proposal with load factors between approximately 0 and 20 percent would continue to be eligible for the max charge rates. Is that the perfect level? I don't know. It results in reasonable bill impacts in this case; hence, we are recommending it in this case.

Q. And so from the bill impact standpoint, I guess I want to clarify. When Staff was looking at these bill impacts, was it on a distribution-only rate case basis or on a total bill basis?

A. Total bill basis.

Q. Okay. So you have not focused on the distribution impact to customers here.

A. You can see the distribution increase when you take a look at our tables, and you can see the change from the current rates to the proposed distribution rates and the increased percentages there. But when we are considering a customer's rate impacts and when we are considering the concept of gradualism as it relates to gradually increasing customer's rates, we are looking at the customer's total bill.

Q. And does that -- that assessment, does it assume they are all SSO customers?

A. It -- we hold all other rates constant from the Company's application, and I believe that the typical bills in the Company's application included SSO customer generation rates.

Q. Do you know what the -- I think you've indicated that you have the percentage increase on the distribution side. Do you happen to know what those increases are under the Company's low load factor provision?

A. Yes. So in my table -- in my testimony on the secondary service and primary service tables, you can see the customer charges that are currently in effect for secondary and primary customers, the Applicant's proposed charges, and then the Staff's calculated charges. I will note though that in the Staff Report we identified in the course of our review an error in the calculation of the Applicant's proposed rates, so the rates that you see here under Applicant's proposed are as they were reflected in the E schedules in their application at the time of filing. The Staff Report includes the correctly-calculated Applicant proposed demand and reactive demand charges for the primary service customers.

Q. My apologies. Can you tell me which page -- which page your table is on specifically that you are referring to here?

A. I apologize. I don't think we actually put a page number on it, but it would be the page right after page 8.

Q. So page 9?

A. Yes. Makes sense.

Q. And do you know the percentage -- can you tell me, as we sit here, are you able to do the math, or does it show it very clearly so we can put it into the record what the distribution increase is as --

A. Distribution increase, what are you referring to when you say "distribution increase"?

Q. Well, I think you indicated before that you looked at the total bill impact, and I am trying to focus on what is at issue in this case which is the distribution rate case. So focusing on distribution rate case, what is the impact of the bill increase that a customer would see who may or may not be governed by either the Staff or the Company's low load factor position? Because if I understand your testimony correctly, you all are looking at total bill impacts and not bill impacts limited to the distribution system.

A. We will evaluate, and we would recommend a rate mitigation measure for gradualism purposes based upon total bill impacts to the customer. If you take a look at the Company's E-5s, you could probably see the distribution increases for those hypothetical, you know, demand and kilowatt-hour, the level of usage identified in the E-5s so that might give you an idea what the distribution increase is.

Q. So my question is, are you able to calculate it now? And it sounds like the answer is no, which is fine. I'm just -- I am asking if you are able to tell me what that percentage increase is for the customers that you believe suffered unusually high bill impacts.

A. Well, like I said, we evaluated on a total bill basis, so the E-5s that the Company prepared in their application that are included in my testimony are for the class generally as a whole. But in the Data Requests we received from the Company as part of this review, we had typical bill impacts for customers with low load factors both staying on the max charge rates under the various proposals and falling off the max charge rates under the various proposals. And we evaluated those on a total bill basis. So we did not isolate the distribution increase portion of that. So, no, I can't give you that percentage.

MS. GRUNDMANN: Your Honor, I would like to strike everything in her answer except for, "No, I cannot give you that percentage."

MR. MARGARD: Respectfully, your Honor, the witness is trying to explain exactly what she could and could not be able to determine in response to the question that was asked. I think it's an appropriate explanation.

MS. GRUNDMANN: Your Honor, the only clarity I did is she wasn't answering what she could or could not do today. She was repeating what she had done in her testimony which is not responsive to my question as to whether sitting here today she could tell me what the increase was on the distribution side. I think that in the context of my question, the only answer is no, she cannot do that as we sit here today.

EXAMINER SCHABO: Excuse me. I will let it stand.

MS. GRUNDMANN: I don't have any further

questions then, your Honor.

EXAMINER SCHABO: Thank you.

Do we have any questions from OPAE?

From OHA?

From UD?

Have I missed anyone?

Okay. Mr. Margard, do you have redirect?

MR. MARGARD: I don't believe I will, but if I may have a couple of minutes, your Honor.

EXAMINER SCHABO: Sure. We are back to the magic number. It's 10:27. I will see you guys back in 3 minutes at 11:00.

MR. MARGARD: Thank you.

EXAMINER SCHABO: Off the record.

(Recess taken.)

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

Mr. Margard, do you have cross -- I'm sorry, redirect for the witness?

MR. MARGARD: Thank you, your Honor. I have no redirect for Ms. Bremer and would respectfully renew my request to admit Staff Exhibit 7.

EXAMINER SCHABO: Are there any objections to the admission of Staff Exhibit No. 7?

Seeing none, it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SCHABO: I indicated off the record, I will say for the record now, we will take another break before the next witness. This time I will do my math right, and we will take an 8-minute break, and we will come back at 10:40. I will see you then.

We are off the record.

(Recess taken.)

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

We are back on the record, and Mr. Margard, you may call your next witness.

MR. MARGARD: Thank you, your Honor. Staff would call Craig Smith as its next witness.

EXAMINER SCHABO: Sorry. I need to pin him. Hi, Mr. Smith.

THE WITNESS: Hello.

EXAMINER SCHABO: Could you raise your right hand for me.

(Witness sworn.)

EXAMINER SCHABO: Thank you.

MR. MARGARD: Your Honor, I would request that the testimony of Craig Smith filed in this matter on January 18, 2022, be marked for purposes of identification as Staff Exhibit 8.

(EXHIBIT MARKED FOR IDENTIFICATION.)

EXAMINER SCHABO: So marked.

MR. MARGARD: Thank you.

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CRAIG SMITH,

being by me first duly sworn, as hereinafter certified, deposes and says as follows:

DIRECT EXAMINATION

By Mr. Margard:

Q. Mr. Smith, would you please state your name and business address.

A. My name is Craig Smith. My business address 180 East Broad Street, Columbus, Ohio 43215.

Q. Mr. Smith, do you have before you what's been marked as Staff Exhibit No. 8?

A. Yes, I do.

Q. And can you identify that document for us, please.

A. It is my testimony in response to objections to the Staff Report.

Q. Have you had an opportunity to review that document prior to taking the stand today?

A. Yes, I have.

Q. And as you did so, did you note any changes or corrections that you need to make?

A. Yes, I did. I have a couple of minor corrections.

Q. Would you please identify those for us.

A. Sure. On page 13, line 20, "Revied" should be "Revised."

On page 16, line 22, "Staff Report" should have an apostrophe S after it.

On page 17, line 10 -- or line 11 -- or line 10, "Staff Report" should have an apostrophe S

On line 11, "National Electric Service Code" should be "National Electric Safety Code."

And on page 18, line 1, "Staff Report" should have an apostrophe S after it.

Line 6, "Staff Report" should have an apostrophe S after it.

And line 12, "Staff Report" should have an apostrophe S after it.

That's all the corrections I have.

Q. Thank you.

If I were to ask you the questions contained in your testimony today as you appear on the stand, would your responses be the same?

A. Yes, they would.

Q. And in your opinion, are those responses true and reasonable?

A. Yes.

MR. MARGARD: Thank you, your Honor. I respectfully move for the admission of Staff Exhibit 8, subject to cross-examination, and I tender the witness for that purpose.

EXAMINER SCHABO: Thank you, Mr. Margard. We will deal with admissibility at the end of the cross.

And we will start cross with Company.

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CROSS-EXAMINATION

By Ms. Watt:

Q. Good morning, Mr. Smith. My name is Melissa Watt, and I represent AES Ohio. How are you this morning?

A. I'm fine.

Q. Your testimony states that Staff recommended disallowing the proposed rate for small constant unmetered service, right?

A. Correct.

Q. And can we agree that when we are talking about small constant unmetered service, that that refers to constant loads limited to 25 watts?

A. Yes.

Q. AES Ohio has proposed a new service for these small constant loads, right?

A. Yes, they did in their application.

Q. Have you taken any steps to analyze whether installation of a meter for the small constant service areas is economical?

A. No.

Q. Have you taken any steps to analyze whether customers want the small constant unmetered service?

A. We did inquire with the Company about the number of customers requesting this service, and the Company's response was only one. And in that instance we didn't want to make a completely new rate case for a single customer when we could probably use pole attachments as an alternative means for the rate class. We weren't -- we weren't encouraging for just one customer to make a -- a single rate class.

Q. Other than your request for information from the Company, have you taken any other steps to analyze whether customers want the small constant unmetered service?

A. No.

Q. Do you know whether other utilities in the country have small constant unmetered service?

A. Yes.

Q. You do know -- you know whether other utilities in the country have small constant unmetered service?

A. Yes, I do.

Q. Do you know how many?

A. In the entire country?

Q. Yes.

A. No.

Q. Do you know how many other utilities in Ohio have small constant unmetered service?

A. An exact amount, no.

Q. Are you familiar with gunshot detectors?

A. At -- yes.

Q. Do you know whether cities want this small constant unmetered service so that they can install gunshot detectors to enable law enforcement to better locate where gunshots come from?

A. Do I personally know that cities are requesting this? I personally don't know that.

Q. You've mentioned before and your testimony states that you believe other structures are better for this service; is that right?

A. Correct.

Q. You mentioned pole attachments, right?

A. Correct.

Q. A pole attachment would involve a fee charged to customers to attach to a pole, right?

A. Correct.

Q. And that pole attachment fee would not include any charge for the actual energy used through the attachment, right?

A. No, it wouldn't.

Q. Have you taken any steps to analyze whether it would be economical to provide the pole attachment service if the city had to install meters for every gunshot detector?

A. I'm sorry. Can you repeat your question?

Q. Sure. Have you taken any steps to analyze whether it would be economical to provide the pole attachment service you mentioned if the city had to install meters for every gunshot detector it wanted to install?

A. No, we didn't do an economic analysis.

Q. Your testimony also states that Staff recommends AES Ohio be required to permit deposit payments in three installments instead of just one, right?

A. Correct.

Q. Do you know whether AES Ohio permits customers to pay deposits when the first bill is due as opposed to requiring payment before initiation of service?

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

Q. Do you know whether AES Ohio permits customers to pay the deposit when the first bill is due as opposed to requiring payment of the deposit before initiation of service?

A. I'm not -- no. I'm not clear on whether they, at the initiation of service, require a deposit. There are many ways to establish financial security. Deposit is one of them. I don't know if they always do it on an initiation of service.

Q. Do you know whether other utilities in Ohio permit customers to pay the deposit when the first bill is due as opposed to requiring payment of the deposit before initiation of service?

A. No. I don't know.

Q. And you would agree that there's no rule or code provision that requires an installment plan for deposits, right?

A. I agree there is no rule.

Q. And to your knowledge, no other electric distribution utility has installments for its deposit?

A. To my knowledge, no electric EDU in the State of Ohio has installments but two gas companies, Dominion and Columbia, do offer three installments for the deposits.

Q. But you would agree with me that there's no other electric distribution utility in Ohio that has the installment payments you've referenced, right?

A. Correct.

MS. WATT: Thank you, Mr. Smith. I have no further questions.

EXAMINER SCHABO: Thank you.

OCC?

MR. FINNIGAN: No questions, your Honor.

EXAMINER SCHABO: Walmart?

MS. GRUNDMANN: No cross, your Honor.

EXAMINER SCHABO: IGS?

MR. OLIKER: Thank you, your Honor. Just a few questions today.

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CROSS-EXAMINATION

By Mr. Oliker:

Q. Good morning, Mr. Smith.

A. Good morning, Mr. Oliker.

Q. Nice to see you again.
A. Nice to see you.
Q. We don't get to spend as much time together as I'd like.
So in your testimony, one of the subjects that you testified to is uncollectible expense; is that correct?
A. Correct.
Q. And you would agree that, from time to time, customers do not pay their bills; is that correct?
A. Correct.
Q. And when that happens, the invoice is written off as bad debt?
A. Possibly. It depends -- it depends. As you know, some of the bad debt is collected through an uncollectible rider, and if the bad debt happens to be say, for instance, IGS's bad debt, it eventually comes back to you.
Q. Okay. Let's --
A. I don't know what you do with it. To be honest, I don't know what your collection policies are. I assume you go out and collect it.
Q. Okay. There is a lot in that answer there and I appreciate you understanding where I am

going, but to keep the record clear, let's break all of that up and take it one step at a time. I will try to be a little more targeted. So let's limit the discussion to AES Ohio for the moment.

A. Okay.

Q. When an AES Ohio Standard Service Offer customer doesn't pay their bill, then AES Ohio eventually, when they can't collect it, they write off the uncollected portion, whether it's distribution or SSO related, they write it all off as bad debt; is that correct?

A. Probably eventually. There's a collection cycle that they push it through in which there's -- they attempt to recover it and if they do recover it, it comes back in through the rider so it's not all written off as bad debt. If they do collect it, they do -- it comes back in so it's not all written off as bad debt.

Q. Does AES Ohio have a bad debt rider now?

A. I don't believe so.

Q. Okay. So because AES Ohio -- would you agree that AES Ohio has proposed in this case as part of the test year an allowance for bad debt expense?

A. Yes.

Q. Okay. And if you know, does AES Ohio

currently collect a portion of its bad debt expense through the Standard Service Offer rate?

A. I don't know if they are currently collecting it through their SSO rate today.

Q. They previously were though; is that correct?

A. They possibly -- well, it's a little -- when they had -- when they -- when they was under ESP III, yes. Today, I do not believe it is.

Q. Fair. So switching gears to customers that shop for retail electric service and I think you covered some of this ground already but just to break up the questions, when a customer chooses IGS, for example, as their retail supplier, if they don't pay their debts after say 60 days, would you agree that AES remits that receivable of IGS and it's up to us to go and try to collect it?

A. Everything except for I don't know if -- if they do it in 60 -- remit it back to you in 60 or 90 or 30 days. I am not sure of the time period but, yes, they remit the customers' CRES charges back to IGS.

Q. Okay. And the reason for that is that AES Ohio does not have a purchase of receivables program, right?

A. I don't believe that's the reason they do that. I believe they do it because that's what -- how it's set up.

Q. But that -- for example, they don't buy their receivables from IGS; is that correct? They collect from the customer, and if the customer pays, they remit the money to IGS, but if they don't pay, then it's up to us to collect it after whatever period of time that is.

A. Correct. They do not have a purchase of receivables --

Q. Okay.

A. -- program.

Q. And if IGS is unable to collect from a customer that doesn't pay their bills, would you agree we do not have the ability to turn off the customer's power?

A. I agree.

Q. And if that customer were to return to the Standard Service Offer, the receivable they owe to IGS, it would not follow them, correct?

A. If they return to the Standard Service Offer, so in that situation, you are suggesting that they have an outstanding bad debt -- I am assuming you are waiting enough time that it's not within your

60 days that, no, they wouldn't be responsible for it.

Q. Clean slate, right?

A. Well, no, because they have an IOU out there with IGS that your collection department can go after.

Q. Fair point. Thank you for that clarification.

Okay. And with -- when a customer is on the Standard Service Offer and they don't pay their bills, would you agree that AES Ohio can provide notice they will be disconnected for failure to pay their bill?

A. Eventually.

Q. And that would include failure to pay Standard Service Offer generation-related charges, correct?

A. Yes.

Q. And, therefore, you would also agree that a portion of the bad debt expense proposed for recovery in distribution rates would relate to uncollected Standard Service Offer revenue.

A. Yes, as a provider of last resort expense, it would be, yes.

Q. You also agree -- let's assume for a

second if AES Ohio's distribution rates include an allowance for uncollected Standard Service Offer revenue, to the extent that 100 percent of the SSO load shopped, then AES Ohio would be continuing to collect an allowance for bad debt expense associated with SSO customers that don't exist?

A. It would be into the base rates, you would be correct, until they came in for a rate increase.

Q. Yes. And that's because -- you are familiar with ratemaking principles, correct, Mr. Smith?

A. Yes.

Q. And base distribution rates are technically a snapshot in time, right?

A. Yes, they are.

Q. And it's really an estimate of future costs based upon evaluation of historical costs, correct?

A. It's less an evaluation of future costs, more an examination of the test year costs as they are presented in the application. They are not really an examination of future costs.

Q. But it's an estimate of future costs, correct? It's an attempt to provide rate recovery for what we believe the future costs will be for the utility, correct?

A. Based on their current costs. We don't project future costs though.

Q. Right, right.

A. Expenses.

Q. Like, for example, depreciation, depreciation expense is simply an estimate of the life of an asset, right?

A. Yes.

Q. And that asset will live less or more -- it's never going to be perfect, right?

A. No. That's -- I am sure there is an actuary that would disagree but probably right.

Q. And going back to the discussion about recovery of SSO related bad debt through distribution rates, would you agree that, all else being equal, that result lowers the SSO rate?

A. I don't think the bad debt has any impact on the SSO rate.

Q. Well, let's -- hypothetically speaking, let's assume that there is $10 million in bad debt expense. $5 million relates to uncollected SSO revenue and $5 million relates to uncollected distribution revenue. You would agree that if you recover all $10 million through distribution rates rather than allocating any portion to the SSO, that will lower the SSO rate?

A. Can you repeat your hypothetical again?

MR. OLIKER: Karen, can you read it back.

(Record read.)

A. No, it won't.

Q. And why is that, Mr. Smith?

A. Because -- because the way the Company has it in their base rates for the uncollectible, it will have no impact on the SSO rate, whether -- it's based on the test year, what's in their base rates. It won't vary like you just said. If I am here until the next AIR case, their bad debt expense is going to be fixed. So it won't impact what the auctions do for the SSO rate in the future. It's fixed -- it would be fixed as of today or whatever test year fixes it.

Q. I'm sorry, Mr. Smith, I didn't mean to interrupt you. I think you misunderstood my question. Would you agree that if a portion of the bad debt expense is made bypassable and included as part of the SSO rate, that will raise the SSO rate?

A. Oh, if you made it bypassable?

Q. Yes.

A. If you added the SSO bad debt into the SSO rate, well, yes, it's going to increase the cost of the SSO rate.

Q. Right. And conversely, if you take all of the SSO related bad debt and put it in distribution rates, that will lower the SSO rate, correct?

A. No. Because the SSO rate is based on the auction price.

Q. But there are other components in the SSO rate other than the auction winner's bid price, correct?

A. There are some.

Q. Yeah. And, for example, the determination of where the bad debt expense associated with the SSO rate, if it goes in distribution versus the SSO, that affects the price, correct?

A. It's going to be in distribution no -- it's in the distribution. It's the Company's bad debt expense.

Q. Mr. Smith, the question of whether it's in distribution is the determination for the Commission, is it not?

A. Is it -- bad debt expense? Is it the

determination of the Commission to determine whether bad debt expense for the Company is -- is jurisdiction to the Company? I don't understand.

Q. I think we can move on, Mr. Smith.

You mentioned the PUCO/OCC assessment, correct?

A. Yes.

Q. And the PUCO and OCC assessment, that's an assessment to regulated entities to pay for the PUCO and the OCC, correct?

A. No.

Q. How would you --

A. It's not just regular -- it's not the traditional regulated companies of the big 6 electric companies and the big 4 gas companies. It also includes people like you. You also pay. And you are not -- you are not exactly as regulated as, say, AES if that's what you are getting at.

Q. We definitely consider ourselves regulated to some extent but I understand your clarification.

Okay. And to follow up on that, you agree that AES Ohio and CRES providers like IGS, they each pay assessments to support the PUCO and the OCC, correct?

A. Yes, they do.

Q. And you agree that those assessments are generally based on interstate revenue of each of those entities.

A. Sort of. They start off -- they start off with based on the PUCO and OCC's budget and then they work itself down so the real factor that defines the PUCO and OCC assessment is actually our budgets. So that -- that tells -- your revenue could go up but our budget could go down and your actual rates would go down. So it's not -- it starts with our budget and -- and, yes, eventually your revenue matters but it's not the determining thing on what you pay. It's really our budget.

Q. Right. It's really based on a snapshot in time, right?

A. Yes.

Q. Okay. So but the key being, for example, let's assume 2022, 2021, pick your year, whatever -- whatever revenue is needed to support the PUCO and the OCC, if you have two entities that had the same interstate revenue, they would pay the same assessments, right?

A. Just -- just with two, yes. Assuming there's no -- yeah, just with two, yeah, I agree with you.

Q. Okay. And for purposes of calculating AES Ohio's PUCO and OCC assessment, you agree that their distribution, transmission, and generation or SSO revenue, that's a part of the calculation, correct?

A. Yes.

Q. On page 6 of your testimony, you state that there is a manual process associated with switching a customer to a CRES provider.

A. Which line?

Q. Let me get there. Line 16. Do you see that part of your testimony?

A. Yes.

Q. Am I correct your testimony does not include any analysis of what the manual cost is to switch a customer to a CRES provider from a dollar basis?

A. Correct.

Q. So am I correct you have not performed any analysis of whether the manual costs add up to $5?

A. I have not performed an analysis that switch -- that it costs $5, no.

Q. But you do identify in your testimony that you assume that AES Ohio does not assess a fee to customers that switch to the Standard Service Offer, correct?

A. Correct. I understand AES doesn't charge any customer directly for a switching fee. They only charge CRES.

Q. But AES doesn't charge itself $5 when a customer switches to the SSO, correct?

A. I believe they are only -- they are only using the switching fees out of the generation tariffs. I don't believe they are charging switching fees out of the D tariffs.

Q. Okay. We'll come back to that.

Now, I think you alluded to this but AES Ohio's distribution tariffs currently do provide that when a customer switches to the SSO, they need to pay $5, correct?

A. Yeah. They're odd because no other EDU charges customers directly through the distribution rates. Most of the switching fees are through their supplier tariffs which are their generation tariffs in which they also have that switching fee over there too, a different version of it.

Q. But just so we're clear, the tariff in effect today for AES Ohio does require the customer

to pay $5 to switch to the SSO.
A. There is that provision in -- in their distribution tariff.
Q. And on page 7 of your testimony, you indicate that customers can go back to the Standard Service Offer when a governmental aggregation ends. Do you see that part of your testimony?
A. Which line? 6? Yes.
Q. Am I correct that governmental aggregations typically can continue from one term to another without sending a customer back to the Standard Service Offer?
A. Yes.
Q. And a governmental aggregation can continue even while changing suppliers without sending customers back to the Standard Service Offer, correct?
A. That is correct.
Q. And you indicate that CRES contracts sometimes are not renewed; do you see that part of your testimony?
A. I don't -- I -- they are not renewed, I agree with you.
Q. Well, oftentimes CRES contracts do continue on a month-to-month basis after the initial

term expires, correct?
A. Correct.
Q. Do you know how many customers have been returned to the Standard Service Offer as a result of the supplier default in the AES Ohio service territory?
A. No.
Q. Do you know how many customers have returned to the Standard Service Offer in the past year --
A. No.
Q. -- in AES Ohio territory? Okay. Thank you.
And would you agree that one of the ways that a customer can return to the Standard Service Offer is by calling the utility's call center and asking to be switched to that service?
A. Well, I am not sure they are actually being switched. I think they are dropping the current -- current alternative generation supplier. I do believe they can call the Company and -- and drop their alternative generation supplier, yes.
Q. And that would be by terminating their contract? With their supplier?
A. They would be terminating their contract,

yes.

Q. Whether in its initial term or longer term, correct?

A. At any time that you put in your contracts, there are always consequences for terminating your contract early.

Q. Well, not always. You haven't reviewed all the contracts, have you, Mr. Smith?

A. Not in a while, no, I have not.

Q. Okay. Sticking with when a customer calls the call center, you would agree that that individual working for the utility, their salary is supported by AES Ohio's allowance for operation and maintenance expenses in base distribution rates?

A. I don't have that specific -- specificity of knowledge down to where it's collected.

Q. Do you know what process AES Ohio goes through when a customer calls in to their call center to switch their customer?

A. I haven't reviewed it in a while, but I -- I haven't reviewed their -- their CSR scripts in a while.

Q. But they have to talk to a person, correct?

A. I assume it's not on their -- one of

their push button No. 4 to drop your -- change your service. I assume you have to talk to a customer -- CSR.

Q. Okay. And lastly, can we go to IGS's premarked exhibits.

A. Yes. Which one?

Q. It would be IGS Exhibit 4. I think it's the purpose of the PUCO.

A. Mission.

Q. Yes, the mission statement.

A. Yes.

Q. Do you see that document, Mr. Smith?

A. Yes, I do.

MR. OLIKER: Your Honor, I would like to mark the exhibit as IGS Exhibit 4, the PUCO's mission statement.

EXAMINER SCHABO: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. And Mr. Smith, I am sure you have seen this document before, correct?

A. Well, yes. Because you sent it in your exhibits.

Q. But generally speaking, these -- the PUCO's mission statement is intended to inform the actions of the PUCO and the Staff, correct?

A. Yes. It's a -- it's a general statement about what we do, yes.

Q. Okay. On this -- and this document that's been marked as IGS Exhibit 4, it appears to be a true and accurate copy; is that correct?

A. Yes.

Q. And would you agree that one of the bullet points on here is "Monitoring and enforcing compliance with rules and statutory protections against deceptive, unfair, unsafe, and anti-competitive utility practices"?

A. That -- that is one of the means that we accomplish our mission, yes.

Q. And in addition to guarding against anti-competitive practices, below that the mission is also fostering competition by establishing and enforcing a fair competitive retail framework for all utilities; is that correct?

A. Which one is it?

Q. "Fostering competition by establishing and enforcing a fair competitive framework for all utilities."

A. Yes, I see that.

MR. OLIKER: Thank you, Mr. Smith. Those are all the questions I have. And thank you, your

Honor.

EXAMINER SCHABO: Thank you.

Move on to Direct Energy.

MR. FYKES: No cross for this witness, your Honor.

EXAMINER SCHABO: One Energy?

MR. WARNOCK: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Warnock:

Q. Good morning, Mr. Smith. This is Matt Warnock on behalf of One Energy. I am going to generally be referring to both your testimony and the Company's proposed tariffs in this case. Do you happen to have access to Company Exhibit 12 which is Schedule E-2.1, the redline tariff?

A. I don't have it printed out but I'll get it.

Q. No rush. Just let me know when you have it in front of you.

A. I have it. The PDF is opening.

Q. Well, I am going to start with some general background questions while that's loading. We will get to that here in a few minutes.

In your testimony on page 3, line 17, you indicate that your responsibility in this case was to review the tariff provisions. When you say tariff provisions, was that just the electric distribution service tariff?

A. Well, yeah. It's basically this E -- E-2.1, yes.

Q. Okay. So you did not review the alternate generation supplier coordination tariff as part of this case?

A. Not -- not outside of switching fees, I did not, no.

Q. Okay. And as part of your review of the tariff, did you review the entirety of this Schedule E-2.1 or just the section that the Company proposed to change?

A. Well, we looked at the entirety.

Q. So every page, every word, somebody at Staff read through it?

A. Yes, more than once probably.

Q. Okay. And as part of your responsibilities in the case, did you work by yourself in reviewing the tariff or were there others involved on the Staff?

A. Many others involved.

Q. Okay. And can you kind of generally

explain to me the process that was followed to review the tariff and provide comments on it?

A. The process?

Q. Yes.

A. Generally there is my team and there's a team from Rates and Analysis. And we -- we look -- my team looks at the tariffs from the customer's perspective and from a rule perspective. My area generally has authority and enforcement over Rules 10, 13, 17, 15, and 18. And we try -- and we review the tariffs in conjunction with how -- how they are looked at in the rules.

My perspective in looking at the tariffs is from the customer's perspective. And I'm looking more at context and language, while the Rates and Analysis, when they are reviewing this tariff, they are looking at the dollars. So if you are looking for an analysis on the cost, I don't do that. Another team, Dorothy Bremer's team, generally looks at the cost, the calculations. We look more at the public policy behind what they're either changing or what they don't have changed.

Q. Okay. Thank you.

So as part of that review, do you review the tariffs kinds of in conjunction with the State's energy policies and Ohio re -- in the Ohio Revised Code?

A. As they pertain to these distribution provisions, we do it -- we do look at revised -- Ohio Revised Code 4928 and do look at that in the context of reviewing this distribution tariff, yes.

Q. And are there specific policies in the Ohio Revised Code, specifically 4928.02, that you look at?

A. It's just a general incorporation. 4928 is the Revised Code section on competitive. And as those things impact this tariff, for instance, the bypassability of a particular rider or particular cost, that would impact the 4928 and CRES. Whether costs are assigned to the Company or whether they have done something else to them.

For instance, another example is net metering. One of our recommendations was to update their tariffs for net metering. That's part of 4928 of looking at -- at how DSRRs and everything else is interconnected with the distribution. So as those things touch, 4928 touch the distribution tariffs, we do look at it from those perspectives and factor those into what we suggest.

Q. Okay. I am going to touch on a couple of

those topics in a minute.
Would you agree that encouraging implementation of distributed generation is one of those state policies?
A. It is.
Q. And can you generally explain how, if at all, you know, that policy around distributed generation came into your review of the tariff?
A. Well, specifically it's in net metering for me. Others have -- Krystina Schaefer had a different review. She had the review of their DE, their distributive energy stuff, but net metering usually falls upon me. And from that perspective, the rules for net metering changed about two years ago, and they haven't updated their current tariff to accommodate the change in the rules. And our recommendation was to update their tariff.
Q. Okay. Let's go down that path for a minute. So you agree that the tariff needs to be changed as it relates to net metering, correct?
A. It needs to be changed if they are going to continue to give more favorable conditions to net metering customers.
What -- what's out of compliance with their net metering tariff is they still -- they

continue to have a credit where a customer can get their money back. They have it overall at the end of the year they can get a credit back. The new rules eliminated that credit.

The other thing that DP&L is also doing is that they are giving the full SSO rate as the credit, as a monetary credit, and the rules actually took the capacity part of that out. So they are actually -- their current tariff is more generous than the rules allow.

And what we suggested -- what I told -- what you see in our Staff Report is we said if your tariff is going to be more generous than the rules allow, then you got to abide by it. We are not going to let you defend yourself with the code if your tariff hasn't been updated.

So DP&L -- or, AES has agreed through Data Requests that they will give customers the benefits that are lying in the tariff as well as compliance with the law.

So, for instance, AES is allowing customers to use adjacent property that the new rules allow, although their definition in their current rules on premise doesn't address that.

DP&L -- I'm sorry. I keep saying DP&L.

AES was also one of the first to update all of their information to their customers so their website has been in compliance with the rules. For instance, the sizing of 120 percent. They have been in compliance with all the rules. It's just their tariff, some of the stuff that was more consumer friendly under rules that changed, they continued to have that in their tariff and if they are going to continue to have that, Staff believes they should honor it too, so. That was our recommendation on net metering.

Q. Okay. Thank you. That's very helpful. But is there any reason why AES shouldn't update it in this case?

A. Personally, I would prefer them to update it in this case. But there -- they did it in their application. So my report from the Staff's position is that we recommend them update it one way or the other. They don't need to necessarily update it here. If they are going to continue to give those beneficial items to the customers, then they need to eventually if -- when they want to stop doing that, they need to update their tariff. It doesn't necessarily have to happen here as long as they are honoring their tariffs.

Q. But if -- you would agree with me that the distribution tariff is in front of the Commission and in front of Staff in this case, correct?

A. Yes.

Q. So there is really no reason it couldn't be or shouldn't be updated in this case, correct?

A. It could be. It could also be updated in another ATA proceeding or they could file it like other companies did in the I think it's the 2050 case, the rule case.

Q. But if it's not updated in this distribution rate case, there's no obligation on the Company to file it at any specific time in the future.

A. Other than the Staff of the PUCO eventually forcing their hand, no. But at the same time, their tariff isn't out of compliance with 4901:1-10-28. It's just more generous with the rules. At the time if they weren't going to be generous with the rules, then -- generous with the benefits, they have to choose. They can't just stop giving customers credits if the tariff allows so. It's not that they are completely out of compliance because they clearly direct in their -- their tariff that they would comply with 4901:1-10-28.

Q. Okay. Your testimony states and the Staff Report states they are not in compliance with the rules and that the tariff provision needs updating, correct?

A. At the time -- at the time, yes. And like I said, they have -- they have changed their processes internally to give customers credits is that -- is that at the time we wrote the Staff Report they weren't doing that. They had actually put out their -- about their notices and their information to customers was all compliant with the rule. But they weren't mentioning that the tariff was still giving a credit.

Q. Okay.

A. A monetary credit, cash net.

Q. Okay. Thank you.

I am going to take you back to just more general questions before we keep going.

As part of your job, do you review the tariff filings of other electric distribution utilities in Ohio?

A. Some filings. I don't look at every ATA case, no. I look at some.

Q. Okay. I am going to take you to page 14 of your testimony, lines 1 through 3. I'm sorry, I'm sorry. I take that back. Page 14, lines 7 through 10.

A. Uh-huh.

Q. All right. Bear with me for just a second. Okay. And do you have Staff Exhibit -- or Company Exhibit 12 in front of you, the redlined tariff?

A. Yes.

Q. Okay. I am going to take you to page 7 of that tariff. So page 7 of 101 in the upper right-hand corner.

A. Is it the -- I assume it's D5, 1 of 6?

Q. That's correct.

A. Okay.

Q. In your testimony it says, "Staff welcomes any suggestions to increase the understanding and readability of the Company's tariffs" and talks about modernizing its tariff.

In -- on this page 7 of 101, about halfway down, there are some -- there is a strike-through and right above that there is a change from where it says "performed in his presence" to "performed in his or her presence." Do you see that?

A. Yes.

Q. Do you happen to know why the tariff was not updated in other places, including this one, to move away from gender-specific pronouns like he, she, his?

A. I don't know why -- I don't know why the tariff doesn't just use "customer" instead of using pronouns. It would be preferential just to use "the customer," use a non-pronoun.

Q. So the Staff would support making the tariffs gender neutral and really using the words "the customer" as opposed to he, she, his?

A. I believe, yes.

Q. Okay. On -- I am going to move to page 15, lines 16 through 18 of your testimony. So page 15, starting on line 16.

A. Uh-huh. Yeah.

Q. Okay. Do you see at the bottom of page 15, it states, "Staff is not opposed to AES adding the EnergyChoice.ohio.gov website reference to both of the noted websites above to help customers...." Do you see that statement?

A. Yes.

Q. You would agree that doing this would be helpful to customers?

A. It might be.

Q. And was there any reason that you didn't require this change to be made or recommend that this change be made?

A. There -- there is no reason. We didn't examine the choice of service options.

Q. Okay.

A. To that level of detail.

Q. Okay. Now I am going to take you -- turning back to the redlined tariff, page 17 of 101. This is Sheet D7, page 1 of 2.

A. I'm getting there. Got it.

Q. All right. And I am going to refer you to both Section A.1 and Section B.1. Do you see in Section A.1, the second sentence, where it says the Company will have the right to determine where its meters and metering equipment are located?

A. Yes.

Q. And do you see in Section B.1 where it says the Company will determine the number of meters, delivery points, and metering equipment?

A. Correct. Yeah.

Q. As part of this case, the Company agrees, through Company Witness Adams, to incorporate a reasonableness requirement as to the location of the Company's meters and metering equipment. Assuming that's the case, Staff would have no objection, correct?

A. I would like to see how the term is used in the provision before I would make a determination of whether we would have an opinion on that. I would like to see how it's worded in context of the rest of the provisions of the tariff.

Q. But assuming the language was okay, Staff wouldn't have any issues with that?

A. Like I said, it -- until I look at the entire thing in context, I don't want to make an opinion on it right now.

Q. Okay. In your testimony on page 18, line 4, let me know when you're there.

A. Yes.

Q. You acknowledge that the reference to the East Central Area Reliability Council, or ECAR, needs to be changed, correct?

A. Correct.

Q. Because ECAR no longer exists, correct?

A. I am going to take your word for it. One of my staff, who is an engineer, basically agrees that it's gone. That you guys are right. It needs updated.

Q. Okay. I am going to turn your attention to page 28 of 101 in the redlined tariff, so this is

Sheet D11, page 2 of 10.

MR. MARGARD: Which page of the PDF, Mr. Warnock?

MR. WARNOCK: It is page 28 of 101.

MR. MARGARD: Thank you, sir.

A. I'm there.

Q. Do you see the reference to ECAR about three-quarters of the way down the page?

A. Yeah.

Q. And do you see the reference to ECAR Document No. 3, dated June 16, 1998?

A. Yes.

Q. Have you ever seen or read that document?

A. No.

Q. Do you happen to know if it's still applicable or if the entirety of that reference also needs to be updated?

A. I don't know. I -- I'm relying on another Staff member who says that ECAR is gone, so we are agreeing that it needs to be updated. Where -- what parts of it are still relevant, I don't know.

Q. Okay. And then just more generally, on this page, Subsection B is entitled "Short-Term Capacity Shortages." Do you see that?

A. Uh-huh. Yes.

Q. Do you know if the -- do you know the last time that this section of the tariff was updated or modified?

A. No, I don't.

Q. And so you don't know whether this section in its entirety is still applicable?

A. I do not.

MR. WARNOCK: Okay. Just bear with me just a second. Let me go through my notes and make sure I don't have anything else. I think I am done.

All right. Thank you, Mr. Smith. I have no further questions.

EXAMINER SCHABO: Thank you, Mr. Warnock.

City of Dayton?

MR. ALEXANDER: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Alexander:

Q. Good morning, Mr. Smith. A little bit of background here I think to set the stage. You filed testimony in Dayton Power and Light's last distribution case, Case No. 15-1830, correct?

A. Correct.

Q. Now, in that proceeding, Dayton Power and

Light had proposed a significant change to its redundant service charges, correct?

A. Yes.

Q. And customers on redundant service have connections to two different distribution circuits?

A. Generally I believe so. There -- there -- I don't know whether AES has -- there is some companies that have redundant service, although they call it redundant service, it's on the same circuit. It's really not off a different circuit. So they may be giving them redundant service from the same circuit but ideally the point of redundant service is to come off another circuit, yes.

Q. Because if the primary circuit went down and both connections were to the same circuit, the customer's service would go down as well?

A. Well, maybe. It all depends on where you are bringing that -- where -- where it goes down, if you are going farther up and down the substation, where it is. If it's on the same circuit, it may not necessarily all go down but that's why it may not be the same circuit. Or a different circuit.

Q. I understand.

Staff addressed Dayton Power and Light's redundant service proposal in the 2015 rate case in the Staff Report, correct?

A. We had comments, yes.

Q. Okay. Do you have what's been marked and admitted as AES Exhibit 58 available to you?

A. Can you identify it for me which one it is?

Q. Certainly. It's the Staff Report from the 2015 distribution rate case.

A. I got it.

Q. Could you please turn to page 24 of that exhibit?

A. I'm there.

Q. And is this the section of the Staff Report which you were referencing which addressed Dayton Power and Light's redundant service proposal in 2015?

A. Okay. Hold on, Mr. Alexander. I got the Opinion and Order, not the Staff Report. Which exhibit was this of yours?

Q. 58. It's AES Exhibit 58.

A. Okay. It's loading. Page 24?

Q. Yes, please.

A. Okay. I'm there.

Q. And so is this the section of the 2015 Staff Report which addressed Dayton Power and Light's redundant service proposal?

A. Yes, it is.

Q. Okay. And focusing first on the paragraph at the bottom of page 24, Staff pointed out that Dayton Power and Light did not conduct a cost-of-service study to determine the rate appropriate for redundant service customers?

A. No, they did not do a cost-of-service study.

Q. And now moving to the first full paragraph on page 25, are you there?

A. Yeah.

Q. Okay. And here, Staff recommended that the proposed kilowatt rate for this service be adjusted downward by eliminating demand-related costs that are continuous unless Dayton Power and Light could demonstrate why those costs should be duplicated; is that correct?

A. That's correct.

Q. Okay. The 2015 Dayton Power and Light rate case was ultimately resolved via a Stipulation and then a Supplemental Stipulation which was filed on July 12, 2018?

A. Subject to check on the date, but, yes, it was.

Q. Okay. Well, we can solve that. Do you have available City of Dayton Exhibit 1? Which should be the Supplemental Stipulation I just asked about.

A. Yes.

Q. Could you please turn to paragraph 3 of the Supplemental Stipulation.

A. I'm there.

Q. Does the Supplemental Stipulation filed in the 2015 rate case quote from the paragraph of the Staff Report that we just discussed?

A. Parts of it, yes, it does.

Q. And does the Supplemental Stipulation provide that Dayton Power and Light shall conduct a cost-of-service study which analyzes the cost of redundant service?

A. Well, yeah, that was Staff's dilemma when we looked at it four years ago was that whether redundant service -- there was an internal debate whether it's a premium service or whether it's similar to ordinary service or whether it should be a discounted service. That's why we were -- we weren't sure whether you should charge more, charge less, or charge the same. That's why we were looking for a cost of service, some data, some information about whether it's really costing the Company the same or more or less. We know it's somewhere near the same but we don't know if it's a discount or it's a premium.

Generally these redundant service services have been, quote, kind of -- not quote, but seen as premium services and usually contracted to them. It's just only recently that they have tried to put these redundant services into tariffs.

So it's not -- never been really clear whether they are a premium or whether they are a discount or whether they are similar. That's why we were looking for a cost-of-service study or some type of analysis from the Company that when they come back in today to give us some data to understand whether -- which category it lies in so we can assign a proper cost.

Q. Sure. And in fact, the City of Dayton signed that Supplemental Stipulation as well, correct?

A. Yes.

Q. And the Supplemental Stipulation filed in the 2015 rate case provided that the cost-of-service study shall recommend a rate to be charged to customers taking redundant service, correct?

A. Yep.

Q. And under the Supplemental Stipulation and the Stipulation when read together, the City of Dayton and the Ohio Hospital Association were not required to pay redundant service charges until a new redundant service rate was approved by the Commission.

A. Correct.

Q. The Commission approved the Supplemental Stipulation in the 2015 rate case, correct?

A. Correct.

Q. Okay. Now, focusing on this case, in its application, Dayton Power and Light did provide a cost-of-service study, correct?

A. They did but they did not provide a detailed cost of service for redundant services.

Q. And you anticipated my second question so thank you. And the Dayton Power and Light cost-of-service study did not recommend a rate to be charged to customers taking redundant service, correct?

A. It -- they did recommend a rate. It's the same rate as they pay with their normal service. When I was suggesting that there is a premium, that redundant service could be a premium or an ordinary or a discounted service, the Company appears in their application to be taking the track that it's a similar service. That's neither a premium or a discount. That it's the same as their normal service.

Q. Did -- is it your belief that Company Witness Adams' cost -- strike that.

Is it your belief that Company Witness Chapman's cost-of-service study recommended a rate for redundant service?

A. Their application -- their application is. I don't think their cost of service -- cost -- I don't believe their witness recommended a rate but their application does. It's the same rate as they normally pay.

Q. I agree with that part but let's take it piece by piece. We will turn to the tariff next. But focusing now on the cost-of-service study, you agree the cost-of-service study did not recommend a rate to be charged to redundant service customers, correct?

A. I didn't see one, no.

Q. And did you listen to the testimony of Company Witness Chapman?

A. Parts of it, yes.

Q. And -- I will withdraw that.
Could you please turn your attention back to AES Exhibit 12 which you were just going through with Mr. Warnock, the proposed tariffs.
A. I have got to get back to that. Which exhibit was that again?
Q. 12.
A. 12. Which page?
Q. It's page 23 of 101. Just let me know when you are there.
A. The PDF is slow, sorry.
Q. Oh, please, take your time.
A. Okay. I am there. Page 23?
Q. Yes.
A. Okay.
Q. So earlier you -- I believe you mentioned that Dayton Power and Light had proposed distribution customers be required to pay the full distribution tariff rate for redundant service. Is this the tariff you were referring to?
A. I'm losing you, Mr. Alexander.
Q. Certainly.
Are you at Original Sheet D10? Excuse me. The First Revised Sheet D10?
A. Yes.

Q. Is this the tariff which contains the redundant service charge?

A. D10 does, yes. It's further down.

Q. It's typically Section G.

A. Yes.

Q. And Section G says that redundant service customers must pay Dayton Power and Light for the entire cost of providing the redundant service connection, meaning the connection to the -- the redundant service line; is that correct?

A. Yes.

Q. And so the capital costs associated with connecting to the redundant service line are solely the responsibility of the customer?

A. Yes.

Q. And in addition to the customer paying for the incremental costs of connecting to the second line, the tariff anticipates the customer would enter into a service agreement with Dayton Power and Light?

A. It does say that, yes. That's generally what they were doing.

Q. And if you could turn your attention now to that same tariff, Section D.

A. Yes.

Q. And Dayton Power and Light proposes that under the service agreement each redundant service customer would be obligated to pay a monthly contract capacity charge; is that correct?

A. Yes.

Q. And the customer would be responsible for paying its peak kilowatts times the applicable distribution service tariff in every month?

A. Yes.

Q. But the proposed tariff does not provide any detail regarding which costs are continuous, correct?

A. Correct.

Q. And the proposed tariff does not provide any detail identifying the incremental costs related to redundant service, correct?

A. Correct.

Q. Now, turning to your testimony, page 12.

A. Yes.

Q. Here, focusing on page 12, line 5. You state that Staff continues its beliefs regarding redundant service. Do you see that reference?

A. Yes.

Q. When you say "continues" here, are you referring to Staff's thoughts from the 2015 Staff Report?

A. Well, no, because the members of that -- members that contributed to that Staff Report are no longer here anymore so it's actually different Staff, but this Staff continues to believe that -- that there's a cost to redundant service and that cost is very similar to their primary service and that we are open up to debate whether it's an additional cost or whether it's a discounted cost and that's why we again would like to see some data -- data and some analysis about the cost of -- it's -- and it's all -- to be honest, it all depends on the customer, too, because if the customer isn't sitting next to a circuit that's convenient for redundant service, these costs it could be a premium service. If they are sitting back to back on two different circuits, it may not be a whole lot for the Company.

I think that's generally why in the past these have been done by service contracts because it's a customer-specific situation. Because not -- if you have -- if you have to drag a line all the way across half -- half a circuit, then it's going to be costly to maintain that line, keep that line going, when there is no other customers on it. For one customer, that could be very expensive.

At the same time, it may be not expensive if you are sitting next to two circuits back to back. And that's not impossible in a -- in the City of Dayton, that's highly likely. Out in the middle of nowhere, that's not likely.

So redundant service for customers could cost different -- different, and Staff doesn't really know without doing some type of analysis or them looking at their own analysis for us to review and evaluate whether those costs are premium or not. So at this point we know there is cost. It's not 0. Is it 100 percent? Is it 102 percent? Is it 98 percent? We can't tell you. But we know there's cost and it's closer to 100 percent than 0.

Q. What study have you done to determine the costs are closer to 100 percent than 0?

A. What study have I done?

Q. Yes.

A. It's just commonsense. If you have to run -- if you are running two lines, you are going to have costs associated with that. The reference in the Staff Report to the continuous is that there may be some parts of the cost -- some expenses that the Company incurs that are duplicative that we didn't want -- that we weren't sure about that may be duplicative that you -- that are either in kW or I don't think it's in kWh but it's probably in their demand but there is probably some duplicative costs. We really aren't sure.

There might also be some additional cost from redundant service that the Company hasn't anticipated and that they may actually be paying a premium -- I mean customers may actually be costing more for the redundant service than their primary service because of the nature of the redundant service is it's not near a circuit generally, and if it's not, then it's a lot of work to bring -- it's a lot of extra expenses and maintenance for the Company especially if it's only serving one customer. If it's only serving one customer, it's an expensive endeavor and that makes it a premium service and that's -- we still believe it's closer to 100 than it is to 0.

Q. Let's drill down into that a little bit. In your hypothetical you just described a situation where the redundant service customer was some distance away from the second line. But didn't we just discuss that the customer is responsible for paying the costs of the connection to the second line?

A. They are responsible for the capital

costs but not the ongoing O&M, and that ongoing O&M could be expensive depending on the miles of that line and depending on the nature of that line, you know, they have to do veg management on that line too and that's not something that that -- that other customers are benefiting from. A customer is benefiting from the maintenance and operation of that redundant line.

Q. What makes you think only one customer would benefit from the maintenance and operation of an entire distribution circuit?

A. No, no, no, no. No. The feeder coming off that circuit for your redundant line, when you pull -- when you are -- when you are asking for a redundant line, you are asking for two lines from two different circuits so you need to pull -- pull -- put poles in the ground, put lines across from that other circuit to get to your customer. And the ongoing cost of maintaining maintenance and -- and -- on those lines, well, they pay for the initial but they don't pay for the ongoing capital costs of that line. Your -- City of Dayton isn't paying for every pole that's replaced on that line of redundant service.

Q. Okay. Dayton Power and Light's distribution charges are intended to compensate it

for all costs incurred by the utility, correct?
A. No.
Q. I will rephrase the question.
Dayton Power and Light's distribution charges are intended to compensate the Company for all distribution costs incurred by the Company, correct?
A. All allowable distribution costs.
Q. Fair clarification. Some of those costs are allocated on a customer basis, correct?
A. Yes.
Q. So, for example, the cost of issuing a bill to the customer, that doesn't vary based on how much power the customer uses, correct?
A. Repeat that. I'm sorry.
Q. Certainly. The cost of issuing a bill to the customer does not vary based on how much power the customer uses, correct?
A. No. I disagree with that. The cost to the Company to maintain the billing for a large industrial, for instance, versus an average residential, a large industrial with multiple sites, with multiple -- it's much more complicated and much more expensive for the Company to do billing for, than an average residential. They are not all

similar. And each -- each industrial is not similar depending on their makeup and how many locations they have, they can -- that billing can be quite expensive and quite costly for the Company compared to the average residential. So the billing costs are not the same.

Q. Dayton Power and Light has allocated a portion of its total distribution costs on a customer basis, correct?

A. I believe so.

Q. Has Staff done any analysis to determine which of Dayton Power and Light's distribution costs are continuous?

A. Staff has not done an analysis, that's why you saw we were requesting such an analysis in the prior rate case.

Q. Sure. And the issue that I am trying to resolve is that Staff and the City of Dayton, among others, filed a Supplemental Stipulation which should have allowed us to drill down into these details. And is it your belief that Dayton Power and Light failed to perform such a study?

A. It is my belief they failed to perform such a study.

Q. And so the issue with your testimony that

I'm not quite following is where you say "Staff continues to believe." When you say "continues," where did Staff previously state its belief as to the costs of the second line?

A. In the -- in the last Staff Report, and we've also mentioned it in other -- in other EDUs' cases.

Q. Okay. So when you say "continues," you are referring to the language in -- in AES Exhibit 58, the 2015 Staff Report?

A. No, I'm not. I'm referring to -- I'm referring to Staff's view on redundant service as a whole. This isn't the only case we have had to deal with redundant service in. We've had other cases in which -- and we continue to believe there is a charge and the charge is real similar to their primary -- to their current charges, and until we see some type of study that says it's more or less, Staff believes there is a charge and that -- and that it shouldn't be zero.

Q. So it's your belief that Staff's position has changed from the 2015 Staff Report?

A. I don't believe the position has necessarily changed. I believe that the facts haven't allowed us to change. We still believe that there's a -- there's a cost to redundant service and that cost is -- is more likely than not similar to the cost of their primary service. Obviously they are not using energy when they are not using that secondary line so it's not the same cost but the cost -- we believe that there is. Now, like the Staff Report said, if the Company could provide evidence that it's a premium service or that -- they didn't. But...

Q.   And Staff did not conduct a cost-of-service study to determine the cost of redundant service either, correct?

A.   No.

Q.   Moving down that same page, line 13, Dayton Power and Light did not quantify the amount that it currently receives from redundant service, correct?

A.   No, they did not. I am not aware of it. Again, I didn't review that -- the accounting part, that mechanism of it to see if they included it or not or drilled down to it. That would have been probably Witness Snider's look at it. The different -- even if we did, my understanding is that OHA and Dayton are the majority of the redundant service customers. And the number -- whatever amount the remaining -- and I mean it's on one or two hands of customers paying redundant service, it probably wouldn't amount to much of a material...

Q. Well, you anticipated where I was going to go but just so the record is clear, Staff did not -- excuse me. You are not aware of Dayton Power and Light quantifying the amount of revenue it would potentially collect from redundant service customers if its proposal were approved?

A. That was not included. I am going to make an assumption that the handful that are paying redundant service that are not OHA or City of Dayton that -- I believe that probably is included but I couldn't tell you specifically where. That's a Rates and Analysis question.

Q. But you are not aware of Staff conducting that analysis either, correct?

A. Staff did not conduct that analysis.

Q. You are not providing a conclusion in your testimony on behalf of Staff as to how the Commission should address Dayton Power and Light's failure to provide a cost-of-service study, correct?

A. No. I am just responding to objections.

Q. Okay. And you are not providing a recommendation in this case as to whether Dayton

Power and Light should be permitted to implement the redundant service charge even though it failed to include the projected revenue from that charge in its revenue requirement, correct?

A. Correct.

MR. ALEXANDER: No additional questions, Mr. Smith. Thank you.

EXAMINER SCHABO: Thank you, Mr. Alexander.

IEU-Ohio?

MR. McKENNEY: Thank you, your Honor. IEU-Ohio is not going to have any questions for Mr. Smith.

EXAMINER SCHABO: Thank you.

OEG?

MS. COHN: No questions, your Honor.

EXAMINER SCHABO: OMAEG?

MS. BOJKO: No questions, your Honor. Thank you.

EXAMINER SCHABO: Kroger?

MS. WHITFIELD: No questions, your Honor. Thank you.

EXAMINER SCHABO: OPAE?

OHA?

UD?

Have I missed anyone?

Mr. Margard, would you have redirect for this witness?

MR. MARGARD: Once again, your Honor, I doubt it, but I would like a few minutes to confer, perhaps 5?

EXAMINER SCHABO: We can do that. It is 12:10. We will go off the record until 12:15.

MR. MARGARD: Thank you.

(Recess taken.)

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

Mr. Margard, do you have any redirect?

MR. MARGARD: Thank you, your Honor. I have no redirect for Mr. Smith, and I would respectfully renew my motion to admit Staff Exhibit No. 8.

EXAMINER SCHABO: Are there any objections to the admission of Staff Exhibit No. 8? Seeing none, it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SCHABO: Mr. Oliker, did you want to do anything with your exhibit?

MR. OLIKER: Thank you, your Honor. IGS would move Exhibit 4 into the record.

EXAMINER SCHABO: Are there any objections to the admission of Exhibit 4?

Seeing none, it will be admitted with the caveat I would like you to print out what that page looks like today and send that to the court reporter as a paper exhibit, please.

MR. OLIKER: Okay.

EXAMINER SCHABO: Thank you.

MR. OLIKER: By "paper" do you mean PDF?

EXAMINER SCHABO: That's fine. I mean even if it's a screenshot but I would like to make sure that tomorrow we don't change our web page and our exhibit disappears. So just capture what that web page looks like today so that we have it in the record, please.

MR. OLIKER: Okay. Sure thing, your Honor.

EXAMINER SCHABO: Thank you. So but, yes, IGS Exhibit No. 4 is admitted with that caveat.

(EXHIBIT ADMITTED INTO EVIDENCE.)

EXAMINER SCHABO: Off the record.

(Discussion off the record.)

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

All right. Thank you, Mr. Smith, for

your testimony. We will now take a lunch break until 1:30. When we come back, we will take testimony from IGS Witness White and then we will move on to Staff Witness Lipthratt. All right. Thank you very much. We will see you at 1:30. We are off the record.

(Thereupon, at 12:18 p.m., a lunch recess was taken.)

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Tuesday Afternoon Session,

February 1, 2022.

- - -

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

I believe our next witness is on behalf of IGS.

MR. BETTERTON: Yes, your Honor. IGS would like to call as our witness, Matthew White this afternoon.

EXAMINER WILLIAMS: Mr. White, I see you there. Can you take yourself off mute?

THE WITNESS: Yeah, I'm off mute.

EXAMINER WILLIAMS: Raise your right hand.

(Witness sworn.)

EXAMINER WILLIAMS: Thank you.

Please proceed.

MR. BETTERTON: Thank you very much, your Honor. I would like to have marked what was previously distributed as IGS Exhibit 1 and IGS Exhibit 1C which is the prefiled testimony of Matt White, both the public and confidential versions respectively. Those were both filed on August 25 of 2021, in Case No. 21-1651-EL-AIR.

EXAMINER WILLIAMS: Those are both so marked.

(EXHIBITS MARKED FOR IDENTIFICATION.)

- - -

MATTHEW WHITE

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

DIRECT EXAMINATION

By Mr. Betterton:

Q. Mr. White, please state your name and address for the record.

A. My name is Matthew White, and my address is 6100 Emerald Parkway, 43016.

Q. Do you have before you what has just been marked IGS Exhibit 1?

A. Yes.

Q. And can you please identify that document for the record?

A. Yeah. Give me a second. It's -- it's the direct testimony of Matthew White on behalf of Interstate Gas Supply, Inc.

Q. And was this document prepared by you or at your direction?

A. Yes.

Q. Have you reviewed this document prior to testifying today?

A. Yes.

Q. Do you have any corrections to the document based upon that review?

A. No.

Q. And if I were to ask you the same questions today, would you have the same answers?

A. Yes.

Q. And are the responses true and accurate to the best of your knowledge?

A. Yes.

MR. BETTERTON: Your Honors, I would respectfully move for the admission of IGS Exhibit 1 and 1C, subject to cross-examination.

EXAMINER WILLIAMS: Thank you, Mr. Betterton.

We will begin cross with OCC.

MR. FINNIGAN: No questions, your Honor.

EXAMINER WILLIAMS: Thank you.

Walmart?

MS. GRUNDMANN: No questions, your Honor.

EXAMINER WILLIAMS: Thank you.

IGS?

(Laughter.)

MR. BETTERTON: No questions for this

witness at this time, your Honor, but I appreciate the opportunity.

EXAMINER WILLIAMS: I'm going through my list.

Direct Energy?

MR. FYKES: No questions, your Honor.

EXAMINER WILLIAMS: One Energy?

Please proceed.

- - -

CROSS-EXAMINATION

By Mr. Borchers:

Q. Good afternoon, Mr. White. Good to see you.

A. Good to see you.

Q. I'm Dylan Borchers on behalf of One Energy Enterprises. Can you hear me okay?

A. Yes, I can.

Q. Great. I have just a few questions to clarify a couple of parts of your testimony. So do you have your testimony in front of you?

A. I do.

Q. Can you go to page 15, lines 11 through 17.

A. 11 through 17, yes. I'm there.

Q. And I'm looking at the second sentence that begins on line 12 and you refer to the calculation of monthly demand, coupled with substantial increases in demand charges. Do you see that?

A. Yes.

Q. And to clarify, are you meaning to communicate two distinct issues, one, how the demand charge has increased and, two, the -- strike that.

Is this meant to communicate two distinct issues, first, the calculation of the monthly billing demand and, second, the increase in demand charges?

MR. McKENNEY: I don't mean to interrupt but I believe we've lost Mr. Betterton.

EXAMINER WILLIAMS: Thank you for pointing that out.

MR. McKENNEY: I apologize, Dylan -- or Mr. Borchers.

MR. BORCHERS: Thank you. It will give me a chance to rephrase my question.

EXAMINER WILLIAMS: Let's go off the record.

(Discussion off the record.)

EXAMINER WILLIAMS: We'll go back on the record. We were off for just a few seconds while we confirmed Mr. Betterton does have a signal. He

hasn't missed any testimony.
Please proceed, Mr. Borchers.
Q. (By Mr. Borchers) Mr. White, let me know if you would like me to repeat the question.
A. Yeah. Can you please repeat the question?
Q. Yeah.
So again, I am looking at the second sentence and you make a reference to "The calculation of the monthly billing demand, coupled with substantial increases in demand charges." Do you see that?
A. Yes.
Q. And to clarify, do you mean to communicate two distinct issues, first, the calculation of the demand charges and, second, the substantial increase in demand charges that you take issue with?
A. Yeah. I'm talking about two different changes --
Q. Okay.
A. -- in the sentence.
Q. And is it -- is it your testimony that each of -- each of these issues on their own may discourage customers from implementing distributed

generation or is it the two issues combined?

MR. SHARKEY: I am going to object, your Honor. Grounds is friendly cross.

EXAMINER WILLIAMS: I am going to give a little bit of liberty here.

A. Could you repeat the question, please?

Q. Is it your testimony that each of their issues on their own may discourage customers from implementing distributed generation or do you believe it's the two issues combined?

A. I think both issues discourage distributed generation. When you combine them, they would discourage distributed generation even further.

Q. And looking at the last sentence of that section of your testimony that begins on line 15, you refer to "this incentive." Do you see that?

A. Yes.

Q. To clarify, what are you referring to when you say "this incentive"?

A. Give me a second so I can read the entire paragraph. I'm referring to the incentive of customers to reduce their peak consumption.

Q. All right. Thank you.

And moving to page 16 on -- of your testimony.

A. Yes.

Q. In lines 10 through 16, you provide examples of other tariffs or special rates to acknowledge the difference in cost to serve certain customers, correct?

A. Give me a second so I can read that paragraph.

Can you repeat the question, please?

Q. So in this portion of your testimony, you are providing examples of other tariffs or special rates to acknowledge the difference in cost to serve certain customers, correct?

A. Yes. I'm referring to examples where utilities in Ohio have implemented special rate structures that -- that recognize the fact that different types of customers may cause different costs based on their demand patterns.

Q. And there is a pilot for a distributed generation service tariff as part of a Stipulation approved in the recent AEP Ohio rate case, correct?

MR. SHARKEY: Objection, your Honor. It's continuing friendly cross.

EXAMINER WILLIAMS: Mr. Borchers, I will caution you. We don't need friendly cross. We've prevented that from other parties. So if you could tell me how this is not friendly cross, I will let you proceed. Otherwise, I am going to ask you to discontinue this line of questioning.

MR. BORCHERS: Yes, your Honor. I'm trying to clarify the scope of IGS's review and the examples that they have provided.

EXAMINER WILLIAMS: Those are described as part of the testimony.

MR. BORCHERS: I can ask a more narrow question.

EXAMINER WILLIAMS: If you -- yeah, I appreciate that. Please proceed.

Q. (By Mr. Borchers) So, Mr. White, in formulating your recommendations in your testimony, there may be other examples other than the tariffs or special rates that you highlighted in your testimony, correct?

MR. SHARKEY: Objection, your Honor. Friendly cross.

EXAMINER WILLIAMS: I am growing a bit impatient with this, but I will let you answer the question.

A. Yes. There could be other examples like in AEP, I believe, they do a distributed generation pilot that basically calculates the demand -- the charge for customers, the distribution charge for customers based on a 6 CP, seasonal peak demand.

MR. BORCHERS: I have no further questions.

EXAMINER WILLIAMS: Thank you, Mr. Borchers.

MR. BORCHERS: Thank you, your Honor.

EXAMINER WILLIAMS: Thank you.

City of Dayton?

MS. SIEWE: No questions, your Honor. Thank you.

EXAMINER WILLIAMS: IEU-Ohio?

MR. McKENNEY: Oh, maybe just one question, your Honor.

EXAMINER WILLIAMS: Please proceed.

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CROSS-EXAMINATION

By Mr. McKenney:

Q. Good afternoon, Mr. White. My name is Bryce McKenney. I am representing IEU-Ohio in this case. How are you?

A. Good.

Q. I am going to look at page 16 of your testimony.

A. Yes.

Q. On lines 10 through 12, you state, "For example, AES Ohio has a Maximum Charge Provision designed to help mitigate the impacts of the demand charges for low load factor customers served under the Secondary and Primary rate schedules." Did I read that correct?
A. Yes.
Q. The next sentence is "This rate acknowledges the steady, efficient energy usage of these customers"; is that correct?
A. Yes.
Q. Is it your testimony that low load factor customers have steady and efficient energy usage?
A. It's not specifically in my testimony that it says that but, yes, generally speaking, low load factor customers tend to have a lower per kWh cost to the system.
Q. Wouldn't it instead be true that high load factor customers tend to use energy more steadily and efficiently than low load factor customers?
A. I'm sorry. Did I say high load? Can you repeat the question again? I may have said -- what I was trying to say is, yes, high load factor customers tend to have high -- a lower per kWh cost to the

system. That's what I was --

MR. McKENNEY: Your Honor, I have no further questions.

Thank you, Mr. White.

EXAMINER WILLIAMS: Thank you, Mr. McKenney.

OEG?

MS. COHN: No questions, your Honor.

EXAMINER WILLIAMS: OMAEG?

MS. BOJKO: No questions, your Honor. Thank you.

EXAMINER WILLIAMS: Kroger?

MS. WHITFIELD: No questions, your Honor. Thank you.

EXAMINER WILLIAMS: OPAE?

OHA?

UD.

I'm going to circle back around because I skipped over the Company inadvertently, so I will turn to AES. Do you have any cross-examination?

MR. SHARKEY: Yes, your Honor.

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CROSS-EXAMINATION

By Mr. Sharkey:

Q. Mr. White, we have met a number of times before. As you know, my name is Jeff Sharkey, and I represent AES Ohio in this matter.

You are an attorney, correct?

A. Yes.

Q. Where did you go to law school?

A. William & Mary.

Q. And when did you graduate?

A. I graduated in '06 or '07, 2007.

Q. Okay. And you still have an active license to practice law, correct?

A. Yes.

Q. Okay. And your position at IGS is its Chief Legal Officer?

A. Executive Vice President and Chief Legal Officer is my position.

Q. Let me ask you a few questions about the uncollectible expense. You understand that AES Ohio is currently recovering a portion of its uncollectible expense through the SSO?

A. Can you repeat the question, please?

Q. Do you know whether AES Ohio is currently recovering uncollectible expense through its Standard Service Offer as a bypassable rate?

A. I believe currently they are.

Q. Okay. And Staff recommends that expense be recovered through base distribution rates?

A. Are you referring to a portion of my testimony? Can you point to that?

Q. No. I am just asking you if you know whether Staff makes a recommendation that it be recovered through base distribution rates. If you need to look at your testimony, that's fine.

A. Okay. But you are not referring to a specific portion of my testimony?

Q. Not now.

A. Okay. My understanding is that in the Staff Report, yes, they are recommending that the -- that charge is being recovered -- should be recovered through distribution rates.

Q. Okay. And is it your view that the uncollectible expense should continue to be collected as it is now, i.e., through the SSO?

A. It's my view that that expense should be collected through a non -- through a bypassable basis and charged directly to SSO customers.

Q. And you rely on principles of cost causation to reach that conclusion, correct?

A. I believe that that position is aligned with the principles of cost causation.

Q. Okay. So when a customer -- when an SSO customer has not paid their bill, that is the direct cause of the uncollectible expense, right?

A. Can you repeat the question, please?

Q. Yes. When an SSO customer has not paid their bill, that is the direct cause of the uncollectible expense being incurred, right?

A. Yes.

Q. Okay. And it's your view that there's nothing that a customer who has switched and is, for example, taking generation service from IGS, there is nothing that that customer has done to cause that uncollectible expense to be incurred, correct?

A. An SSO customer not paying the bill is not influenced by a customer taking CRES service.

Q. Similarly, the remaining CRES -- I'm sorry, the remaining SSO customers who are paying their bills didn't do anything to cause that other SSO customer not to pay his or her bill, correct?

A. Can you repeat the question, please?

Q. Sure. Similarly, the remaining SSO customers who are paying their bills didn't do anything to cause the other SSO customer not to pay his or her bill, correct?

A. Those remaining customers have caused the charges for uncollectible expense that are being associated with beyond collectible rate for SSO customers.

MR. SHARKEY: Karen, can you reread that question, please?

(Record read.)

MR. SHARKEY: I'm sorry. Can I get the answer too.

(Record read.)

Q. Let's follow up on this. Would you agree with me, Mr. White, that the person who doesn't pay his or her bill is the sole cost of -- is the sole cause of the cost of the uncollectible expense?

A. No.

Q. Do you have a copy of your deposition available to you, Mr. White?

A. Yes.

Q. Okay. Turn, if you would, to page 12, please. Tell me when you are there.

A. Give me a second.

Q. Okay.

MR. BETTERTON: Mr. Sharkey, is this PDF page 12 or the actual deposition page No. 12?

MR. SHARKEY: I am working from a paper copy and it's got 12 in the right-hand corner.

MR. BETTERTON: Okay. Just making sure.

Mine had a couple extra pages on the front.

Q. Are you there, Mr. White?

A. Yes.

Q. Okay. Line 24, I asked you the question:

"Sure. Isn't it also true that there is nothing that other SSO customers, the customers who are paying their bills, have done that caused the other SSO customer not to pay his or her bill?

"Answer: I would like to say that the SSO customer that did not pay his bill is the causer of the cost of uncollectible expense. It is the sole cause of the cost of uncollectible expense."

Did I read that correctly?

A. No.

Q. What did I misread?

A. I didn't say, "I would like to say." I said, "I would say."

Q. Other than that, did I read it correctly?

A. Yes.

Q. Let's go on and talk about switching fees. You understand this is a distribution rate case, correct?

A. Yes.

Q. You are not aware of any statute or rule that required AES Ohio to substantiate its CRES fees

in this case, correct?
A. Can you repeat the question, please?
Q. You are not aware of any statute or rule that requires AES Ohio to substantiate its CRES fees in this case, right?
A. There are statutes, rules, and general principles of ratemaking that require the utility to provide its fees and expenses in order to justify the rates being charged to customers.
Q. You're aware that the application in this case was filed pursuant to Chapter 4909, correct?
A. I don't have the statute in front of me so I don't know.
Q. So you don't know what statute it was filed pursuant to.
A. I know that there is a statute, but can you please cite to the specific -- do you have a copy of the specific statute? I don't know the statute off the top of my head.
Q. The question -- I am just testing your knowledge, Mr. White. The question is, do you know whether there is any specific statutory requirement that in a case like this, a distribution rate case, that the utility demonstrate the amount of its CRES fees is -- are reasonable and appropriate?

A. I know based on the law and the utility rules and general principles of ratemaking that to the extent that a utility is proposing a rate or a charge to a customer or any other entity, there needs to be a substantiation of the costs that is the basis for that charge.

Q. Do you know whether the CRES fees have been established in other cases?

MR. BETTERTON: Objection, your Honor.

EXAMINER WILLIAMS: Hold on.

MR. BETTERTON: This calls for a legal conclusion and is beyond the scope of this, what has or has not been addressed in other cases.

EXAMINER WILLIAMS: I am going to let him answer the question.

A. Can you repeat the question, please?

Q. Do you know whether AES Ohio's CRES fees have been substantiated or established in other cases?

A. I think, generally speaking, any fees or charges should be substantiated before they are applied to a customer.

Q. Not my question, Mr. White.

My question was, do you know whether AES Ohio's CRES fees have been established and substantiated in other cases?

A. I -- they have been established in other cases. Whether they've been substantiated, I --

Q. You are aware that AES -- sorry. I thought you were done. Go ahead.

A. I would say, as far as substantiated, I would not necessarily think that they have been substantiated, that's why I am recommending they not be charged as -- as they are.

Q. Okay. Did IGS participate in those other cases?

MR. BETTERTON: Objection to vagueness, your Honor. What -- specify what other cases?

EXAMINER WILLIAMS: Mr. Sharkey, do you want to lay a better foundation for that?

MR. SHARKEY: Sure. He said he was aware they were established in other cases.

Q. (By Mr. Sharkey) And those other cases to which you are referring, Mr. White, do you recall with more specificity what they are?

A. You would have to specify which case you are referring to. I know that all charges must be at least established in a case. I would not -- I would not say those charges have substantiated -- been substantiated in prior cases, but if you are referring to a specific case, would you be able to point that case to me?

Q. I'm asking you whether you are aware of which cases, if any, the CRES switching fees were established in.

A. Off the top of my head, I don't know the specific case, although I would imagine it was either an ESP or distribution case sometime ago. Is there a specific portion of your testimony -- of my testimony that you are referring this question to?

Q. No, I am not.

You are aware that AES Ohio charges a CRES $5 when a customer switches?

A. Yes.

Q. Do you know in what case that 5-dollar fee was established in?

A. Off the top of my head, I do not know the specific case.

Q. Do you know why that $5 is charged to a CRES and not to a customer?

A. I believe it was a result of a settlement, if my recollection is correct, there was no specific reason why that charge was charged to a CRES and not a customer.

Q. Do you know if the charge originally was charged to customers and was switched over so it was later charged to CRES?

A. Again, it was my understanding that the charge was a result of a black box settlement so I'm not sure why or when that was created or the reason behind it.

Q. Okay. Yeah. I certainly don't want to inquire into any settlement negotiations that occurred but, before that settlement, do you know if the 5-dollar fee was charged to the customer?

A. I believe, subject to check, that it was originally charged to the customer.

Q. Do you know, again not asking for a settlement position but a litigation position, do you know if CRES providers took a litigation position that that 5-dollar fee should be charged to them instead of to the customer?

MR. BETTERTON: Objection, again, your Honor. This is calling for the conclusion in another case that we haven't named.

EXAMINER WILLIAMS: Actually, he is just asking for IGS's position in earlier -- litigation position in an earlier case, and I am going to allow him to answer.

A. Can you repeat the question, please?

Q. Yeah. Do you know whether in the earlier case to which you referred, IGS or other CRES providers had a litigation position that that 5-dollar fee should be charged to the CRES provider and not to the customer?

A. You are asking -- can you please cite to a specific case -- at least the case that you are referring to?

Q. I am asking -- I'm asking you about your knowledge, so if you don't know, you don't know. If you --

A. I don't --

Q. -- do know, please tell me.

EXAMINER WILLIAMS: One at a time, please.

A. I don't have a knowledge of all other CRES providers and what their positions were. The only thing I do know is that that position -- that -- that charge was part of a black box settlement and specifically why it was switched from the customer to the CRES provider probably had a lot -- a lot to do with the nuances of that settlement and nuances of different positions of all the parties, including the various different -- many different CRES providers that may or may not have had the same position.

Q. Customers of a CRES have a right to switch back to the utility at any time, right?

A. No.

Q. Can you refer back to your deposition.

A. Sure.

Q. Page 13, line 14. Are you there?

A. Yes.

Q. I asked you the question: "Do you know whether customers of competitive providers have a right to switch to SSO service?

"Answer: Yes. They do have a right to switch."

Did I read that correctly?

A. Yes, and that is a different question than you just asked me.

Q. To the best of your knowledge, AES Ohio cannot decline to provide service to a customer who wants to return to the SSO, right?

A. Again, that's a different question than you just asked me.

Q. Yes, it is. Can you answer?

A. Can you repeat the question?

Q. Sure. To the best of your knowledge, AES Ohio cannot refuse to provide service to a customer who wants to return to the SSO, right?

A. Yes.
Q. Okay. And if a CRES drops a customer, that customer may have to revert to the SSO, correct?
A. It would depend on the circumstances of the drop.
Q. But it's certainly a possibility, right?
A. If a customer leaves a CRES, there's a lot of different circumstances behind why, and one of those could be that they are going back to the SSO.
Q. CRES providers have defaulted on their obligations to serve customers, correct?
A. Can you specify in Dayton or a specific utility or?
Q. In Ohio.
A. Ohio? Off the top of my head, I am not aware of any. They may have. I know it has happened. It's on a very rare occasion that it does.
Q. And when a customer reverts back to the SSO, the utility typically won't know why they did so, right?
A. That may not be entirely true.
Q. At least frequently, a utility won't know why the customer was reverting to the SSO, correct?
A. It depends on the switch, for example, if the -- they are leaving because the supplier is

exiting, they would have more knowledge. If there's a -- there's a sale of the customer to another supplier, maybe communications with the utility. So again, it just depends on the transaction between the customer.

Q. But it is true that the utility will not always know why it is the customer is returning to SSO service, right?

A. They may -- they may not know the specific reasons the customer has.

MR. SHARKEY: Thank you, Mr. White.

Your Honor, I have no further questions.

EXAMINER WILLIAMS: Thank you, Mr. Sharkey.

Staff?

MS. BAIR: Yes, thank you, your Honor. I have a few questions.

EXAMINER WILLIAMS: Please proceed, Ms. Bair.

MS. BAIR: Thank you.

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CROSS-EXAMINATION

By Ms. Bair:

Q. Mr. White, are you familiar with the partial payment priority in the Ohio Administrative

Code?

A. I know what the partial payment priority is. I am not actually sure that's in the code.

Q. And what's your understanding of where -- if a customer makes a partial payment, isn't it correct that the CRES is the first to get payment?

A. Just to qualify, all the utilities are different in the State of Ohio, how they treat partial payment. But from a high level, subject to check, I believe that in Dayton, that's your question, the CRES provider does receive its payment first when there is a partial payment for its -- for the customer -- on the customer's bill.

Q. Thank you.

Is it correct that CRES charges in AES's territory stay on the bill for three months? After the customer's left or not paid?

A. Can you repeat the question, please?

Q. Is it correct that the CRES charges remain on the customer's bill for three months?

A. I don't know the specific amount of time the CRES charges remain on the customer's bill specifically.

Q. I have a question about PIPP. You are familiar with PIPP, correct?

A. Yes, from a high level, I'm aware of the program.

Q. And are the charges for PIPP recovered through the Universal Service Fund?

A. Without knowing off the top of my head, I don't know if the charges for PIPP are.

Q. Okay. And do CRES providers have the ability to mitigate the risk, and the risk I am talking about is a customer's nonpayment, so do CRES providers have the ability to mitigate that risk by including in the contract with the customer that they will be dropped for nonpayment with notice?

A. Can you repeat the question, please?

Q. Do CRES providers have the ability to mitigate the risk, a customer's nonpayment, by including a provision in their contract that the contract will be canceled for nonpayment?

A. CRES providers could put that in their contract, yes.

Q. I'm sorry. Could put that in their contract; is that what you said?

A. Yes.

Q. Okay. Do CRES providers have the ability to charge rates that can be higher than the SSO?

A. CRES providers' rates are not regulated, so they could enter into an arm's-length transaction with the customer.

Q. So, in other words --

A. Higher or lower.

Q. Sorry. So --

A. They could be higher or lower.

Q. They could be higher?

A. Yes.

MS. BAIR: Thank you. I don't have any more questions.

EXAMINER WILLIAMS: Thank you, Ms. Bair.

Mr. Betterton, do you want a few seconds -- or a few minutes to go over and see if you have redirect?

MR. BETTERTON: If you wouldn't mind, your Honor, if I could take the magical 3-minute break to discuss with my client.

EXAMINER WILLIAMS: Everybody stay on camera except for Mr. Betterton, and we'll see everybody back on the record at 2:11.

We are off the record.

(Discussion off the record.)

EXAMINER WILLIAMS: We're back on the record.

Redirect, Mr. Betterton?

MR. BETTERTON: Yes, your Honor, if you would not mind.

EXAMINER WILLIAMS: Of course.

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REDIRECT EXAMINATION

By Mr. Betterton:

Q. Mr. White, do you remember the discussion you had with Mr. Sharkey regarding the principles of cost causation?

A. Yes.

Q. Are there -- in that discussion you discussed, you know, cost causer. Are there other principles of cost causation?

A. Well, there are other principles that -- by which I am basing my recommendation to charge SSO customers the cost of uncollectible expense and OCC and PUCO assessment. Those are the principles that Ohio, as a competitive market, and it has a pro-competitive policy to ensure that products and services provided to customers are through the competitive market.

And the other principle is subsidization and the principle not to subsidize one customer class at the expense of another customer class such that one set of customer classes like CRES provider customers are paying the cost to administer service to SSO customers and that's an important principle that I am basing my testimony on that CRES provider customers should not be paying for the cost directly attributable to what SSO customers are paying or being caused by SSO customers.

Q. And do you remember further in that conversation regarding specifically the uncollectible expense and the cost-causer discussion you had with Mr. Sharkey?

A. Yes.

Q. And he asked you some questions regarding, you know, whether there was a sole cost causer of that. Does that -- so the questions were specifically regarding the sole cost causer in the SSO uncollectible expense. Does that same principle apply to a shopping customer as well?

A. So, no, and here's why. When we have a customer that doesn't pay and we are not able to collect on, you are not able to invoice that customer period because that customer is not paying. So we accrue an expense across our all -- all of our -- all of our customers. We have to put that expense in the -- in the prices that we charge our customers.

So in order to price a product

appropriately for a customer, we can't just price in the raw cost of the commodity. There are other costs including the cost of the percentage of uncollectible expense that IGS incurs that has to be baked into our pricing. So to the extent that maybe one customer that we have doesn't pay, that customer is the causer of that expense, but we are also in a situation where in order for us to recover any of those costs, we have to bake that into the pricing for all of our customers. And that's why we are asking that the SSO have to do something similar and should be doing something similar for their customers.

Q. Thank you, Mr. White.

And lastly, do you recall your conversation at the end there with Ms. Bair regarding payment priorities?

A. Yes.

Q. Throughout that discussion you discussed some state policy and other regulatory rules regarding the payment -- payment priority in the state. Are there any other policies or rules in the state regarding the payment priority that would affect CRES customers?

A. Yeah. So, first, just because the payment priority, the partial payment goes to a CRES first, for the most part that's not the most important thing because generally speaking there is not partial payments. The customer just doesn't pay the bill period, so it doesn't really matter whether there is a partial payment. That is a really small minority of -- of uncollectible situations.

But probably more important is the fact that AES has the power to disconnect a customer, and a CRES provider cannot disconnect a customer, and that is why we said originally the payment priority was set up as such because the CRES provider when they don't have -- the customer doesn't pay, there is really nothing they can do other than send that customer back to the utility. When a utility -- when -- but, however, when a customer doesn't pay the utility's charges, AES can turn off their electricity and they often do which -- which increases the likelihood that customer is going to pay.

So there was a reason why the payment priority was set up and it was largely because Dayton doesn't have a purchase or receivables like other utilities. And given that Dayton does not have a purchase or receivables, and CRES providers have no power to, you know, terminate the service for the customer, then the payment priority would be that

CRES providers' charges get remitted to the CRES provider first when there is partial payment, then after that, the distribution charges.

MR. BETTERTON: Thank you, your Honor. No further redirect.

EXAMINER WILLIAMS: Any of the parties feel the need for recross?

I am not seeing anyone. So, with that, we will excuse the witness and take up the issue of exhibits.

EXAMINER SCHABO: Ms. Bair, you raised your hand.

MS. BAIR: Never mind. Thank you.

EXAMINER WILLIAMS: Thank you, Mr. White. You are excused. Appreciate your time this afternoon.

THE WITNESS: Thank you.

MR. BETTERTON: Thank you, your Honor. At this time, I would like to move for the admission of both IGS's Exhibit 1 and IGS Exhibit 1C.

EXAMINER WILLIAMS: Any objections?

Those are both admitted.

(EXHIBITS ADMITTED INTO EVIDENCE.)

EXAMINER WILLIAMS: Any other exhibits for the Bench's consideration?

Okay. Our last scheduled witness then will be a Staff witness. Ms. Bair.

MS. BAIR: Thank you, your Honor. We call David Lipthratt as the next Staff witness and last Staff witness.

MR. SCHMIDT: Mr. Lipthratt, you have been promoted. If you can enable your audio and video.

THE WITNESS: Can you hear me?

EXAMINER WILLIAMS: We can hear you and see you now as well. Can you see and hear me as well, sir?

THE WITNESS: Yes, sir.

EXAMINER WILLIAMS: Can you raise your right hand.

(Witness sworn.)

EXAMINER WILLIAMS: Thank you.

Please proceed, Ms. Bair.

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DAVID LIPTHRATT

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

DIRECT EXAMINATION

By Ms. Bair:

Q. Could you please state your name for the record.

A. David Lipthratt.

Q. Who is your employer and what is your position?

A. The Public Utilities Commission of Ohio. I am the Chief of Accounting and Finance.

Q. Thank you.

And do you have before you what has been marked as Staff Exhibit 9, the direct testimony of David Lipthratt?

A. I do.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. And could you tell me what that document is.

A. It's my testimony in response to objections to the Staff Report.

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

A. It was.

Q. Do you have any changes, corrections, additions that you would like to make to your testimony at this time?

A. I do not.

Q. If I were to ask you the questions contained in Staff Exhibit 9 today, would your answers be the same?

A. They would.

Q. Thank you.

And I would also like to ask you about the Staff Report that has been marked as Staff Exhibit 1. Could you please tell me what your role was in the development of that report.

A. Purely as the case manager, issuing assignments, setting expectations, ensuring that we filed the Staff Report timely, developing and coordinating the Staff Report, and then coordinating the response and addressing of objections.

MS. BAIR: Thank you, your Honor. I would like to move Staff Exhibit 9 and Staff Exhibit 1 into evidence, subject to cross-examination.

EXAMINER WILLIAMS: Thank you, Ms. Bair.

We will begin cross-examination with the Company.

MR. SHARKEY: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Sharkey:

Q. Mr. Lipthratt, I am going to go through your objections, largely sequentially, and I am not going to hit every one of them -- sorry, I said "objections." Your responses to objections and your testimony. So I want to start with AES Ohio Objection 1 on page 3.

A. Okay.

Q. And if I understand your testimony here, you've made a few corrections to the Staff's recommendations and you have a new range of roughly 64.2 million to 69.8 million, correct?

A. Yes, sir.

Q. Okay. So that's roughly $3 million or so higher than Staff's prior recommended range?

A. That's correct.

Q. Okay. Do you know which change or changes drove that $3 million? If there was one that was large or small, do you know?

A. I think, in general, some of the labor-related expenses. Going -- going off memory.

Q. Okay. Let me ask you then about AES Ohio Objection 3 which you discuss on page 5 of your testimony. And as I understand here, you are recommending that AES Ohio not be permitted to capitalize any portions of a bonus that are based upon financial metrics on a going-forward basis that can't capitalize those items, right?

A. That's correct.
Q. Okay. Let me ask you some questions about that. You understand that AES Ohio competes not only with utilities but with other entities as well for its employees, correct?
A. That's correct.
Q. Okay. And AES Ohio needs to pay those employees a market rate?
A. Most likely to -- to obtain and retain those employees, they would but there's multiple ways of doing that.
Q. Do you know -- let me step back.
From -- from an employee's perspective, that employee is going to compare not just the salary that a particular employer pays but also the opportunities for bonuses and the other nonfinancial benefits that would include health care, time off, things like that, looking at the entire package?
A. I mean, I can't speculate on behalf of any particular employee. Some employees may select to take a job based off location, the type of work, the culture. There's multiple factors that drive an employee's desire to, you know, be employed with any certain entity.
Q. Fair enough. I certainly agree with

that.

In terms of, I want to talk about total compensation provided by AES Ohio, and I am going -- what I am referring to is the salary, the bonus, and any other benefits such as health care and the like. And in preparing the Staff Report, did the Staff come across any facts that suggest that AES Ohio's total compensation, as I just defined it, was greater than what competitors would provide to their employees in the market? Let me clarify. I used the word "competitors." Competitors in the labor market so they're competing to hire employees.

A. We did not do that analysis.

Q. Okay. Do you know whether the amount of bonus that AES Ohio pays to its employees is a material amount?

A. At one time I had this value captured to memory, but I am -- the number itself is escaping me, but I would think it would be a material amount.

Q. It's not like Christmas, sometimes employers pass out a check for $50, and then everybody is like thank you very much, but it doesn't really make a difference. It's a material amount to an employee as you recall.

A. Maybe not to an employee and I would

assume also an employee but I was more so speaking to the utility.

Q. Okay. So then the bonus, there's a short-term compensation bonus that AES Ohio provides, correct?

A. That's correct.

Q. And all full-time nonunion employees are eligible for that bonus, right?

A. I'm not -- I was not part of the labor team in the review of that and labor bonuses, so I'm hesitant to speak to that. I am not entirely sure.

Q. Okay. Well, you do know there is a short-term compensation bonus and a long-term compensation bonus, and the short-term compensation bonus is at least more broadly available to AES Ohio employees.

A. I am aware of that, yes, sir.

Q. Okay. Long-term compensation bonus is principally available to executive level, higher up employees, correct?

A. That's my understanding.

Q. Okay. And part of the short-term compensation bonus is things such as achieving safety and operational goals, correct?

A. That is correct.

Q. Okay. And you have no objection to including that portion of the bonus in -- in capital, being capitalized on a going-forward basis, correct?

A. Correct.

Q. It's the portion that's financially related, right?

A. That is correct.

Q. And then do you know whether it's common practice for private employers to pay bonuses based upon achieving financial metrics?

A. I'm not sure if I am in a position to say if it's common practice. I do not perform studies across private sector employment to see how common that is.

Q. And your concern is that -- let me step back.

You would agree with me that employees, if they are paid a bonus based on achieving financial metrics, would have an incentive to look for ways to reduce expenses for AES Ohio, correct?

A. I think that's correct.

Q. Okay. And short term, in between rate cases, those cost savings from reduced expenses would -- would enure to the shareholders, right?

A. Generally speaking, yes.

Q. Okay. But then longer term, if those expense reductions are things that are sustained reductions and expenses, that reduction would enure to customers when a utility files a rate case, right?

A. Not necessarily. And specifically to that response, I mean, from your Green Growth Strategic Goals and Weights, you know, I am cautious not to get into confidential information but I'm not sure that would be passed on to AES Ohio's customers.

Q. I think the exhibit you are referring to, Mr. Lipthratt, is confidential, and so I urge caution. If we need to talk about that exhibit, we can do a confidential session. I don't think we have to. And I don't object to your -- to the limited reference you made to it. But what I want to focus on is cost reductions. So if an employee finds a way to, on a sustained basis, reduce a cost, that is a good thing for customers, right?

A. Not necessarily. If the incentives are greater than the cost reduction, then, no, it would not be beneficial to ratepayers. And, you know, in this case the Company has not provided any evidence, any study, any analysis that there are -- that the cost savings actually outweighed the capitalized financial incentives or financial incentives for --

in its entirety for that matter, O&M or capitalized.
Q. Well, if a -- if an employee is -- let's compare two employees. One employee who is paid strictly on an hourly basis and another employee is paid strictly based upon incentives to achieve financial objectives, does that make sense to you?
A. It does.
Q. Okay. The employee who is paid purely on the basis of achieving financial objectives has a greater personal incentive to try to find ways to reduce costs than an employee who is paid purely on an hourly basis, right?
A. I disagree. I get no salary bonuses, but I am quite driven to be very successful and find operational savings and efficiencies, so I'm not prepared to make that general broad statement because it doesn't apply to me obviously.
Q. Well, I guess what I am asking about is the personal financial interests, and if you focus on the employee's personal financial interests, the one who has -- who is paid by bonus for achieving financial metrics would have a greater personal financial interest than one who is paid based upon salary, correct?
A. Maybe if you look in the short term

perhaps, but if an employee is driven and wants to be promoted, maybe they are a go-getter and they want to -- they want to set themselves apart. I don't think that necessarily results in one employee being more -- more of an asset because they are trying to cut costs. I think it's driven by the type of employee in many respects.

Q. There are employees who are driven by their pay, correct?

A. Yeah, but those employees are paid to do a job and the utility has obligations to perform certain services and meet certain reliability standards to provide distribution service and those employees are expected to do the job to get that done.

Q. Do you have a background in employee benefits?

A. Can you be more specific? I budgeted for -- you need to be more specific.

Q. Sure. I guess strike that question, and I will ask it much better. You are aware that private employers have people who work for them who design their salary and bonus structures in a way that they believe would be both motivating to their employees to do their jobs, right?

A. I realize there are experts in the field that do that work and if that work is done sufficiently and adequately, then any of those bonuses would be self-funding, if you will. Any of the -- any of the cost savings that come from that could be driven -- could be put forth to pay for those incentives rather than putting it on the back of the shareholders because if those employees do not meet those metrics, then the utility gets the -- they get to keep those costs, and it's inappropriate. Therefore, it should be borne by shareholders and not ratepayers.

Q. Suppose AES -- let's step back. Are you familiar with the most recent -- step back.

You are familiar with Ms. Crocker's testimony regarding the -- this area as to labor expenses?

A. Generally, yes.

Q. Okay. And you are aware she concluded that 75 percent of the STC that AES Ohio paid to its employees related to financial incentives for the test year?

A. Can you reask the question, please?

Q. Sure. I kind of butchered, didn't I?

You are aware that she concluded that

75 percent of the STC that AES Ohio paid to its employees during the test year related to financial metrics and should not be included in allowable expenses?

A. Yes, sir.

Q. Okay. If AES Ohio were to reduce the bonus that it pays to its employees by 75 percent, do you think AES Ohio would have trouble attracting employees?

A. I can't speak to that. I have no knowledge.

Q. Let me ask you about vegetation management which is addressed in your responses to AES Ohio Objections 12 and 13. AES Ohio sought $30 million to be recovered through rates to compensate it for providing vegetation management, right?

A. That's correct.

Q. And Staff recommended $17.5 million to be included in rates and an additional deferral capped at 5 million?

A. Yes, sir.

Q. Okay. So that's a total of 22.5 million?

A. Yes, sir, up to.

Q. Up to, thank you. You were involved in the 2015 rate case, correct?

A. Yes, sir.

Q. Okay. Do you recall how much AES Ohio was recovering for tree trimming -- strike that.

Do you recall the amount included in rates and the deferral amounts that were included in the Stipulation in that case for tree trimming and vegetation management?

A. Yeah. The baseline amount was 15.7, and the deferral amount I believe was 5 million.

Q. Okay. So roughly 20.7 million?

A. Yes, sir.

Q. Okay. And so you're proposing an increase from that 2015 case of $2 million --

A. That is correct.

Q. Roughly? You agree that it's very important AES Ohio manage the vegetation on its distribution lines?

A. Yes, sir.

Q. And AES Ohio needs to do that so it can provide safe and reliable service?

A. Generally speaking, yes.

Q. Okay. Do you know what has happened to costs to clear distribution lines between the time the 2015 -- between the test year and the 2015 rate case and the test year in this case?

A. Could you be more specific? "Costs" is generally kind of broad. Is there something you are referring to?

Q. Well, do you know if the expense of hiring contractors to perform vegetation management has increased significantly between the test year from the 2015 rate case to the test year in this case?

A. I know a few years back there was a -- employees to perform that work was scarce. There was an increase in costs. How that trended over time, I can't speak to. But I know at one point in time there was an increase in labor costs. I don't know if that's leveled out or not.

Q. And you're familiar with the fact that AES Ohio's case was filed in -- the application was filed, I believe, in October of 2020?

A. Sounds right.

Q. I believe it's right. It's at least in the fall of 2020.

A. I'll take your word for it.

Q. Okay. It may have been November as I think about it, so I don't want to misstate it. So let's just leave it at late 2020. So you recall that during 2020, COVID was -- was a significant problem in this country?

A. That is correct.

Q. And the filing of that case precedes the widespread availability of vaccines in this country, correct?

A. That's correct.

Q. Okay. Are you aware that there has been, since the filing of that rate case, a sort of great labor shortage in this country?

A. Generally speaking, yes.

Q. Okay. And that's had the effect of driving up labor-related expenses, correct?

A. I would assume so, but for a utility that's setting base rates on a going-forward basis, I think there needs to be some sort of normalization of that not knowing the next time the Company is going to come in with a rate case application. I believe it to be inappropriate to just go with straight labor dollars within the test year without -- I'm going off without the application before me, I believe there needs -- there would need to be some analysis to normalize COVID-19 impacts.

Q. As we sit here today, we don't know whether that great labor shortage that we were talking about is an item that's going to be short term or permanent, right?

A. I think that's fair.

Q. Okay. You're a certified public accountant, correct?

A. Yes, sir.

Q. You've never been responsible for managing a vegetation management program for a utility, correct?

A. No, sir.

Q. And you say on page 6, line 4, of your testimony, "Staff's view is that the Company did not support its claim that $30 million was necessary." What do you mean by that?

A. The Rates and Analysis Department, in coordination with SMED, reviewed the application, reviewed the data that was provided to us, issued the discovery requests, and Staff's analysis was that the Company's application was not supported for the increase that was -- it was requesting. As you spoke to earlier, the utility got quite an increase out of its last rate case for vegetation management. In Staff's view it was not supported. The data didn't underline -- did not support the request and, you know, Staff does need to be concerned with particularly funding vegetation management as it relates to developing a revenue requirement because it's an easy program for a utility to cut and those dollars go right to the bottom line.

So to build in, you know, an extraordinarily high amount in the base rate proceeding that results in a higher revenue requirement, that really there is no obligation of the utility to perform those services day one after the Opinion and Order. In fact, that's probably why a rider is more appropriate for this kind of program because we can true it up and audit it on an annual basis. Once rates are set here, there's no guarantee those -- spending at those levels will continue.

Q. Did you attempt to verify whether the Company was spending the amounts allocated to vegetation management in the 2015 rate case?

A. We did.

Q. And was the Company doing so?

A. Yes, it was.

Q. Do you know if the Company currently is -- strike that.

Do you know whether the Company is performing the amount of vegetation management that was included in its Commission-approved vegetation management plan?

A. That is something that my department doesn't review. That's more of a SMED oversight so I cannot speak to it.

Q. Okay. Whether it's your area of responsibility, did anybody from SMED tell you it was true?

A. I have not had that conversation, so I do not know.

Q. Do you know whether AES Ohio's reliability metrics have been growing worse over time?

A. Reliability, CAIDI, SAIFI, is not my area. Craig Smith would have been a better witness for you for this cross.

Q. Fair enough, but you are speaking about these amounts. I am just going to ask you. Do you know whether AES Ohio has failed Commission reliability metrics for 2019 and '20?

A. I do not know.

Q. Let me move on to AES Ohio Objection 14, the amortization period. AES Ohio suggested an amortization period of three years, correct?

A. That's correct.

Q. And you recommended five?

A. Yes, sir.

Q. Okay. It's your conclusion that it's more likely to be five years until AES's Ohio next rate case?

A. I think a better way to say it is that we felt it was more appropriate for ratepayers. If the utility sets an amortization period at three years and stays out any time longer than that, they get to retain those dollars and -- that ratepayers have paid. However, if we set it at five years and the Company comes in any time less than that, at any point in time less than that, the unamortized balance would still be picked up and recovered in the next base rate case. So the Company would be made whole if you got a longer amortization period compared to your next rate case. However, if you set it too short of an amortization period, customers will not be made whole.

Q. Do you have available to you AES Ohio Exhibit 75?

A. Yes, sir. One moment.

MS. BAIR: What's the name of that exhibit, Mr. Sharkey?

MR. SHARKEY: It's the Stipulation in the Smart Grid, SEET, MFA global cases.

MS. BAIR: Thank you.

MR. SHARKEY: You're welcome.

A. Opening it up now. I have it up.

Q. Okay. You are aware that AES Ohio entered into this Stipulation, correct?

A. Yes, sir.

Q. And it resolves a variety -- a number of proceedings for AES Ohio including its Smart Grid plan and some SEET cases and others, right?

A. I'm generally aware of it, yes.

Q. Okay. Turn, if you would, to page 6.

A. I'm there.

Q. Before I ask you questions, you are familiar with the fact that the Company -- AES Ohio has something called an Infrastructure Investment Rider?

A. Yes, sir.

Q. And that's how it recovers its investments and expenses associated with implementing Smart Grid?

A. Generally, yes, that's my understanding.

Q. Okay. And page 6, at the top, subparagraph C says, "If DP&L does not file a distribution rate case by January 1, 2025, then the recovery of the costs associated with this

Stipulation shall cease recovery and the IIR shall be set to zero." Did I read that correctly?

A. You did.

Q. Okay. And you would agree that January 1, 2025, is less than three years away?

A. Yes, but as I stated before, if -- there is no guarantee -- you entered this Stipulation, but it does not guarantee a rate case. There is consequences if you don't file one but there is not a guarantee you will file a rate case. And as I stated earlier, the Company will be made whole if the amortization period is less than -- you know, is greater than the time it takes for you to file your next base rate case. The Company is still made whole. Anything shorter than that, customers will not -- will not be made whole.

And, furthermore, there are legal issues as far as a rate case freeze that's still pending, so to speak to a potential 2025 rate case, there is no certainty there. There is no guarantee, so Staff feels that a five-year amortization period is reasonable, prudent, and appropriate.

Q. Let me ask you about flow-through taxes which is AES Ohio Objection 16.

A. Yes, sir.

Q. I believe your testimony described you made a number of adjustments to taxes based upon the flow-through effects of some of the changes that the Staff made, correct?

A. Yes, sir.

Q. Okay. And if the Commission were to agree with AES Ohio, then -- on other issues such as -- well, let me step back. On any other issues, there might not be additional flow-through tax effects, right?

A. I would agree to that, yes.

Q. Okay. Let me skip ahead to AES Ohio Objection 26. AES Ohio had recommended demand-side management programs be implemented, correct?

A. Yes, sir.

Q. And you state in line 11 that Staff avers that the distribution rate case is not the appropriate vehicle to address DSM, correct?

A. Yes, sir.

Q. What's the appropriate vehicle?

A. Anything -- anything that's allowable for this type of mechanism other than a distribution rate case.

Q. Do you have anything more specific than that?

A. I do not.
Q. Let's move on to AES Ohio Exhibit No. 29 dealing with accruals. You're familiar with the difference between cash basis accounting and accrual basis accounting, correct?
A. Yes, sir.
Q. And under a cash basis, if a company receives a service in one month and pays for the service in the next month, the company would record the service as an expense in the month paid, correct?
A. That is correct.
Q. Okay. And utilities don't typically use a cash basis accounting, right?
A. That's generally correct, yes.
Q. Most businesses don't use a cash basis accounting, at least most large businesses, right?
A. I'm not going to speak to that. Yeah, I don't know.
Q. Okay. In any event, an accrual basis in the example that I gave, the Company would record the expense -- records an expense, the service it received, in the month that it received the service, correct?
A. That is correct.
Q. Okay. And it's true, isn't it, that the

Company doesn't always know what it's going to be billed for a particular service sometimes for a period of weeks or longer, it may need to estimate what its expenses are in a month.

A. That would be the accrual, yes.

Q. Okay. So just so we are clear, if, for example, there is an accounting firm who was performing work for a utility during a given month, the utility might need to estimate what the bill is it's going to get from that accounting firm when it's closing its books on that month before it has even seen the bill, that's how it accrues that expense.

A. Yes, sir.

Q. Okay. So working on an accrual basis, we have the service is provided in one month and billed in another, it can be complicated for the utility because it needs to estimate the value of the services that it received and the bills it is going to be receiving, right?

A. They may need to estimate. Sometimes there is purchase orders. There is quotes, RFPs. There is other mechanism to give a good estimate, a good estimated value. It's not just -- yes, generally speaking but there's often ways that that estimate is pretty firm; but, yes, generally I agree with you.

Q. Yeah. Sometimes they know exactly how much it's going to be because they have had a contract signed with somebody, and so they know what it's going to be, but at other times it might not be so certain.

A. That's true, yes, sir.

Q. Okay. So do you know whether it is common for entities who are on an accrual basis to have a materiality threshold before they will accrue an expense?

A. Yes. That's -- that's my understanding.

Q. That is common, correct?

A. As far as I am aware generally, that's common.

Q. Okay. So just to be sure we are on the same page, if there -- if the materiality threshold was $10,000, they would treat the item as a utility -- as an entity would, that was on a cash basis accounting and record it as an expense in the month it gets billed and paid, right?

A. Yes.

Q. Okay. And that's permissible under Generally Accepted Accounting Principles, correct?

A. I would say so. Yes, I will leave it at that.

Q. Okay. And use an example of $10,000. Do you know whether that's AES Ohio's actual materiality threshold?

A. Sounds familiar. I believe it to be.

Q. Okay. You are aware that AES Ohio had a test year of June 1, 2020, through May 31 of 2021?

A. Yes, sir.

Q. Okay. And the first three of those months, June, July, and August, were based on actuals?

A. Yes, sir.

Q. And as I understand it, AES Ohio received some goods and services before the test period that fell below the materiality threshold that were then paid during the test -- during those three months of actuals of the test year, right?

A. That is correct.

Q. Okay. And AES Ohio sought to include those expenses in its recoverable test year expenses?

A. Yes, sir.

Q. And Staff recommended against the inclusion of those amounts because the services were performed before the test year?

A. That is correct.

Q. Okay. So then let me skip to the last month of the actuals for the test year, so it's August. And do you know whether in August, AES Ohio received services that -- that it didn't pay for until the next month?

A. I mean, commonsense would lead you to believe that's the case because each month you're going to have -- that generally happens on a month-to-month basis.

Q. Okay. Do you know whether AES Ohio has included those expenses in its request in this case to recover its allowable expenses?

A. So your question is the last -- the third month of -- the first three months of actuals that is -- the month of August services were rendered, costs, however, were paid in the fourth month, and you are asking me if that's included in the revenue -- in the Company's application?

Q. Exactly, yes. Do you know?

A. Actually I don't. This subject has been quite clear -- excuse me, unclear as to how the forecast relates to the accrual process. That's one of the reasons for the recommendation. The -- the data and the information that we received from the Company has been unclear, so I'm afraid I cannot answer that question. I'm not sure if it's in the forecast. I don't know.

Q. You would agree that the Company would be entitled to recover those amounts under your methodology as attached to your expense?

A. It depends. It depends on how the revenue -- what the test year includes. If you have three months of actual, what does the forecast look like? Does it account for the beginning transactions versus the end-of-the-year transactions? It's not -- it really depends on -- what you are trying to do is you are trying to get 12 months of test year expenses. So the scenario that you've talked about here, under some situations it might be acceptable, and others it would not in large part because you have got to understand how the forecast ties to the -- to the three months' actuals or whatever actual months that you are using. In this case it was unclear to Staff.

Q. Well, let's just clarify. Setting aside the forecasts and where they are, you would agree that those expenses, meaning services provided in August, paid for in the following month, should be recoverable somewhere either as a part of actuals or as a part of the forecast, they should be recoverable somehow.

A. Yes, as long as it's not being double recovered and that's the issue. There's no -- there's no clear record -- the application is not clear, the Data Request has not been clear, is there double recovery? Are you accounting for it twice? Yeah, I would agree that those expenses should be recoverable. However, the Company has not shown is there double recovery?

Q. Well, did you read the testimony -- I guess I know you did. You read the testimony of Patrick Donlon, right?

A. I did.

Q. Okay. Did you see that he said that to determine the amounts, i.e., services provided in August, and then paid for in subsequent months, that AES Ohio would have to hire additional staff to attempt to determine what those amounts are?

A. You know, I read that statement. However, that's on the Company. The Company bears the burden of proof. It's the Company's records. It's the Company's data. It's not our fault if you are not able to provide clear and accurate data.

You claim that it would cost more. Well, then you -- then the Company needs to identify a way to better track or maintain these records. Just because it would cost more does not mean that's appropriate that we just turn our heads to it and allow for potential double recovery.

Q. Well, let's -- do you know if the Company had to incur additional costs to identify those amounts to prepare this case, do you know whether those additional costs would be recoverable in -- as rate case expense?

A. I'm not sure without looking at it. I mean, I would have to look at the facts and circumstances, what kind of staff augmentation occurred. I would have to look at the details of it.

Q. Okay. Typically, the Company's able to incur, through rate case expense, the additional expenditures that it needs to make to prepare a rate case, correct?

A. Yes.

Q. And that's lawyers, experts, accountants, people it needs to engage directly and prepare the case?

A. That's correct.

Q. Okay. Are you aware of any facts that would suggest the -- that there is a material difference between the expenditures in -- sorry. Let me strike that and start over.

Are you aware of any facts that would suggest that the value of the -- the services the Company received but did not pay for in May exceeded the value of the services the Company received and did not pay for in August?

A. I don't have that level of detail right before me. I can't answer that question.

Q. Did the Staff attempt to determine the answer to that question? Do you know?

A. Could be because I'm partially struggling with the question. Do you mind restating the question?

Q. We've talked about the fact there are -- again, I am talking about amounts that are below the materiality threshold.

A. Okay.

Q. And we talked about the fact there was some in, for example, services in May that were performed and then paid for in June. And you've recommended the disallowance of those, correct?

A. Yes, sir.

Q. And then we've also talked about the ones that -- the fact that in August there were similarly some services that were performed and weren't paid until subsequent months, and what I am asking you is whether the Staff studied or compared those two amounts.

A. We attempted to, not quite as you described but we did -- this goes back to my previous question. So when the -- when you move away from actuals, right, the three -- three -- first three months of actuals, the remainder is forecast. Staff did an extensive analysis. We have a revenue -- a budget team that strongly looks at -- thoroughly looks at the forecast. That team works very closely with our expense team. Staff did a very thorough -- we did our due diligence to try -- to get to that question and understand how is it potentially being picked up down the road, if you will, in the forecast.

And out of that study -- or, out of that analysis, it was inconclusive given the responses we got from the Data Requests, given the Company's application on how the -- we got conflicting information at times, so Staff did the best it could. There was not adequate evidence put forth by the Company to make clear that, you know, it's being picked up appropriately, so we made the adjustments that we did.

Q. Did you engage in an audit of the Company's accrual policy?

A. I think so, yes.

Q. Okay. Who --

A. If you don't mind -- I'm sorry. I apologize. "Audit" is kind of a strong word. That would -- I hesitate. "Audit" can mean a number of different things. Can you maybe -- I don't want to use the word "audit."

Q. Well, what word would you use?

A. Did we review?

Q. Okay. You reviewed the Company's accrual policies?

A. I did. We did.

Q. And did you send the Company Data Requests to make sure its accrual policy was -- to test whether items were being accrued appropriately?

A. We did.

Q. Okay. And what did you find?

A. It was inconclusive as I stated in my testimony. That -- again, that's why we made the recommendation.

You touched on, earlier, materialities. Staff did not take issue with the materiality. The Company's data was not sufficient to show that the accruals were reversed, and actuals were recorded. There was conflicting information. I speak to it in my testimony. We did our due diligence. Unfortunately, the Company's application and data was not -- was not clear, and it was not supporting your application.

Based upon Commission precedent, Staff, you know, reviewed standards. You know, costs that are incurred in the test year are recoverable as long as they're prudent and reasonable. If they were -- if they were incurred outside the test year, they are not appropriate for recovery. And your accrual process and the data that you provided unfortunately did not support that -- those were being removed from the test year.

MR. SHARKEY: Your Honor?

EXAMINER WILLIAMS: Yes, Mr. Sharkey.

MR. SHARKEY: Can I have some time to talk to co-counsel and my client? And given the breadth of Mr. Lipthratt's testimony, can I get 10 minutes?

EXAMINER WILLIAMS: We will take our afternoon break now. I will give you 9. It's 3:06. We will come back on the record at 3:15.

MR. SHARKEY: Thank you, your Honor.

EXAMINER WILLIAMS: We are off the record.

(Recess taken.)

EXAMINER WILLIAMS: Okay. Let's go back on.

Mr. Sharkey, you have further cross?

MR. SHARKEY: I do. Thank you, your Honor.

Q. (By Mr. Sharkey) Mr. Lipthratt, can you tell me approximately how many members of the Commission Staff worked on the Staff Report?

A. On the Staff Report? This is a very unexpected question. Sorry. 20 to 30 members of Staff across, you know, different departments.

Q. Okay. Do you have any idea how many months Staff worked on the Staff Report?

A. Probably -- generally it takes us about five months to get a Staff Report out. I think we were a little late on this one, so five to six months going off memory.

Q. Okay. And do you have even a general idea of how many hours that Staff would have worked on the Staff Report?

A. Too many if you ask me. But honestly I don't have the number of hours.

Q. Okay. Do you know how many Data Requests the Staff issued?

A. We've -- we started working other rate cases since then; but, you know, generally, going off memory, I think there was well over 100 at the end -- at the end of Staff's investigation. I mean, I am going off memory. And again, I want to emphasize I am working other rate cases. I thought we ended up somewhere around 120, 130 approximately.

Q. And the Company produced extensive documentation in response to those Staff Data Requests?

A. Yes, sir.

Q. Go back to the accrual policy. Did the -- did Staff issue any Data Requests on specific out-of-period invoices over $10,000 to test the validity of the Company's accrual policy?

A. Yes, sir. I believe we did. In fact, we had -- we had a -- at least one meeting with the Company and maybe more so. I know I had numerous conversations with the -- with the Company about this issue to try to make sure we were understanding the data we were getting and to -- and to understand it. So yes, we did -- we -- we put a number of hours, a number of conversations into that.

Q. Okay. Were any of those Data Requests as to those specific invoices included in the disallowance?

A. Most -- I don't want to speak. I'm not sure. I can't speak with certainty.

MR. SHARKEY: Okay. Thank you, Mr. Lipthratt.

And, your Honor, I have no further questions.

EXAMINER WILLIAMS: Thank you, Mr. Sharkey.

Next we will hear from OCC.

MR. FINNIGAN: Thank you, your Honor.

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CROSS-EXAMINATION

By Mr. Finnigan:

Q. Good afternoon, Mr. Lipthratt. My name is John Finnigan. I am with OCC. I have a couple of areas of questioning for you today. The areas I would like to talk about with you have to do with incentive compensation and storm costs. Let's start out with incentive compensation.

And before we dive into that though, I would like to know a little bit about how you organize your team that handled this rate case. And you mentioned that you're a case manager; is that the person that's in charge of the overall Staff effort to respond to the rate case filing?

MS. BAIR: Your Honor, I object.

EXAMINER WILLIAMS: Basis?

MS. BAIR: I think there were three or four questions in there. I just -- I'm not sure what the question is.

EXAMINER WILLIAMS: Okay. Mr. Finnegan, can you break that into smaller bites, please?

Q. (By Mr. Finnigan) Sir, you mentioned you are the case manager for this rate case?

A. Yes, sir.

Q. And what does that role entail?

A. So coordinating with the Company prior to the filing of the application, logistics, setting up our Data Requests Outlook folder, if you will, with the appropriate contacts, reviewing the application, making sure that all areas are assigned out to the appropriate teams, making sure that we're staying on task in regards to meeting deadlines and getting the Staff Report out generally in about five months, identifying areas where there's perhaps overlap with other teams and making sure we are having those coordinated discussions, helping Staff with policy calls, direction, or advice when they need it as far as guidance, and then developing the Staff Report, pulling all the pieces, parts together, developing it, getting it reviewed, getting it filed, and then coordinating the settlement talks, the response to objections, and the hearing process.

Q. And as the case manager, are you the one who is ultimately responsible for all of those things you just listed?

A. Yes, I believe so.

Q. And of the other Staff witnesses who have testified in this case, which of them are on your team and report to you in your role as case manager?

A. Give me one moment to think through. There's two members -- two members of my division that report up through -- up to me, Jason Mumma and Matt Snider. Krystina Schaefer is a chief in a different division. Dorothy Bremer is a manager in a different division. And Craig Smith -- I misspoke. There are three members that report up to me. Joe Buckley is the third.

And then going back, Craig Smith is a manager in a separate -- with SMED, a different department. And Nicci Crocker actually reports to Dorothy. She is in a different division as well.

Q. For purposes of the rate case, do they all work for you on your team in preparing the Staff Report?

A. They work for the department and the agency as a whole. We work as a team, a collective team. I am there to provide guidance. I do set assignments and help out where I can, but they don't work for me. I don't like that term. But we work together. We work collaboratively. For example, Craig Smith is an entirely different department. We just work collaboratively to make sure we get out a Staff Report and a Staff position.

Q. And do you review and edit the Staff Report before it becomes finalized?

A. I do.

Q. And is that all sections of the report?

A. Yes, sir.

Q. Do you also work with them in developing their testimony that was filed in this case?

A. More -- yes. Generally speaking, I make sure that -- I work with our internal -- our attorneys to make sure all objections are being responded to. I coordinate that to make sure that if there is areas of overlap, that we are discussing that. We are reviewing that. I sit in on a lot of mock hearings. I try to give guidance where, you know, I think it's needed so I work with our Staff members on their testimony.

Q. And that includes editing and commenting on their testimony before it becomes finalized?

A. Yes, sir.

Q. Okay. Thank you.

And now let's turn to incentive compensation. Mr. Lipthratt, do you still have the Staff Report available to you?

A. Yes, sir.

Q. Could you please turn to page 10.

A. I'm there.

Q. Now I would like to draw your attention to the section just above the "Depreciation" in the middle of the page, and it's the heading just above that that says "Capitalization of Earnings-Based Incentive Compensation." Do you see that?

A. Yes, sir.

Q. Okay. And what it says there is that "Staff recommends that starting with the Commission's Opinion and Order in this case and going forward, the Company exclude from base rates all capitalized earnings-based incentive compensation as shareholders and not ratepayers should fund earnings-based incentives." Have I read that correctly?

A. Yes, sir.

Q. Mr. Lipthratt, what's the policy reason for why the Commission excludes these earnings-based incentives from rates?

A. The policy reasons in our -- there is a couple of reasons. One, you know, Staff looks at Commission precedent and you can go back to an old FirstEnergy rate case, 7551-EL-AIR. A FirstEnergy rate case where the Commission ruled that, you know, these financial-based incentive compensations should be -- are more appropriate to be borne by ratepayers. You know, there is the potential for double recovery. In some situations, depending on how they are structured, for example, earnings per share, you know, incentives based off earnings per share and, you know, those are actually more -- you know recovery -- generally speaking, stock performance that's based off earnings per share is something that's captured through the return on equity. There should not be an expense component in addition to that because it could result in double recovery.

As I -- you know, the cross I, you know, I just spoke with Mr. Sharkey about, you know, if -- if those financial incentives are not paid, the

Company retains it. They get to keep it. There's no -- you know, but if it's not paid, there is no credit to ratepayers. You know, you could structure the program, the incentive comp so that if it's achieved, it pays for -- excuse me. Let me restart. If the -- if the savings are achieved, it could structure the compensation program. There's a number of reasons why Staff has -- has put forth that policy.

Q. But, in any event, this has been a long-standing policy of the Commission, hasn't it?

A. Generally speaking, yes. You know, we've mainly -- to my knowledge we've been -- we've been working hard to get this in place in rates mainly on the labor side for numerous years. Lessons learned, you know, going back five, six, seven years we made a collective effort. We realize there's -- these type of compensation embedded into capitalized projects. So we have been when -- we have been trying to get -- to get this policy implemented on the capital -- capital side as well.

Q. And, Mr. Lipthratt, to put this in a nutshell, would it be fair to say that the reason the Commission doesn't allow recovery of this earnings-based incentive compensation payments is because they -- they tend to benefit shareholders more than ratepayers?

MR. SHARKEY: I am going to object. This is friendly cross.

EXAMINER WILLIAMS: I will allow him to answer the question.

A. I think that's -- yes, I would agree.

Q. Now, you were asked by the Company's counsel, you know, isn't there a risk that the Company cannot attract and retain talent if they don't get full recovery of their incentive compensation. Do you recall those questions?

A. Yes, sir.

Q. Now, wouldn't the simple fix for that be to make all of their incentive compensation tied to safety metrics?

A. That's one way, yes, sir.

Q. Okay. And that way there would be no disallowance and the Company wouldn't have any worries about attracting and retaining talent, would they?

A. I would agree, yes, sir.

Q. Then do you recall some questions about don't customers benefit when employees are motivated to cut costs?

A. I recall, yes, sir.

Q. Now, couldn't that go to an extreme situation where an employee is incented because of earnings-based incentive compensation to cut costs too far such that it might impair reliability? That wouldn't have benefit to customers, would it?

MR. SHARKEY: I am going to object again. I believe this is just ongoing friendly cross.

EXAMINER WILLIAMS: You are right, Mr. Sharkey.

Mr. Finnigan, if you could ask questions on cross that are not friendly to the witness. Staff can do redirect if these issues need to be addressed by Staff.

Q. (By Mr. Finnigan) Sir, are there some instances where incentive compensation could create a misalignment of incentives between the shareholders and the ratepayers?

MR. SHARKEY: Objection, your Honor, just friendly cross continuing.

EXAMINER WILLIAMS: Mr. Finnigan, last question on this issue.

MR. FINNIGAN: I'm sorry, your Honor. Are you allowing that question to stand?

EXAMINER WILLIAMS: I will allow that

last question, yes.

A. Would you restate the question again or restate?

Q. Yes. So, Mr. Lipthratt, isn't there a risk that this earnings-based incentive compensation can create a misalignment of incentives between shareholders and ratepayers?

A. Yes. I think there's very much the potential for that. I kind of spoke earlier about vegetation management. You know, one easy way to drive up profits is to cut vegetation management. That would definitely po -- you know, with all else being equal, that could definitely drive up your profits. That could really bump up some incentive compensation but is that best for the Company's reliability for the customers?

You know, there are SEET standards as well, you know. There is a limit on how much a Company should be profitable. And if those incentive programs are mis-structured, it could actually keep a company out from filing a rate case.

So, yeah, there is the potential that there -- for there to be those type of consequences.

Q. Now I would like to direct your attention to the adjustment for incentive compensation in this case. Do you recall an objection to the Staff Report filed by OCC in the nature or relating to incentive compensation?

A. Yes, sir.

Q. Was it your understanding that the nature of OCC's objection was that an adjustment should be made to take the incentive compensation out of -- out of operating expenses and out of base rates or capitalized items in this case?

A. Yes, sir.

Q. And the adjustment was made to take it out of operating expenses; is that correct?

A. Yes, sir.

Q. That was supported by Ms. Crocker?

A. Yes, sir.

Q. And she was reporting to you on your team and your role as case manager, so you were aware she was doing that, and you supported it, I take it?

A. Yes, sir.

Q. But it was not done in base rates; is that correct?

A. Yes, sir.

Q. And why the difference in treatment between operating income and base rates?

A. Staff did consider making that

recommendation. Unlike labor where you have test year data where you can more easily identify what the value is of that capitalization, capitalized incentives, to go back and look at date certain and try to, you know, identify the full amount as of date certain that's recorded was quite challenging. I did not want to put Staff in a position where we were just -- if we were going to put forth the recommendation, we wanted it to be as accurate as possible. You know, and we had difficulty in identifying the recorded values on the Company's books.

But, furthermore, we were trying to be fair. We have stipulated with other utilities to make this adjustment going forward and working with other utilities we do recognize there are challenges for the companies' accounting systems to get this in place.

So it was really Staff trying to be fair and reasonable why we made that recommendation so that, you know, give the Company some time to prepare for, and again, we didn't -- because of the data and we didn't have the value to recommend, so we thought it was a fair compromise.

Q. Well, so why did they need time to

prepare for it? You testified earlier there was a long-standing precedent going back to an old FirstEnergy case where this earnings-based incentive compensation is not included in capitalized items. So if it is such a longstanding precedent, it's been around for a long time. What kind of preparation did Dayton Power and Light need for that?

A. Well, the -- AES Ohio, there has not been a Commission order that has spoken to this issue as far the capitalization -- capital side. So they are still recording these cap -- they are still embedding this in their capital cost. Their systems are set up to accommodate that.

I do know from working with other utilities there is a bit of work that goes into adjusting and modifying their accounting systems to basically identify and pull out -- either pull this cost out or to credit it to customers through another mechanism. And so, you know, from prior experience I know it's not just a flip of a switch and they can -- you know, they can have it eliminated. There is some work. There's some programming that needs to go into it. There's just again some manhours that need to go into making this happen.

Q. So it sounds like you are saying their IT systems weren't set up such to differentiate between the earnings-based incentive compensation that was included in these capitalized items.

A. I can't speak to that. I do not have knowledge of that. Again, Staff did not have the value and having worked with other utilities and the challenges, Staff was trying to be fair and reasonable and recommend it to be on a going-forward basis.

Q. Well, yeah. I am just trying to understand what is it that you say that the Company needed time to prepare for or adjust to.

A. That -- I apologize if I misspoke. That's an assumption on my part based upon experiences I've had with other utilities that it -- it was -- you know, it's doable, but it takes a little bit of work to get this system -- this in place. And again, that's why we made that recommendation.

Q. Okay. And to get the system in place, are you talking about their accounting software system?

A. Generally speaking, yes.

Q. And so it has to be a system that will identify with enough particularity how much of a cost in a base rate item includes this earnings-based incentive compensation. That's the level of granularity that you need here; is that what you are saying?

A. Yes, sir. One -- one, to identify it, and then, two, the recording of the -- of the expense or the expenditure. Some utilities have found it more feasible to rather than adjusting their accounting system is to identify an amount that Staff agrees or has verified and then crediting it back to customers say through a DCI or a DIR, a capital investment rider. They have found it easier to just credit that value back through some other rider or mechanism than to -- than to take the effort to actually change their accounting system.

Q. Doesn't Dayton -- doesn't AES Ohio have the burden of proof in this case?

A. Yes, sir, they do.

Q. So even though they bear the burden of proof, because their accounting systems couldn't identify the earnings-based incentive compensation and these capital items with enough granularity, your recommendation is to let them recover it anyway because they don't have enough detail to identify what needs to be taken out?

A. Again, you know -- you know, for the reasons I stated, you know, prior experiences with other utilities and everything I spoke to about the effort, the fact that Staff couldn't come up with a good number, we thought this was a fair -- a fair recommendation. If the Commission wants to, you know, you know, recommend that the full recorded earnings-based cap -- incentives be removed, that's the Commission's decision. This was Staff's recommendation based upon what we thought was fair.

Q. In your view would it be a reasonable outcome if the Commission did take that position?

A. Can you reask your question, please?

Q. Sure. You said that, at least as I understand your testimony, that, you know, what you are making in this Staff Report was your recommendation but that you leave it up to the Commission to make the ultimate decision. And I am just asking in your personal view, would it be a reasonable outcome if the Commission decided to exclude the earnings-based incentive compensation that's included in the capitalized item?

A. You know, for reasons I have stated in previous questions of why Staff does not support these type of incentives, you know, I think that would be -- I think that would be reasonable.

Q. Okay. Now, let me turn your attention to storm costs. And there was an objection that OCC raised to the Staff Report. It was OCC Objection No. 5 dealing with capitalized storm expense. Do you recall that?

A. Yes, sir.

Q. And this was also dealt with in Mr. Willis's testimony, one of the OCC witnesses. Did you review his testimony?

A. Yes, sir, I did.

Q. Now, do you recall that he recommended an adjustment of 16.8 million to remove certain administrative and general overheads and O&M expenses and cash bonuses and meals and picnics and parties that should not be included within the rate base of recovery for storm costs? Do you recall that?

A. I note that he testified to that, yes, sir.

Q. Okay. Now, do you have your testimony handy?

A. Yes, sir.

Q. Okay. Could -- let's see, could you please turn to page 21 of your testimony.

A. I'm there.

Q. Now, this is where you speak to this OCC Objection No. 5; is that right?

A. Yes, sir.

Q. Okay. Now, I want to read you from your answer beginning at page -- or line 16, you say that "OCC witness Willis recommends removing operation and maintenance expenses, cash bonuses, meals, picnics, and parties. Staff in its investigation found no such evidence of these types of expenses being capitalized." Have I read that correctly?

A. Yes.

Q. Now, when you go and perform your review, you cannot go and examine every single transaction that the Company includes in its rate base request; is that correct?

A. That's correct. We perform sampling.

Q. Just because of the nature of -- or the volume of the transactions involved, it's just too overwhelming. There are too many individual items to examine the whole thing and no one would have enough time to do that so that's why you do a sampling rather than a full review; is that right? It's a resource issue.

A. I'm sorry. Yes, sir.

Q. Okay. And given the fact that Staff did not find any evidence of this in its sampling doesn't mean that it didn't occur. It could just be that in the sample that you tested there was no indication of that in those sampled items; isn't that fair?

A. There is that possibility, yes, sir.

Q. Now, I would like to turn your attention to Mr. Willis's testimony and this is OCC Exhibit 3. Were you given by your attorney the other exhibits that were going to be used in this rate hearing?

A. Yes, sir. If you give me one moment here, I will pull it up.

Q. Okay.

A. Actually, unfortunately I do not have OCC's exhibits but I can pull Mr. Willis's testimony off of Docketing.

Q. That would be fine with me if it's acceptable to others.

MR. FINNIGAN: Your Honor, is that okay if Mr. Lipthratt pulls it from the Docketing system?

EXAMINER WILLIAMS: That's fine with me.

MR. FINNIGAN: Thank you, your Honor.

Q. (By Mr. Finnigan) Mr. Lipthratt, this was filed on, I believe, August 25, if that helps you locate it.

MS. BAIR: I also e-mailed it to you,

David.

THE WITNESS: I shut my e-mail down so there was no distractions. I am on Docketing. It should just be a minute. I apologize.

MS. BAIR: Okay.

EXAMINER WILLIAMS: Let's go off the record.

(Discussion off the record.)

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

Q. OCC responses -- I'm sorry.

EXAMINER WILLIAMS: Back on the record.

Q. (By Mr. Finnigan) So back on the record, Mr. Lipthratt, do you have before you Mr. Willis's testimony that was filed on August 25 in this case?

A. Yes, sir.

Q. Okay. Thank you. And then, Mr. Lipthratt, I would ask that you refer to an attachment and the easiest way to find it would be to scroll all the way to the back of his testimony and then start scrolling forward and this is Attachment C.

MS. BAIR: That's entitled the "Plant In Service Adjustment."

MR. FINNIGAN: Yes, sir [sic]. That's

correct.

Q. Are you there?

A. Yes, sir, I'm there.

Q. Okay. And just for the record, Mr. Lipthratt, are you -- are you looking at an attachment that's labeled Attachment WRW Attachment C to Mr. Willis's testimony? It's one page and it's labeled "Plant In Service Adjustment."

A. Yes, sir, I am. I'm here.

Q. And is that in the nature of an Excel spreadsheet?

A. It appears to be so.

Q. Okay. Now, Mr. Willis explains this in his testimony, but can you see the column that he assembled there of different storm dates and then corresponding Oracle account information for those different storm days?

A. Yes, sir.

Q. And then also do you see the corresponding SAP capital storm number?

A. Yes, sir.

Q. What is your understanding of the Oracle and SAP accounting systems? Are these accounting systems that Dayton Power and Light uses to track all their operating expenses and capital items?

A. Yes, sir, but there was a migration from one system to the other I want to say around 2019 approximately. I don't want to comment on if it went in Oracle to SAP or SAP to Oracle. I just don't recall; but, yes, it is a system they use to record and to record their expenses.

Q. Okay. And what you're saying it appears to be borne out by there's some overlap between the Oracle and the SAP items but then there is -- somewhere there's only SAP and there's others where there's only Oracle. So that would appear to indicate the migration that you are talking about; is that correct?

A. Yes, sir. As you indicated, it appears that Oracle was the previous system, and they've moved to SAP so, yes.

Q. Okay. And then for those two columns, in some cases there's an item number that's recorded in both of those columns but there's an item number for each storm in at least one or the other; isn't that correct?

A. I'm sorry, sir. When you say "an item number," are you -- are you -- are you speaking to like the storm number or -- is that what you are referring to?

Q. Well, it may be the storm number, yes, I wasn't sure what that entry meant under the Oracle column or the SAP column. Is that what you would call a storm number? Is that an identifying number for the storm?

A. My assumption is that those are -- so major event days, storm recovery -- there's a -- minor storms are built into base rates. Major storms are, you know, either attached to a rider, there is a baseline built into base rates, and they have, you know, each of those major storms have identifying numbers associated with them. And my assumption is these are major -- major event day storms.

Q. Okay. That's what those numbers indicate is that's the identifier for that particular storm of that date; is that right then?

A. That would -- I would believe so.

Q. Okay. And then you see in the lower left-hand corner of that document there's an interrogatory number, OCC 5th Set INT 1 Attachment 1?

A. I'm sorry, sir. Where did you say that was?

Q. I'm sorry. I said lower right. I meant lower left.

A. Yes, sir.

Q. Lower left corner where it says "OCC 5th Set INT 1 Attachment 1."
A. Yes, sir.
Q. Okay. Is it your -- do you have an understanding that that's how parties exchange information in this case that when OCC wants information from the Company, it will send them a Data Request like this with this sort of numbering system?
A. Yes, sir.
Q. Okay. Now, going through this Excel spreadsheet, do you see where Mr. Willis made adjustments to remove certain items from the plant in-service and capitalized costs?
A. Yes, sir.
Q. Okay. And then he describes the adjustments in the far right-hand side of the spreadsheet; is that right?
A. Yes, sir.
Q. Okay. Now, looking through those items in that far right-hand column, what is the basic test for when something should be capitalized and something should be expensed?
A. It's the nature of the -- it's the nature of the spend, if you will. If it's -- you know, you

are referring to the Uniform System of Accounts, they give guidance on what should be capitalized, what should be expensed. Generally speaking, O&M -- or operation and maintenance expense is that kind of ongoing routine. I like to describe it as like your oil change to keep your car running, but the purchase of the car is the capitalized expense. So it could be quite complicated on what should be treated as capital versus O&M.

Q. Okay. And it's just kind of a rough rule of thumb that expenses are generally considered consumable-type items or things that are expended in a short amount of time as compared to long-life items like buildings and transformers and poles and things like that?

A. I probably would not agree to that statement. The reason for that is, so assume an entity is building a building. Building a building, constructing a building. You know, there are some items that you would generally -- that you could generally see as part of O&M. You know, labor is a good example. You could see labor in O&M, but you also see labor that was used to develop or construct that building, you know, get that asset up and running. You know, computers are -- well, I hesitate to get too deep in the weeds but there are a number of expense-type items that would be appropriate during the course of capitalization under certain -- certain situations. So the definition you use for like consumables or short term, it -- it is appropriate to see those in capitalized costs under the right circumstances, the right situations.

Q. Okay. And the situation we are talking about, that would be when they are part of -- part of some -- an integral part of some long-lived asset like a building we were talking about.

A. Can you restate your question, please?

Q. Yes. So we are talking about the distinction between capital items and expense items. And in the example that we were discussing, constructing a building, there might be certain circumstances where it would be appropriate to include, for example, labor as part of the capital expense if it's an integral part of that capital project, namely a building.

A. Yes, yes. I would generally agree to that.

Q. Okay. Now, you have done reviews of the Company's Storm Cost Rider.

A. Yes, sir.

Q. And that's only intended to recover O&M items; is that correct?

A. I am trying to recall if there is capital included in the storm rider. Cases are blurring for me right now. I honestly -- I hesitate to answer off of memory. I'm pausing a little bit. I am questioning my memory, if you will. But definitely O&M but I don't recall if there is any capital in that.

Q. Okay.

A. In the rider.

Q. Now, do you recall in some of the Storm Cost Rider cases, you have excluded things like meals that weren't associated with travel for storm response?

A. Yes, sir, we have.

Q. Okay. Now, looking back to Attachment C, a number of the things that Mr. Willis proposes to exclude would be meals. That's applicable to every item. You see that?

A. But there is a distinction there. You know, Staff's policy is if an employee is on travel status, you know, and in those situations meals could be appropriate. Oftentimes what we've seen with meals -- and I am not necessarily speaking to AES

Ohio but across the board is that there would be gatherings, meetings, team meetings that will be done, held, held and then meals provided. And there have been situations like that where Staff has kicked out meals. Just because you see meals, I am not comfortable saying it should be immediately excluded. You kind of have to look at what's going on there, what's -- what -- look at the details of that and what went around that if you will.

Q. Okay. And you mentioned that you've excluded this from some of the Storm Cost Rider cases. So talk for a little bit about what are the criteria under which you would say it should be recoverable and under what criteria should it not be recoverable.

A. So, for example, we've allowed it when an employee is on travel status. There are overnight. They are away from the office. They are doing some type of related work associated to the rider mechanism, the storm rider in this case. And in that case, Staff would likely view it to be appropriate.

There are situations as well where, particularly during storm restoration events, rather than employees -- the workers dispersing and trying to get meals and, you know, things of that nature, what they'll do they will bring them all into a centralized location and keep them there. They are required to stay there so that -- to maximize efficiency, use of time, to really minimize the storm restoration time. They will require those employees to be -- and these are usually -- these are -- these are multi-long days, if you will, a lot of overtime. They will provide meals to groups -- to groups and then they stay there and continue to perform their storm restoration efforts. We --

Q. Depending on the circumstances, meals might be something that are allowable, but in other circumstances they might not be.

A. Yes, sir.

Q. And it's up to the Company to carry the burden of proof to establish that the circumstances of the meals make it recoverable.

A. Yes, sir.

Q. Now, you talked about meals in the context of the Storm Cost Rider. But here the Company is trying to include meals in these capitalized items. Don't they more appropriately belong in the Storm Cost Rider if they are allowed to be recovered at all?

A. Not necessarily. Oftentimes there is an allocation or a split, if you will, between your normal O&M that would be recovered through the rider or capital costs. You know, there -- you know, poles and things of that nature, depending on the nature of the storm and the damage it caused, there could be damage to capitalized assets that would then need to be capitalized as part of its restoration efforts.

Q. Okay. And then when something is capitalized, that means the Company earns a return on the investment; is that right?

A. Yes, sir.

Q. And that's something that the ratepayers have to pay?

A. Yes, sir.

Q. And then here, what the Company has included is things like picnics and parties and they are asking to get a return on that investment from the ratepayers, right?

A. So in the course of our plant investigation as part of the rate case, we did not see picnics or parties. However, I have seen those -- I have seen transactions recorded with that description through the Company's storm filing, and we definitely investigated that. The descriptor is very not descriptive. It's a poor descriptor. They are not picnics and parties. They are almost like meals and some travel-type stuff.

And from my knowledge of working with the Company, from what I have been told from the Company in working their storm riders they have gone in with their -- their appropriate IT people and the like to change those -- those descriptors because they -- they are just misleading. They are not picnics and parties. And through the course of the rider, the storm rider, we have gotten invoice support and we have gotten other levels of support that has shown to Staff these are not picnics and these are not parties. They are generally legitimate expenses that were just poorly named.

Q. Okay. Now, Mr. Lipthratt, you mentioned earlier that because of resource limitations you had only been able to sample some of the storm cost transactions; is that right?

A. That would be correct, yes, sir.

Q. And, you know, given this work that Mr. Willis did to obtain this information from the Company in response to Data Requests, do you have any -- any basis to question the work he did to indicate these items that may be questionable for recovery?

A. So one comment is administrative and general. If I am understanding Mr. Willis's testimony, if I am understanding it correctly, his view is that under no circumstance should administrative and general overheads be appropriate. I would disagree with that. As I stated in my testimony, there are other items like O&M, for example, should not be capitalized.

I don't have the data. Unfortunately Mr. -- this attachment is at a very high level -- very high level summary level. I don't have -- you know, with each of these storm numbers there is a number of transactions that go into this. So I can't -- I'm not -- I'm not able to speak to what Mr. Willis was seeing. You know, these descriptors, in some circumstances they are totally appropriate for recovery, and other situations they may not.

The only one, like I said earlier, that I might -- would take exception with is the administrative and general. I think -- I think that is appropriate accounting treatment.

Q. Okay. So you might take exception with that but -- but with the other ones you would not; is that your testimony?

A. Just based off the descriptions as I just stated, there is situations where I can see it being excluded given the nature of it and there is situations just based off this descriptor name where I could see it being appropriate other than O&M. If it's truly O&M, obviously that should not be capitalized.

Q. And it's not up to Intervenors like OCC to prove which ones should be kicked out. It's up to the Company to prove which ones ought to be recoverable, isn't it?

A. Yes, sir.

Q. They are the ones that bear the burden of proof, right?

A. Yes, sir.

MR. FINNIGAN: That's all the questions I have. Thank you, Mr. Lipthratt.

THE WITNESS: Thank you.

MS. GRUNDMANN: Mr. Williams, you might be on mute. I have been waiting to hear my name.

EXAMINER WILLIAMS: So I was.

MS. GRUNDMANN: I don't have any cross.

EXAMINER WILLIAMS: You said no cross?

MS. GRUNDMANN: No cross. I have been sitting here like "Did I not answer? Can you hear me?"

EXAMINER WILLIAMS: Thank you, Ms. Grundmann.

Next I have IGS.

MR. BETTERTON: IGS has no cross for this witness, your Honor.

EXAMINER WILLIAMS: Thank you.

Direct Energy?

MR. FYKES: No cross, your Honor.

EXAMINER WILLIAMS: One Energy?

MS. HERRNSTEIN: Yes, your Honor.

EXAMINER WILLIAMS: Please proceed.

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CROSS-EXAMINATION

By Ms. Herrnstein:

Q. All right. Good morning, Mr. Lipthratt. I am Kara Herrnstein, counsel for One Energy Enterprises. Can you hear me all right?

A. Yes, ma'am.

Q. All right. Do you have your direct testimony in front of you? I believe it's Staff Exhibit 9.

A. Yes, ma'am.

Q. All right. Let's -- we are going to start there. Could you please turn to page 2 of your testimony.

A. Yes. Yes, I'm there.

Q. Okay. Do you see at line 13 where you indicate that you were the case team lead and oversaw Staff's review of the application?

A. Yes, I do.

Q. Can you explain the process Staff followed to review the Company's application? Just briefly in general.

A. So we -- you know, we reviewed the application. We reviewed the testimony. Depending on the nature of the adjustments, the programs that are -- programs is not the right word, modifications to the tariffs, potentially new riders, deferrals that are being requested, the Company will, you know, study that, issue discovery, potentially have conversations or meetings with the Company to get a better understanding, scope its audits in its investigation off of that understanding, and develop a Staff position.

Q. Did you have final say over the comments in the Staff Report?

A. We -- no, I would not say I had the final say. We work very collaboratively. There is a couple of directors that have to sign off on this. There is a -- there is a lot of subject matter experts. We work collaboratively. I wouldn't describe it the way that you did.

Q. Do you have to sign off on the comments in the Staff Report?

A. I do not sign off on the comments on the Staff Report. If you look at page 2 of the Staff Report, the director of my department, Rates and Analysis, and Service Monitoring and Enforcement Department have the ultimate sign-off on the Staff Report.

Q. Okay. All right. Mr. Lipthratt, are you familiar with the energy policies set forth in Ohio Revised Code Section 4928.02?

A. Generally speaking.

Q. Okay. Could you please turn to One Energy Exhibit 6.

A. Yes, ma'am. One second, please.

Q. I believe that should be Ohio Revised Code 4928.02. Tell me if it's not.

A. Yes, it is. I'm there now.

Q. Excellent. Now that you've had a chance to glance at One Energy Exhibit 6, are you familiar with these energy policies?

A. Generally speaking, yes.

Q. And you agree the statute establishes certain policies of the State of Ohio related to electric service?

A. Yes, ma'am.

Q. Does the Staff conduct any sort of regular analysis how an electric utility's tariffs further these state policies?

A. Yes, ma'am, Staff does. My section -- my division -- that's not the responsibility of my division, but I do know Staff does perform that.

Q. Do you know whose responsibility it is?

A. So it's kind of multi-facetted or there is a number of teams that's involved. SMED has a large role to play. Rates and Tariffs Division has a large role to play. Krystina Schaefer who testified earlier, she has a large role, her and her division as well. So there's a number of hands that touch that.

Q. Do you know if DP&L or AES Ohio's utility tariffs were reviewed in the context of this case?

A. They were. I'm sorry.

Q. No. Go ahead. You can answer.

A. They were.

Q. Okay. And as part of that review, did Staff consider how they furthered the policies outlined in RC 4928.02?

A. The tariff review, you know, I can't speak to that. Either Craig Smith, Dorothy Bremer is probably better appropriate. They are the ones who -- them and their teams are the ones that testified to the tariff review -- tariffs and the tariff review, so those questions are better -- should be directed toward -- would have been better towards them.

Q. Did you oversee their work in that area though?

A. I did not oversee their work. You know, again, we work collaboratively. If they have questions on revenues, expenses, programs, we will work together. We will collaborate. Vegetation is a good example. We work really closely with SMED. My team tends to focus more on the dollars, the accounting. They look at the reliability, the policy. You know, and we work collaboratively. I would not say that I oversaw it, the work and the recommendations that came out of there. My responsibility is more coordinating to making sure that -- that the Staff Report and everything that's in it comes together and we get it filed.

Q. Do you know if Krystina Schaefer, Rates and Tariffs, or SMED, or anyone else actually looked at the -- at the policies in this case?

A. When you say "policies," what --

Q. I'm sorry. I mean, the policies set forth in the Ohio Revised Code.

A. From testimony and working with them, yes, I believe they have.

Q. Okay. And is there any kind of formalized measurement that Staff uses to determine whether these policies are being met?

A. I can't speak to that.

Q. Okay. So you don't know if there is any kind of scorecard or report that's generated?

A. I do not know.

Q. Okay. But you haven't seen one if there is.

A. That's correct.

Q. Okay. And in your conversations regarding this case, no other member of Staff mentioned something like a scorecard or a report.

A. Scorecard, I'm not sure about a report. I don't want to comment on a report.

Q. Did you have conversations with other members of Staff regarding -- regarding these policies and whether they were being met?

A. Yes. Generally through day-to-day

through con -- we have multiple touch point meetings. We have numerous meetings, and it's kind of embedded in what we do, right? These policies, it drives what we do. It drives our recommendations. It drives our day-to-day, so they are generally spoken to.

I think what you are wanting to see or what you are wanting to hear is a checklist, right? Like you want -- you want me to say that we went through, we got this checklist. We checked this one off. We checked this one off. We changed this one. We didn't do it like that. You know, there is a lot of subject matter experts that -- that spent numerous years working on these issues, and it's just engrained in the nature of our work. You know, so, yes, I do believe Staff has performed that analysis.

Q. So if I were to ask you which of these enumerated policies Staff considered, would you be able to tell me that?

A. No, not specifically. But I could tell you Staff has considered these. I have heard it through testimony. I have seen it with my peers in normal conversation. We have frequent touch base meetings where we sit around and talk about our recommendations, and through the course of those conversations you see this. You see this coming through. It's like I said, it's embedded in the conversation. It drives our conversations. It drives our understanding. It drives our recommendations. But the -- to go off and, like I said, check off this one or that one, you know, I can't do that.

Q. Okay. So you don't individually consider each of the enumerated parts of the Code.

A. Again, I don't want to speak for the Staff members that did that. I didn't perform that work. I know that they've considered it just based off my conversations, based off their testimony but, you know, I can't get into the level of detail of their analysis.

Q. Okay. So that's not part of your role overseeing --

A. No, it's not.

Q. -- the Staff Report in this case. Okay. Could you please turn to page -- excuse me. Sorry, to page 26 of your prefiled testimony.

A. Okay. I'm there.

Q. Okay. Could you please direct your attention to lines 10 and 11 where you indicate that the Company's application was "not in violation of Ohio energy policy."

A. Yes, I'm there.

Q. Do you see that?

A. Yes.

Q. Okay. Do you know how Staff determined that the Company's application was not in violation of Ohio energy's policy?

A. Through a collaborative effort through multi departments, multi divisions, including our internal legal staff. The Staff Report is just that, a collective effort, and through those -- through the development of the Staff Report we have come -- we are of the opinion that we -- the Staff, in its recommendations, it is not in violation of Ohio's energy policy.

Q. And when you refer to "Ohio's energy policy," are you referring to the Code of the Re -- the section of the Revised Code we were discussing earlier?

A. I think so, in addition to any Commission precedent so, yes.

Q. And could you describe with as much particularity as you can how Staff applies those enumerated sections of the Code when reviewing an application.

A. I'm not able to speak to that.

Q. Okay. Now, you -- this might be a silly question, have you ever participated in a rate case before?

A. Yes.

Q. Okay. If so, how many? You said yes. So how many?

A. Seven, eight. Well, I am working on three right now so probably 7 to 10.

Q. How many of these cases involved a distributed generation tariff or pilot?

A. I'm not sure.

Q. You're not sure? Okay. Do you believe that encouraging distributed generation is in keeping with Ohio's energy policies?

A. I'm not the subject -- I am not the subject matter expert. That's a better question for probably Krystina Schaefer.

Q. Do you have an opinion on that though?

A. I do not have an opinion.

Q. Okay. Okay. Have you reviewed One Energy's objections to the Staff Report?

A. Yes, I have.

Q. And you responded to these objections in your direct testimony, correct?

A. I responded to two of them. I forget

exactly how many objections One Energy had, but I believe I responded to maybe one -- two of them.

Q. Let's turn to page 27 of your direct testimony.

A. Actually I think I misspoke. I think there's four. It was the way they were numbered was throwing me off. I think there was four I responded to.

Q. We are going to talk about one of them. Now if you can turn to page 27.

A. I'm there.

Q. Can you look at lines 10 to 14.

A. Yes, I'm there.

Q. Where you indicate Staff did not perform an analysis regarding salary, gender, and race parity?

A. That's correct.

Q. Okay. And you go on to say, "Staff has reviewed the application and issued comments and recommendations on the two main components of a rate case, one, determination of the revenue requirement and, two, determination of the rate," correct?

A. Correct.

Q. Okay. Am I correct though that Staff's review of an application in a rate case involves more than just looking at the proposed revenue requirement in the rate?

A. Ultimately, for the most part, other than customer safety, customer protections, I should say, most everything we look at in a distribution -- other than customer protections, most everything that we touch on hits the determination of the rate structure because that revenue requirement and the rate struc -- you know, that's applied to that will be impacted.

Q. So you look at a number of things, but they ultimately tie to one of those two considerations?

A. Generally, like I said, other than maybe customer protections perhaps doesn't fall in there.

Q. Okay. And so is it Staff's position that salary, gender, and race parity does not factor into either of those considerations?

A. Generally, no. The Staff -- excuse me, the standard filing requirements do not speak to this. Our statutes do not speak to this. And there was nothing to trigger an analysis along these lines. So -- and furthermore, I have never been involved in a rate case where this has been considered so, yes, we have not looked at this. We have not performed this analysis.

Q. What would have triggered an analysis?

A. I'm not sure.

Q. You're not sure? Do you agree that labor expenses are part of Staff's analysis?

A. That is correct.

Q. Okay. And you don't believe a review of labor expenses involves the review of gender and race parity?

A. No, I do not.

Q. Okay. Moving on for a moment, do you agree a review of the tariffs is an important part of the process in a rate case?

A. I do.

Q. Okay. And do you agree that a review of the management policies, practices, and organization of the Company is an important part of the process?

A. Yes.

Q. Okay. And do you agree that Staff has broad discretion to choose which areas of the Company's management policies, practices, and organization to analyze as part of this case?

A. Are you speaking management and operations review?

Q. Yes, I am.

A. Yes. I agree.
Q. Okay. Could you explain how Staff decided to focus on the Company's management of processing and closing projects?
A. Yes. So generally with management and operation review, prior to a Company's -- generally around the -- prior to the PFN, usually the utilities will start reaching out and wanting to get an idea of what we are going to look at, so we will work multi-departmentally to figure out are there areas of concern, are there things we've been seeing through riders, other issues that we are aware of. We will work together to get those management -- those topics identified and that's generally how we go about it.
Q. Okay. So do you agree that Staff could have chosen other areas of the Company's management to analyze?
A. Yes, I agree.
Q. Okay. Mr. Lipthratt, have you been listening to the prior -- testimony of other witnesses in this case?
A. Generally there was some that I missed but for the most part I have covered most of it.
Q. Were you -- were you observing the testimony of Company Witness -- of Company Witness

Lund?

A. I probably caught the middle of it. I had a conflict that day.

Q. Do you recall her describing the Company as having a very fragile financial condition for a long time?

A. I was -- I do recall some of that.

Q. Do you agree with that statement?

A. I'm not in a position. I don't have -- I am not in a position to comment on that.

Q. You've reviewed the Company's financials as part of this rate case though, correct?

A. That is correct.

Q. Okay. But you don't have an opinion on whether those financials are healthy or whether they show some distress?

A. I think there is -- yes, I do -- I can comment on that there is indications there is some distress. But, you know, I can only comment on it at a generally high level. You know, I don't want to be too specific.

Q. But you agree that the Company itself describes itself as being in a fragile financial condition?

A. Yes.

Q. Okay. And that Staff was aware of this at the time this rate case was filed?

A. Yes.

Q. Okay. And so did Staff analyze the financial condition of the Company?

A. Staff's continuously an -- analyzing conditions such as this, yes. We are always -- yes. I would -- I would describe it as a day-to-day monitoring, if you will, and that has, you know, various analysis that goes on from time to time.

Q. Okay. But Staff doesn't have a -- an opinion on the financial health of the Company?

A. "Financial health" is so broad, I don't want to -- if you could better define it, perhaps I can comment on it, but financial health could be measured in numerous ways and so...

Q. Could you describe any of the ways that AES Ohio's financial health is being measured?

A. It's actually probably a better question for Witness Buckley. He is probably our subject matter expert in the monitoring of the Company and its financial health.

Q. Do you have any awareness of it though?

A. I have awareness of it.

Q. Okay. Could you just testify as to your

awareness then?
A. I recall from the previous SEET case and the analysis that went into that. I don't know. I don't have any more specifics.
Q. What did that analysis entail?
A. I don't recall. That's -- I am not testifying to the SEET case. So I can't comment on it.
Q. Okay. So as part of this case, do you agree that Staff did not examine the Company's process for issuing debt?
A. I'm not sure I could comment on that. Joe -- Joe Buckley performed the rate of return analysis, return on equity analysis. Sitting here today, I don't know if that's true or not.
Q. Would anyone other than Mr. Buckley have conducted that analysis?
A. Issuance of debt? Likely not.
Q. Okay. Do you know if anyone reviewed whether the Company tries to -- how the Company tries to control its costs?
A. Yes. I think multiple teams touch on that from multiple areas. We have an expense team that comments on that. We have a budget and forecast team that speaks to the procedures and policies that

are implemented on that. That topic tends to get brought up in numerous areas. Labor is another. So multiple members of Staff has -- through the course of a rate case investigation typically touches on that.

Q. And do you know whether Staff investigated whether cost-related decision making was occurring at the operating company level rather than at the corporate level?

A. Yeah. I think that would be -- that's something that would generally be discussed during -- our budget verification team has a series of meetings and conversations that those topics are typically reviewed, discussed, and considered.

Q. You said that's the budget verification team?

A. Yes.

Q. Who leads that team?

A. John Berringer was the lead on that team.

Q. Okay. Do you know if the budget verification team undertook an analysis like that in this case?

A. Analysis is a -- is a -- what do you mean by "analysis"?

Q. Whether they considered whether

cost-related decision making is occurring at the operating company level rather than at the corporate level.

A. I think they considered it, yes. They had conversations around it. They reviewed it.

Q. So are you aware of any of those conversations?

A. Yes. I mean, as those things -- as those meetings typically with the Company occur, I'm given status update meetings, briefings. We have conversations with Staff. I generally recall conversations like that being had -- held. You know, you got -- when we do a budget verification we want to know how the budget was developed, who signed off on it, how was it approved, how do cost centers come together to develop their forecasts to develop the budget, and through those conversations you are going to know through each -- you are going to quickly learn who -- where the decision making is occurring.

Q. Is that discussed anywhere in the Staff Report --

A. No.

Q. -- as to where? Okay. And do you recall, sitting here, at what level those cost-related decisions were being made?

A. I wasn't actually sitting here, I was working remotely so I was at my house, but during the course of that, what -- I'm sorry, what was your question? It's getting too late.

Q. It's fine. I was asking if you recall from those conversations where -- at what level the cost-related decisions were being made.

A. No. I can't speak to it. I just don't recall. But I can comment on, that if we found something to be inappropriate, we would have commented on it. You would have seen it in the Staff Report. There would have been the potential for an adjustment but because -- I do know working with that team through that process after our review, we found it to be appropriate; and, therefore, you know, we accepted it and we accepted the -- we accepted it for determining the revenue requirement.

Q. Okay. And when you said "found it to be appropriate," what is the process? What does that process look like?

A. I kind of already described it. So the application is filed. You review the application. You review any testimony. From that, you know, our team gets -- will begin to meet with the Company, issue Data Requests, have a number of meetings. They will bring in certain subject matter experts from the utility's side, be it, you know, program -- not program, like operational managers, maybe a controller, whoever did the forecast, you know, at the highest levels to determine how the budget was developed.

And a lot of it is just driven off of the application and just having communications with the Company either, like I said, directly through Data Requests or through meetings to understand it and to base an -- and to evaluate it.

Q. Okay. Do you agree that in the past Staff has recommended an investigation and audit of a utility's management policies?

A. I think I have heard that, yes.

Q. Have you ever been involved in such an audit?

A. No.

MS. HERRNSTEIN: Just checking my notes. I believe I have no further questions, but I want to make sure before I move on.

All right. No further questions. Thank you.

THE WITNESS: Thank you.

EXAMINER WILLIAMS: Thank you,

Ms. Herrnstein.

By my count we have roughly five more parties, plus or minus, that would still entertain cross. We are going to take a 6-minute break. We will come back on at 4:35. We are off the record.

(Recess taken.)

EXAMINER WILLIAMS: Back on the record. Next on cross is City of Dayton.

MS. SIEWE: No cross, your Honor. Thank you.

EXAMINER WILLIAMS: Thank you. IEU-Ohio?

MR. McKENNEY: No questions, your Honor. Thank you.

EXAMINER WILLIAMS: Thank you. OEG?

MS. COHN: No questions, your Honor. Thank you.

EXAMINER WILLIAMS: OMAEG?

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

EXAMINER WILLIAMS: Please proceed.

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CROSS-EXAMINATION

By Ms. Bojko:

Q. Good afternoon, Mr. Lipthratt.

A. Good afternoon.

Q. Turn to on page 2 and 3 of your testimony starting with the Q and A No. 7. It's on line 15. You state that your testimony responds to OMAEG Objections A, C, and F; is that correct?

MS. BAIR: What page is that?

MS. BOJKO: It starts on page 2, going over to page 3. On page 2, line 15 and 16, he states that "The purpose of my testimony is to respond to the following objections," and then on page 3, line 6."

MS. BAIR: Okay. Thank you.

MS. BOJKO: "OMAEG."

Q. (By Ms. Bojko) Is that right?

A. Yes. Objections A, C, and F.

Q. Right. And I'm assuming you reviewed OMAEG's objections prior to drafting your testimony?

A. Yes, ma'am.

Q. Now let's turn to page 29 which is where you actually discuss OMAEG Objection A. Do you see that?

A. Yes, ma'am.

Q. It's your understanding that OMAEG objected to the revenue requirement as being too high; is that correct?

A. That's my recollection, yes.

Q. And since the filing of the Staff Report, Staff made further adjustments to its revenue increase range; is that correct?

A. Yes, ma'am.

Q. But now the Staff is recommending a higher revenue requirement than what was included in the Staff Report, right?

A. Yes. There were some updates and some corrections that were made.

Q. So your testimony does not specifically address OMAEG's objections that the Staff Report revenue requirement was too high, does it?

A. I guess my testimony is that we disagree with you and that Staff's recommendation is appropriate, reasonable with the modifications for the corrections and the updates.

Q. And in your testimony, it's just on lines 14 through 20 on page 29, you don't specifically address the OMA objection of it being too high, do you?

A. From memory, I don't -- I just believe the objection was that it was too high and, you know, I'm addressing that objection. There may be additional objections that either I or other Staff members are addressing, so I think collectively Staff is addressing your objections.

Q. Okay. Let's look at the next page, page 30, Objection C is referenced here; is that correct?

A. I'm sorry. What was your question?

Q. I just said on page 30, OMAEG's Objection C is referenced; is that correct?

A. Yes, ma'am.

Q. For this objection, OMAEG was objecting that Staff did not recognize issues associated with the COVID-19 pandemic during the test year; is that correct?

A. That's the objection, yes.

Q. And you state on this page that "Staff verified that test year expenses were not associated with COVID"; is that correct?

A. Yes. Generally what Staff did -- well, let me take a step back.

The Company has deferred as a regulatory asset both the cost -- the incremental costs associated with COVID-19 and any associated savings. We did a review of that deferral. We -- we issued some Data Requests. We had some conversations with the Company. We didn't do an audit of those costs.

An audit of those costs will be performed if the Company seeks to recover those. Should the Company seek to recover those costs, we will also verify to ensure the cost savings will be -- were appropriately captured.

However, in this case, because that -- those costs were -- they hit the C-2.1, the test year, and were pulled out as an adjustment, we did not need to, as I just stated, to verify those costs. However, what we did need to do is any remaining costs we did a verification or review or, you know, we looked into it to ensure there was no COVID-19 impacts or residue, if you will. When we did our expense review we verified that, you know, nothing related -- in Staff's view, nothing related to COVID-19 was still remaining. So that's -- that's -- that's what Staff did in this case.

Q. Okay. I think you anticipated some of my questions so let's -- let's go through that.

You initially did your analysis because the Company was proposing to defer the costs and savings associated with COVID and pull those out of the test year and make the adjustments you just referenced, right?

A. Yes. Yes. So, you know, we did see

that -- we did see that data. We did see those -- the financials captured in the C-2.1. So initially we are going -- you know, that is the starting point. However, the Company made an adjustment. It's got a C schedules adjustment, and so Staff in every case thoroughly reviews each of those C schedule adjustments to make sure they are appropriate. So that -- that's the reason we looked at it.

But we took it a step further because we wanted to make sure that there was nothing remaining. So anywhere else that there was a -- you know, basically operating expenses, we -- we were -- we had a critical eye, if you will, to make sure there was no remaining COVID-19 dollars or expenses.

Q. So, generally speaking, the adjustments that the Company made would make it so that AES's revenue requirement reflects the revenue requirement that would be necessary absent COVID-19, right?

A. Yes, ma'am.

Q. And in the Staff Report did Staff oppose -- it sounds like you did not oppose the Company's treatment of the COVID-related expenses, correct?

A. No. I think that's a more appropriate review when -- if and when they seek recovery of those costs.

Q. You didn't oppose the adjustments that allowed them to pull it out of the test year expenses, right?

A. We didn't -- no, we didn't oppose it. The Commission granted the Company a deferral. You know, we -- as I stated a couple times now, we reviewed the application and the material to make sure that all COVID-19-related costs were pulled out of the test year, deferred, and there was nothing left.

Q. Okay. You would agree with me that the COVID-19 pandemic was ongoing during the test year, wouldn't you?

A. Yes.

Q. And afterwards subsequently?

A. Yes.

Q. So you would also agree with me that associated expenses as well as savings associated with COVID-19 will be ongoing.

A. Yes. But so, keep in mind, so during the course of the review we had three months' actual, nine months' forecast. The three months' actuals were just that, you know, savings and costs associated with COVID were pulled out, were pulled out of the actuals and deferred on the balance sheet.

We did a further analysis on the forecast. We had numerous conversations, Data Requests, and the like to understand how that forecast was derived, what it was based on. And Staff's understanding is that that base -- the basis for that forecast was pre-COVID. So with those two pieces put -- those two components together, Staff feels like this test year, the recommended -- revenue requirement is free from any impacts of COVID-19.

Q. Okay. Just to clarify, you did say the forecast was also assuming COVID didn't exist?

A. We had conversations with the Company to understand the basis of that forecast. And, yes, from our understanding it was pre-COVID and, therefore, an adjustment to the forecast was not necessary.

Q. So if AES is experiencing savings from COVID, it will be collecting revenue as if it were not experiencing those savings?

A. You know, I'm not sure that's a true statement because if the -- if the forecast was based off of a pre-COVID year, there would be no savings, no COVID savings obviously associated with that. And when they add that forecast to the three months' actual wherein the three months' actual the savings have been pulled out, I don't believe there would be any COVID-19 related savings captured in the revenue requirement for the test year.

Q. Well, was it pre-COVID, or was it absent COVID? I think those are separate.

A. Well, what I'm -- we use both those words. The forecast was based off pre-COVID. However, the revenue requirement is absent any effects of COVID-19.

Q. Okay. So let's talk about the pre-COVID. So if the -- if the pre-COVID -- or excuse me. If the forecast was based on pre-COVID and the Company subsequently realizes savings, then the Company would be able to -- to realize those savings by collecting revenue and not having to recognize the savings, right?

A. Well, what I understand from Company Witness Donlon and from our conversations with the Company, they are trying to track those savings. So my assumption is if and when the Company seeks to recover those increases, there will be a review and a capturing of those savings as well with the corresponding timeline for both costs and savings.

Q. Okay. So let's talk about that. You

said that there will be an audit if the -- at the time the Company seeks to recover COVID-19 costs; is that right?

A. That would be correct, yes, ma'am.

Q. The audit would only occur, though, if AES seeks to recover costs; is that your understanding?

A. That's the nature of a deferral application, yes.

Q. So in your experience, in the event savings outweigh the costs, AES is unlikely to seek recovery; is that right?

A. That is a possibility.

Q. So in that situation, would there be an audit of the savings that occurred?

A. No, I would imagine not.

Q. So if no audit, how will Staff ensure that all savings are accounted for?

A. In that situation, there would not be a -- an accounting for any savings associated with COVID.

Q. So the Company would get to realize those savings, right?

A. Assuming that those savings -- to your point, assuming those savings outweighed the costs

and the Company foregone an application to seek that recovery.
Q. Okay. Let's turn to page 30, line 11. Here you reference OMAEG Objection F. Do you see that?
A. Yes, ma'am.
Q. Okay. And it's my understanding from your testimony here, you are not taking a position on OMAEG's Objection F, are you?
A. That's correct.
Q. Let's go back to page 2 of your testimony. Page 2 of your testimony, lines 18 and 19, here you also state that your objection -- you are responding to AES's Objections 26 and 27; is that correct?
A. Yes, ma'am.
Q. And if you turn to page 10, we have that discussion of those objections.
A. Yes, ma'am.
Q. These objections relate to AES's proposal to continue or implement DSM customer programs; is that right?
A. Yes, ma'am.
Q. Do you understand this to be a proposal to continue or implement DSM programs?

A. I think this would be to implement a voluntary program.

Q. Okay. I'll use your word. Well, you used the word "voluntary." You mean voluntary in respect to the participation, not voluntary with respect to collecting costs from customers to pay for those programs, right?

A. Yes. I think that's fair.

Q. All right. One of AES's proposals is to implement a DSM customer program and pass those costs on to customers through base distribution rates; is that right?

A. Yes, ma'am.

Q. And you are aware that AES previously had statutorily-mandated energy efficiency and demand-side management programs, aren't you?

A. Yes.

Q. And the cost of those programs were recovered through the Energy Efficiency Rider; is that right?

A. Yes, ma'am.

Q. Not distribution rates; is that right?

A. Yes, ma'am.

Q. So after the passage of legislation eliminating the energy efficiency programs, the

Commission ordered a wind down of AES's energy efficiency programs and set the Energy Efficiency Rider at zero, effective January 1, 2021; is that your understanding?

A. Yes, with the exception of the date. I am not entirely sure about the date, but I will take your word for it.

Q. Okay. Sure. Given the history that we just went through, is that why on page 10, lines 11 through 12, you reach the conclusion that a distribution rate case is not the appropriate vehicle to address DSM program expenses?

MR. SHARKEY: I am going to object, your Honor. I am trying to stay quiet but this is all friendly cross.

MS. BOJKO: Your Honor, I am not sure it is friendly cross. If you look -- I am trying to understand his recommendations and conclusions which, frankly, are one sentence here.

EXAMINER WILLIAMS: I will allow the question.

A. Would you restate the question, please?

Q. Sure. I put it in context and said given the foundation that we just laid, the history of the energy efficiency programs, is that why on page 10, lines 11 through 12, you reach the conclusion that a distribution rate case is not the appropriate vehicle to address DSM expenses?

A. In large part, yes.

Q. Okay. Even though you don't state it in your testimony, are you saying that Staff's recommendation is to not include in base distribution rates cost recovery associated with DSM programs?

A. Yes, I believe, yes.

Q. And is it your understanding that AES also proposed an alternative DSM program proposal?

A. The deferral, is that what you are speaking to?

Q. Yeah. That's -- the alternative was to defer the costs associated with the new DSM program instead of collecting them through base rates; is that your understanding?

A. Yes, ma'am.

Q. So if you look at page 10 of your testimony, lines 20 through 22, again, you repeat your statement that a distribution rate case is not the appropriate vehicle. Do you see that?

A. Yes, ma'am.

Q. Is your opinion here also that, due to the history that we discussed, the elimination of the

EE programs by the legislator -- legislature, that addressing DSM programs in a rate case is not appropriate?

A. You know, I think the Staff Report speaks to your -- is the answer to your question on page 18. This was the analysis Staff performed on the deferral request and this speaks to why we felt as -- as though, you know, the deferral proposal not be approved.

Q. Okay. So then I guess the answer to my question is no, you didn't base it on the elimination of the programs; you based it on the deferral criteria listed on page 18 of the Staff Report?

A. Yes. And to give some context on that, I can see a situation where the -- if the request passed the six-part test. It was deferred on the balance sheet for a period of time, and then in order for the companies to recover those -- should the Commission approve that deferral, the only way I understand it that they ever get the ability to recover it is probably to amortize it through a revenue requirement in a rate case. So in that situation with the deferral, I can see situations where, you know, it be included as an amortization within the rate case.

Q. Okay. You just referred to the Staff Report that's in your testimony as well as here today. Are you sponsoring the portions of the Staff Report that discusses the deferral request on 17 and 18?

A. Yes.

Q. Okay. So I appreciate what you just said, but in this case the Staff Report concluded that AES did not meet the Commission's criteria that it considers when evaluating whether to grant deferral authority; is that right?

THE WITNESS: Can I get that reread, please.

(Record read.)

A. Yes, that's correct.

Q. Okay. So in this case is it Staff's recommendation that the Commission not grant deferral authority to defer the costs associated with DSM programs in the rate case?

A. Yes. So I think I might have misspoke or wasn't clear. Our initial review based off the Company's application was to deny the deferral request. Given that Staff's recommendation is denial, my response to this objection is again based off in part the -- the request not passing the six-part test. And as I stated previously, we felt though -- as though the rate case was not the appropriate vehicle.

MS. BOJKO: Okay. Thank you for that clarification.

I have no further questions, your Honor.

Thank you, Mr. Lipthratt.

THE WITNESS: Thank you.

EXAMINER WILLIAMS: Thank you, Ms. Bojko.

Kroger?

MS. WHITFIELD: Yes, thank you, your Honor. Just a few questions.

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CROSS-EXAMINATION

By Ms. Whitfield:

Q. Good afternoon, Mr. Lipthratt. My name is Angie Whitfield, and I represent The Kroger Company in this case. If I could just have you turn to page 2 and 3, specifically the Question and Answer No. 7 of your testimony. You state that your testimony responds to Kroger Objections A and D, correct?

A. Yes, ma'am.

Q. And did you review those objections?

A. I did.

Q. Then if I could have you turn to page 30, lines 17 to 21 of your testimony. This is where you address Kroger Objection A, correct?

A. Yes, ma'am.

Q. And that objection was concerning the rate freeze included in ESP 1, correct?

A. Yes, ma'am.

Q. And you state there that you are not an attorney.

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

Q. And that the Staff believes that this is a legal matter that the Commission should decide, correct?

A. I'm stating that, yeah. In this case I am stating that I do not have an opinion.

Q. Okay. And you are stating that -- one second. This is a legal question before the Commission in this case, correct?

A. This is a legal -- yes, that's from my testimony.

Q. Okay. And I think you already said this but let me just be clear, and because this is a legal matter and you are not an attorney, you are not taking a position on this matter in your testimony today, correct?

A. I am not, correct.

Q. Okay. And as the case team leader in the Staff's review in this application and the Staff Report, are you aware of any other Staff witness taking a position on the rate freeze matter?

A. There are none.

Q. So is it fair to say the Staff's testimony does not actually set forth any position by Staff on this particular objection?

A. Can you reask your question, please?

Q. Sure. So Staff's testimony that's been presented in this case does not actually set forth a Staff position on Kroger's objection regarding the rate freeze contained in ESP I; is that fair?

A. I'm not -- I'm not testifying to the legality of the issue as I am not an attorney, and I'm not able to comment on it.

Q. And you are not aware of any other Staff witness who has asserted a position on the rate freeze issue, correct?

A. That is correct.

Q. All right. If I could have you turn to page 31 of your testimony and beginning on line 1, you address Kroger Objection D. Do you see that?

A. Yes, ma'am.

Q. And it is your understanding that Kroger objected to the Staff Report, stating that the Staff Report did not recognize issues associated with the COVID-19 pandemic during the test year, correct?

A. Yes, ma'am.

Q. And your testimony on page 31, lines 4 through 8, is identical to the testimony you used in responding to OMAEG's Objection C which Ms. Bojko just discussed with you, correct?

A. Yes, ma'am.

MS. WHITFIELD: Okay. Thank you.

No further questions, your Honor.

EXAMINER WILLIAMS: Thank you.

Next we have OPAE.

OHA?

University of Dayton?

Does Staff have any redirect?

MS. BAIR: May we have -- do we want to do 3 minutes? Is that okay?

EXAMINER WILLIAMS: We will come back at 5:04. We will go off the record but stay handy though.

(Recess taken.)

EXAMINER WILLIAMS: We are back on the record.

Ms. Bair, any redirect?

MS. BAIR: No redirect. Thank you, your Honor. I move -- I would -- are we on the record?

EXAMINER WILLIAMS: We are on the record, yes.

MS. BAIR: Thank you. I would like to move Staff Exhibit 1, the Staff Report, and the direct testimony, Staff Exhibit 9, into evidence.

EXAMINER WILLIAMS: Any objections to either?

Those are both deemed admitted.

(EXHIBITS ADMITTED INTO EVIDENCE.)

EXAMINER WILLIAMS: Thank you, Mr. Lipthratt, for your testimony this afternoon.

THE WITNESS: Thank you.

EXAMINER WILLIAMS: Any other exhibit issues to take up at this time?

MS. BAIR: None on behalf of Staff.

MS. HERRNSTEIN: Your Honor, I would move One Energy Exhibit 6 into evidence.

EXAMINER WILLIAMS: I have extensive notes here. I don't see that as having been admitted before; is that correct?

MS. HERRNSTEIN: That is correct.

EXAMINER WILLIAMS: Any objections?

MR. SHARKEY: We would object, your Honor. It's a statute. I don't think it's appropriate to admit a statute into evidence.

EXAMINER WILLIAMS: I am inclined to agree. The statute speaks for itself. We are not going to make that evidence in the case.

MS. HERRNSTEIN: That's fair.

EXAMINER WILLIAMS: Any other exhibits?

Okay. Let's go off the record.

(Discussion off the record.)

EXAMINER WILLIAMS: We are back on the record.

We had a few minutes of discussion regarding upcoming rebuttal testimony. And we have decided that rebuttal testimony hearing will occur next Monday afternoon at 1 o'clock. Looking for the date on that. That would be February the 7th at 1 o'clock. The parties will be invited to that as they have been invited to the other sessions in this case.

Micah, I assume that the witnesses that are going to appear will need to reregister; is that accurate?

MR. SCHMIDT: If they are reappearing, it's the same Webex event so they should be fine.

EXAMINER WILLIAMS: Okay. So if your witness is new, you will need to contact Micah regarding registering that witness. If it's a witness that's already testified, then they are already able to join the hearing pursuant to previous credentialing.

As a reminder to the parties, the rebuttal testimony is due by the end of tomorrow. And that's all we have from the Bench. Anything else from the parties?

MR. SHARKEY: Can you give me a time so I know what our deadline is?

EXAMINER WILLIAMS: It's the end of our business day which I believe is 5:30.

MR. SHARKEY: Okay. Thank you, your Honor.

EXAMINER WILLIAMS: You are welcome.

Anything else from the parties?

All right. Seeing none, we are adjourned. Thanks, everybody.

(Thereupon, at 5:16 p.m., the hearing was adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Tuesday, February 1, 2022, and carefully compared with my original stenographic notes.

____
Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7223)

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