

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
 Application of Moraine :
 Wind, LLC, for :
 Certification as an : Case No. 21-516-EL-REN
 Eligible Ohio Renewable :
 Energy Source Generating :
 Facility. :

In the Matter of the :
 Application of Rugby Wind, :
 LLC, for Certification as :
 an Eligible Ohio Renewable: Case No. 21-517-EL-REN
 Energy Resource Generating:
 Facility. :

In the Matter of the :
 Application of Elm Creek :
 II for Certification as an:
 Eligible Ohio Renewable : Case No. 21-531-EL-REN
 Energy Resource Generating:
 Facility. :

In the Matter of the :
 Application of Buffalo :
 Ridge II for Certification:
 as an Eligible Ohio : Case No. 21-532-EL-REN
 Renewable Energy Resource :
 Generation Facility. :

In the Matter of the :
 Application of Barton :
 Windpower 1 for :
 Certification as an : Case No. 21-544-EL-REN
 Eligible Ohio Renewable :
 Energy Resource Generation:
 Facility. :

In the Matter of the :
 Application of Barton :
 Windpower, LLC, for :
 Certification as an : Case No. 22-380-EL-REN
 Eligible Ohio Renewable :
 Energy Resource Generation:
 Facility. :

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PROCEEDINGS

before Ms. Jacky Werman St. John and Mr. David Hicks,
Attorney Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-C,
Columbus, Ohio, called at 10:04 a.m. on Monday,
December 5, 2022.

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VOLUME I

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10 On behalf of the Staff of the PUCO.

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Monday Morning Session,
December 5, 2022.

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

This morning the Public Utilities
Commission of Ohio has set for hearing at this time
and place Case Nos. 21-516-EL-REN, 21-517-EL-REN,
21-531-EL-REN, 21-532-EL-REN, 21-544-EL-REN, and
22-380-EL-REN, which all involve applications for
certification as an eligible Ohio renewable energy
resource generating facility.

Good morning, everyone. My name is Jacky
St. John and with me is David Hicks. We are the
Attorney Examiners assigned by the Commission to hear
this case. And at this time we will take appearances
of the parties starting with the Applicants.

MS. WHITFIELD: Thank you, your Honors.
On behalf of all the Applicants, Angela Paul
Whitfield with the law firm Carpenter Lipps and
Leland, 280 North High Street, Suite 1300, Columbus,
Ohio 43215. I am appearing here today on behalf of
the Applicants and Avangrid Renewables and Carpenter
Lipps. Thank you.

EXAMINER ST. JOHN: Thank you. And can

1 we go around the room in this direction and over
2 here.

3 MR. MILLER: Sure. Your Honor, for the
4 Intervenor 3Degrees, Christopher L. Miller and Nicole
5 R. Woods of the law firm of Ice Miller, 250 West
6 Street, Columbus, Ohio 43215.

7 EXAMINER ST. JOHN: Thank you.

8 MS. BOJKO: Thank you, your Honor. On
9 behalf of Blue Delta Energy, LLC, Kimberly W. Bojko
10 with the law firm Carpenter Lipps & Leland, 280 North
11 High Street, Suite 1300, Columbus, Ohio 43215.

12 EXAMINER ST. JOHN: Thank you.

13 MS. BAIR: Thank you, your Honor. On
14 behalf of the Staff of the Public Utilities
15 Commission, Jodi Bair, Thomas Lindgren, Assistant
16 Attorneys General, 30 East Broad Street, Columbus,
17 Ohio 43215.

18 MR. WHITT: Good morning. On behalf of
19 Carbon Solutions Group, LLC, Mark Whitt and Mark
20 DeMonte from the law firm of Whitt Sturtevant, LLP,
21 88 East Broad Street, Suite 1590, Columbus, Ohio
22 43215.

23 MR. RYAN: Good morning, your Honors. On
24 behalf of the Northern Indiana Public Service
25 Company, John Ryan, 290 West Nationwide Boulevard,

1 Columbus, Ohio 43215, and M. Bryan Little, 150 West
2 Market Street, Suite 600, Indianapolis, Indiana
3 46204.

4 EXAMINER ST. JOHN: Thank you. And with
5 that I will go ahead and turn things back over to
6 Judge Hicks.

7 EXAMINER HICKS: Thank you.

8 Before we get started, we talked off the
9 record a little bit, there is some outstanding
10 motions we are going to rule on before we proceed
11 with calling witnesses. We'll start with the motion
12 to appear pro hac vice for Mr. DeMonte that was filed
13 I believe Friday. I think it hit the docket this
14 morning but filed on Friday.

15 Talked a little bit off the record. It
16 sounds like the other parties have no issue with that
17 motion. The Bench has reviewed the motion and the
18 attached filings, appears to meet all the
19 requirements of the Supreme Court rules for the
20 government of the Ohio Bar.

21 And in meeting those requirements, we
22 will go ahead and grant that motion for Mr. DeMonte
23 to allow him to appear before us today.

24 MR. DeMONTE: Thank you, your Honors.

25 EXAMINER HICKS: Turning now to we do

1 have an outstanding motion for subpoena as well as a
 2 motion to permit remote testimony in lieu of a live
 3 appearance related to that subpoena. It was a
 4 subpoena filed by Carbon Solutions Group on
 5 November 21, 2022, in which it asks for a subpoena to
 6 Mr. Aaron Berner on behalf of PJM Interconnection,
 7 LLC, to appear at the hearing and to provide
 8 testimony. In the alternative it also appears to ask
 9 or suggests that PJM could supply -- could comply
 10 with the subpoena by designating its own witness.

11 I'll also note that on December 2 the
 12 Applicants, along with Blue Delta, filed their joint
 13 motion to quash the subpoena. And PJM itself, while
 14 not a party here, also filed a motion to quash on
 15 December 2. A note, you know, technically the motion
 16 and the subpoena were not signed. I don't know that
 17 there is technically anything to quash, but the
 18 argument made in those motions to quash have been and
 19 are being considered in relation to rulings on the
 20 motion and the subpoena.

21 At this time the Bench is going to deny
 22 the motion for subpoena and will not be issuing the
 23 requested subpoena. A number of reasons here. I
 24 think, as was pointed out in those motions to quash,
 25 the Bench agrees that there's some deficiencies in

1 the motion, no memo in support, no real explanation
2 for the grounds of the motion for why a nonparty to
3 this proceeding should be hailed into Ohio to testify
4 against their will which is obvious considering PJM
5 itself filed a motion to quash the subpoena.

6 Again, no real demonstration made as to
7 why this nonparty witness is necessary or warranted
8 outside of a -- and I will quote, "believed to be
9 knowledgeable about certain studies." The Bench
10 feels this is not enough to force him to come in to
11 testify and that's just -- that's assuming we even
12 have the ability to do that which is a separate issue
13 I will get into momentarily.

14 We also think to the extent, you know,
15 these cases have been pending for nearly two years,
16 somewhat prejudicial, I think, to have a witness that
17 would come in here to testify having never been
18 deposed, having never been noticed for a deposition
19 to testify, and have no one else prepared as to any
20 sort of testimony.

21 And again, looming over all of this is
22 the fact that there is no real attempt made to
23 demonstrate that the Commission even has the power to
24 issue an enforceable subpoena to compel an
25 out-of-state witness to appear before the Commission.

1 And in this case not only is it an out-of-state
2 witness, again, it's an out-of-state nonparty witness
3 in the case, and the Commission has held this if you
4 look at Case No. 19-958-GE-COI which is the
5 investigation into Verde Energy, same conclusion
6 reached.

7 And then, finally, to the extent that
8 this is seeking to essentially subpoena the
9 corporation to testify at the hearing, also
10 inappropriate. There are rules. You know, Rule
11 4901-1-21 talks about issuing a notice of deposition
12 to a corporation to designate a witness. That same
13 language is not in 4901-1-25 for subpoenas.

14 And so for that list of reasons, we will
15 be denying the motion.

16 MS. WHITFIELD: Thank you, your Honor.

17 MS. BOJKO: Thank you.

18 EXAMINER HICKS: There -- I mean, there
19 is also the motion to permit the remote testimony
20 which I think is kind of null and void at this point,
21 but to the extent that needs a ruling, also denied.

22 EXAMINER ST. JOHN: Now, with those
23 procedural matters out the way, I will go ahead and
24 turn things over to Ms. Whitfield.

25 MS. WHITFIELD: Thank you, your Honor.

1 The Applicants call Pete Landoni to the stand.

2 EXAMINER ST. JOHN: Please raise your
3 right hand.

4 (Witness sworn.)

5 EXAMINER ST. JOHN: Please proceed.

6 - - -

7 PETE LANDONI

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

10 DIRECT EXAMINATION

11 By Ms. Whitfield:

12 Q. Can you please state your name and
13 address.

14 A. It's Pete Landoni. We are at 2701
15 Northwest Vaughn Street, Portland, Oregon, and I
16 can't remember the zip because we just moved so.

17 Q. And on whose behalf are you here
18 testifying today?

19 A. Avangrid Renewables and the Applicants.

20 Q. All six Applicants?

21 A. Yes.

22 Q. All right.

23 MR. WHITT: Your Honors, at this time I
24 would like to mark for identification purposes as
25 Applicants Exhibits 1 through 6 the applications

1 filed in this consolidated proceeding as follows:
 2 Exhibit 1 is the application of Moraine Wind LLC
 3 filed on April 30, 2021; Exhibit 2, application of
 4 Rugby Wind LLC filed on April 30, 2021; Exhibit 3,
 5 application of Elm Creek II Wind LLC filed on May 3,
 6 2021; Exhibit 4, application of Buffalo Ridge Wind
 7 LLC filed on May 3, 2021; Exhibit 5, application of
 8 Barton Windpower 1 filed on May 4, 2021; and
 9 Exhibit 6, application of Barton Windpower 2 filed on
 10 April 13, 2022.

11 Your Honors, may I approach?

12 EXAMINER ST. JOHN: Yes. And those six
 13 exhibits will be so marked.

14 (EXHIBITS MARKED FOR IDENTIFICATION.)

15 MS. WHITFIELD: Thank you.

16 Q. (By Ms. Whitfield) Mr. Landoni, do you
 17 have in front of you what has been marked as
 18 Applicants Exhibits 1 through 6 that I just handed
 19 you?

20 A. I do.

21 Q. Do you recognize those documents as the
 22 applications that were filed in this consolidated
 23 proceeding?

24 A. Yes.

25 Q. Were those applications prepared by you

1 or under your direction?

2 A. Yes.

3 Q. Do you have personal knowledge of the
4 substance of each of these applications?

5 A. I do.

6 Q. And Exhibits 1 through 6, are those true
7 and correct copies of the applications as they were
8 filed?

9 A. Yes.

10 MS. WHITFIELD: Your Honors, at this time
11 I would like to mark for identification purposes as
12 Applicants Exhibit 7, the document titled direct
13 testimony of Pete Landoni filed on August 12, 2022,
14 in this consolidated proceeding.

15 EXAMINER ST. JOHN: That will be so
16 marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 Q. (By Ms. Whitfield) Mr. Landoni, do you
19 have in front of you what has been marked as
20 Applicants Exhibit 7?

21 A. I do.

22 Q. Do you recognize that document as your
23 direct testimony?

24 A. I do.

25 Q. Was this direct testimony prepared by you

1 or under your direction?

2 A. Yes.

3 Q. Since the filing of your direct
4 testimony, do you have any changes?

5 A. There were a couple of corrections. One
6 is on -- there on page 1, line 7, the word
7 "Interconnect" should be corrected to
8 "Interconnection."

9 Q. Okay.

10 A. And in line 11 on page 1, asset --
11 "assets in operation" should be "asset in operation,"
12 just truncate the S.

13 Q. So remove the S from "operations."

14 A. Yes.

15 Q. Okay. Any other typo changes that you
16 have?

17 A. No.

18 Q. And since filing your testimony, has your
19 asset management team undergone any type of
20 reorganization?

21 A. We have. I've added a new asset manager
22 who reports to me. So we've, you know, rearranged
23 assets and who is responsible for them, but they all
24 are directly responsible to me as the east lead.

25 Q. And so you have oversight over all those

1 people.

2 A. Yes, I do.

3 Q. With these changes and updates, if I were
4 to ask you the same questions today as they appear in
5 your direct testimony, would your answers be the
6 same?

7 A. Yes.

8 MS. WHITFIELD: At this time, your Honor,
9 I would like to move Applicants Exhibit 1 through 7
10 into evidence, subject to cross-examination, and I
11 tender the witness for cross-examination.

12 EXAMINER ST. JOHN: Okay. Thank you.

13 It looks like -- from our discussions
14 before today, it looks like the only party who had
15 cross questions for this witness would be Carbon
16 Solutions, so I will go ahead and turn things over to
17 whichever counsel is going to be asking these
18 questions.

19 MR. WHITT: Thank you, your Honor.

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Whitt:

23 Q. Good morning, Mr. Landoni. I would like
24 to start by understanding your role in the
25 application process. Page 2 of your testimony you

1 say that "Avangrid Renewables is the owner of the
2 six -- six renewable facilities that are the subject
3 of this proceeding." I was just reading lines 4 and
4 5.

5 A. Yeah.

6 Q. And not intending to be hypertechnical
7 here, but for clarity of the record, most of the
8 applications that you've identified list an LLC as
9 the facility owner; is that correct?

10 A. That's correct.

11 Q. And when you say that Avangrid Renewables
12 is the owner, by that do you mean that Avangrid is a
13 member of the LLC that owns the facility?

14 A. Avangrid Renewables is the sole owner of
15 these LLCs.

16 Q. Thank you. At page 5 of your testimony,
17 lines 12 through 13, you say that "I assisted in the
18 preparation of the REN applications." Do you see
19 that?

20 A. Yes, I do.

21 Q. And I didn't see your name or any
22 reference to Avangrid in the applications for Moraine
23 Wind or Buffalo Ridge. That would be the 21-516 and
24 21-532 applications, which I believe you have in
25 front of you?

1 A. Okay. I'm sorry. Can you repeat which
2 ones you said? Moraine?

3 Q. Moraine, 21-516; and Buffalo Ridge,
4 21-532?

5 A. Yes.

6 Q. Is what I said correct?

7 A. It appears to be an oversight. Kristin
8 Sare works for me and in Avangrid Renewables. It
9 appears we just didn't put her title in the
10 organization in there.

11 Q. Okay. With respect to the 21-516 and
12 21-532 applications, did you personally have any
13 interaction with PUCO Staff on those regarding those
14 two applications?

15 A. I don't recall.

16 Q. Do you know who, if anyone, on your staff
17 would have interacted with PUCO Staff on those two
18 applications?

19 A. I don't at this time, no.

20 Q. If you look at the application for Barton
21 1, 21-544 --

22 MS. WHITFIELD: What exhibit number is
23 that, Mark?

24 MR. WHITT: Whichever one you marked
25 Barton 1 as. I believe it's 5.

1 A. 5.

2 EXAMINER HICKS: 5.

3 A. Uh-huh.

4 Q. The application lists Avangrid -- lists
5 you personally as the owner rep but someone else is
6 listed as the regulatory contact. Do you see that?

7 A. I do.

8 Q. So I have the same question with respect
9 to the Barton 1 application and that is whether you
10 personally had any interactions with PUCO Staff on
11 that application?

12 A. I don't -- I don't recall any direct
13 interaction with PUC Staff. I helped, again,
14 formulate the -- you know, come up with the
15 information that's on the application, but I don't
16 recall any -- any direct interaction with PUC Staff.

17 Q. Do you know who on your Staff may have
18 had any such interactions?

19 A. I don't.

20 Q. Could we assume that the person listed as
21 the regulatory contact would have had interactions?

22 MS. WHITFIELD: Objection, calls for
23 speculation.

24 EXAMINER ST. JOHN: Can you rephrase the
25 question?

1 Q. (By Mr. Whitt) Well, you supervised these
2 applications, correct?

3 A. Yes, the filling of the information, yes.

4 Q. And is the purpose of listing a
5 regulatory contact to give PUCO Staff the information
6 it needs to interact with the company?

7 A. I really don't -- I really don't know.

8 Q. With respect to the Barton 2 application,
9 I believe that would be Exhibit 6 in front of you,
10 Case No. 22-380, you list Kristine Sare as the
11 regulatory contact, correct?

12 A. Kristin Sare, yes.

13 Q. Kristin, I'm sorry.

14 A. Uh-huh.

15 Q. Did you personally interact with anyone
16 on PUCO Staff regarding the Barton 2 application?

17 A. I don't recall that I did.

18 Q. With respect to Exhibits -- with the
19 applications reflected in Exhibits 1 through 6, apart
20 from preparation and filing of the applications, to
21 the extent that you were involved, did your
22 involvement extend to anything beyond preparing and
23 filing those documents?

24 MS. WHITFIELD: Objection, vague. Can I
25 have the question read back actually?

1 EXAMINER ST. JOHN: Please go ahead and
2 read that back.

3 (Record read.)

4 MS. WHITFIELD: Yeah. I am going to say
5 that's vague, and his testimony speaks for what all
6 he did with respect to the applications in question
7 14 -- not question 14 but it's in there in the detail
8 as to what he -- what his role was in the application
9 process.

10 EXAMINER ST. JOHN: I will go ahead and
11 overrule that objection and let the witness answer.

12 A. I don't necessarily know that I
13 understand the question. So if you could be a little
14 more detailed with it, that would be great.

15 Q. You've sponsored these applications,
16 correct?

17 A. Okay. Yes.

18 Q. And you were the person responsible for
19 the filing of these documents with the PUCO, correct?

20 A. Yes.

21 Q. Other than overseeing the preparation and
22 filing of the applications, did you have any
23 additional involvement or interaction with PUCO Staff
24 after --

25 A. Not -- oh, go ahead. Sorry.

1 Q. After the documents were filed?

2 A. Not to my recollection.

3 Q. Did you have any interactions involving
4 any of these applications with anyone from PJM?

5 A. Other than asking for the DFAX study, no.
6 And I guess to go back on the other question about
7 interaction with PUC Staff, you know, PUC Staff asks
8 for the DFAX study so.

9 Q. Did someone --

10 A. I don't know if it was me or someone on
11 my staff that actually talked to them.

12 Q. So are you -- you don't have a
13 recollection of whether a request by Staff for a DFAX
14 study was made to you or to someone else?

15 MS. WHITFIELD: Objection, vague. When
16 you say someone else, do you mean someone else on his
17 team that reports to him or do you mean -- who do you
18 mean?

19 MR. WHITT: Let me break it down.

20 Q. (By Mr. Whitt) With respect to the six
21 applications, did PUCO Staff ask you personally to
22 obtain a DFAX study from PJM?

23 A. I honestly don't recall if it was me
24 personally or if it was my staff or my -- or the
25 company as well. It would have been somebody within

1 our company.

2 Q. Did you personally contact anyone at PJM
3 to ask for a DFAX study relative to any of the
4 facilities in these applications?

5 A. I don't recall if it was me or if it was
6 someone on our regulatory staff that we may have
7 asked our account rep of how to go about getting
8 that.

9 Q. Who is your account rep?

10 A. Anthony, and I am sorry, I can't remember
11 his -- DiDonato maybe.

12 Q. Is that -- have you had somebody that
13 your company would routinely interact with at PJM?

14 A. He is our -- he is our account rep, so if
15 we have questions, we would -- we would start with
16 him.

17 Q. Apart from the applications in this case
18 that are reflected in Applicant Exhibits 1 through 6,
19 have you been involved in any previous REN
20 certificate cases in Ohio? And by REN certificate
21 cases, I am referring to the case code designation
22 the Commission uses for the types of filings in
23 Exhibits 1 through 6.

24 A. Other than these, no.

25 Q. So your knowledge of the certificate

1 process is based on your participation in the cases
2 that bring us here today; is that fair to say?

3 A. Yes.

4 Q. Now for the cases that do bring us here
5 today, Avangrid did not submit DFAX studies with any
6 of the applications, correct?

7 MS. WHITFIELD: Objection. He did submit
8 them upon Staff's request.

9 MR. WHITT: No. That wasn't my question.

10 MS. WHITFIELD: You said the application
11 process or you mean the initial application?

12 MR. WHITT: No.

13 Q. (By Mr. White) When Avangrid filed each
14 of these applications, the applications did not
15 include DFAX studies; is that correct?

16 MS. BOJKO: Objection.

17 A. That's correct.

18 MS. BOJKO: Objection.

19 THE WITNESS: I'm sorry.

20 EXAMINER ST. JOHN: It's already been
21 answered.

22 A. I don't believe so.

23 Q. Okay. And at some point after the
24 applications were filed, Staff requested Avangrid to
25 obtain DFAX studies, correct?

1 MS. WHITFIELD: Objection.

2 MS. BOJKO: Objection.

3 MS. WHITFIELD: I do want to make one
4 clarification. He keeps saying -- Mr. Whitt keeps
5 referring to applications being filed by the
6 Applicants. They are not filed, I think we need to
7 clarify that, by the Applicants.

8 MS. BOJKO: I had the same objection,
9 your Honor. They were not filed by the Applicants.

10 MS. WHITFIELD: They were put on a
11 portal, and Staff opens up a docket for it. We do
12 not. It's an electronic portal.

13 EXAMINER ST. JOHN: Okay. Thank you for
14 that clarification.

15 MS. WHITFIELD: So you are not saying we
16 filed something.

17 MR. WHITT: Okay.

18 Q. (By Mr. White) Well, let me -- let's go
19 back to the application process then. You've
20 identified documents that -- the applications in this
21 proceeding, correct?

22 A. I'm sorry. Repeat the question, please.

23 Q. Exhibits 1 through 6, once those
24 documents are prepared by your company internally,
25 what do you do with them?

1 A. It's been over two years. I can barely
2 remember. I'm not sure that -- I don't know if I
3 filed them through the portal or if someone else did.

4 Q. Well, sir, page 3 of your testimony, line
5 7, you say "The purpose of my testimony is to explain
6 the certification process for REN facilities in
7 Ohio." Are you able to do that today?

8 A. From what my knowledge is, yes.

9 Q. Your knowledge does not include what
10 happens to these documents after you prepare them; is
11 that -- is that correct?

12 MS. WHITFIELD: I am going to object to
13 that. He asked him if you personally. This goes to
14 my prior objection where you have to specify if you
15 are talking about you personally or if you are asking
16 him about his team and the asset management team.
17 You want to ask him what his team did with them once
18 they were approved, then you can do that.

19 MR. WHITT: Well, he is -- the witness
20 has sponsored the documents, and if he doesn't have
21 personal knowledge of what they are or how they were
22 created, there's a serious foundation problem here.

23 MS. WHITFIELD: Well, I would disagree
24 with that, Mr. Whitt. What he has testified to is
25 that either he did it personally or someone on his

1 team that he oversees and manages. You keep saying
2 you which makes him answer as to personally as
3 opposed to you asking about his department or his
4 asset management team.

5 Q. (By Mr. Whitt) Let's try this again. Did
6 you personally complete any of the applications,
7 Exhibits 1 through 6?

8 A. I had input into completing the
9 applications. Are you talking about the information,
10 or are you talking about submitting them to the
11 portal?

12 Q. Well, let's start with just the -- the
13 completing the information or providing the
14 information we see in writing.

15 A. I helped complete these, yes.

16 Q. Okay.

17 A. Some of the assets were under my direct
18 supervision. Some were not.

19 Q. Okay. And when you say before these
20 applications were submitted to the portal, what do
21 you mean by that?

22 A. The -- the PUC system, docket system --

23 Q. Okay.

24 A. -- I believe. Again, it's been two
25 years, and I did it once so.

1 Q. Okay.

2 A. Six times technically.

3 Q. Okay. Beyond submitting or causing the
4 information to be submitted to the portal, you don't
5 recall any specific interaction with anyone at PUCO
6 Staff about the applications?

7 MS. BOJKO: Objection, asked and
8 answered.

9 MS. WHITFIELD: And I will just again ask
10 are you talking about him personally or his team?

11 MR. WHITT: Well, he is the witness, so
12 it is necessarily him personally.

13 EXAMINER ST. JOHN: I would agree that
14 this topic has been covered. I will let the witness
15 answer the question this one last time and then let's
16 move on.

17 A. I don't recall any direct interaction
18 with PUC Staff.

19 Q. Okay. Do you know who in your testimony
20 requested DFAX studies from PJM for any of these
21 facilities?

22 A. I don't with 100 percent confidence, no.
23 Again, it's been a long time.

24 Q. Do you know who at PJM prepared the DFAX
25 studies?

1 A. No.

2 Q. When you say at page 4, line 4, of your
3 testimony that you are sponsoring DFAX studies
4 performed and produced by PJM for each of the
5 Applicants' facilities, how do you know that the DFAX
6 studies you are sponsoring were, in fact, performed
7 and produced by PJM?

8 A. Because if you look at Attachment A,
9 it's -- it's a cover letter from PJM.

10 Q. How do you know?

11 A. It says PJM performed the DFAX analysis.

12 Q. How do you know that PJM did this?

13 MS. WHITFIELD: Objection. The document
14 speaks for itself.

15 MR. WHITT: Well, the document does.
16 Does the witness know where the document comes from?

17 A. It comes from PJM.

18 Q. How do you know that?

19 A. Because it's got a letter on there from
20 PJM.

21 Q. Okay. You are assuming that the letters
22 are authentic and issued by PJM. You are relying on
23 the document itself to inform your belief of what it
24 is; is that fair?

25 A. Yes.

1 Q. Have you talked to anyone at PJM about
2 any of the DFAX studies you have sponsored?

3 A. I thought I had already answered that.

4 Q. I am not sure that you did.

5 A. Okay. Repeat the question, please.

6 MR. WHITT: Can you reread it?

7 EXAMINER ST. JOHN: Please go ahead and
8 reread it.

9 (Record read.)

10 A. No.

11 Q. Let me ask a few questions about the
12 comments and the reply comments that you've
13 sponsored. Those would be in Attachment B of your
14 testimony.

15 A. Did you say B?

16 Q. B as in boy. What, if any, involvement
17 did you have in the preparation of these documents?

18 A. Of the comments?

19 Q. Yes.

20 A. Interaction with counsel and other groups
21 in my company.

22 Q. Okay. When you say interaction, I
23 assume -- I don't want to know exactly what you
24 talked with your counsel about but reviewing drafts,
25 things of that nature?

1 A. Yes.

2 Q. When you say you are sponsoring these
3 materials, what do you mean by that?

4 A. That's a very good question. I am
5 certifying that from Avangrid Renewables' perspective
6 that these documents are correct.

7 Q. Okay. Are you the person we should ask
8 about any of the legal arguments in the documents?

9 A. I'm not an attorney, so I don't know.

10 Q. Would you be comfortable answering any
11 questions about any specific statements that are in
12 the comments or reply comments?

13 A. It's been a while since I have reviewed
14 the comments, so I'm not sure.

15 Q. Okay. To be clear, you didn't write
16 these comments.

17 A. I had input into the comments.

18 Q. But you are not claiming authorship, are
19 you?

20 MS. WHITFIELD: Objection, asked and
21 answered.

22 MR. WHITT: I will withdraw the question.

23 EXAMINER ST. JOHN: Thank you.

24 Q. (By Mr. Whitt) Let me direct your
25 attention to the comments on page 4.

1 A. Okay.

2 Q. At the bottom of page 4, the first
3 sentence of the heading under the word "Comments"
4 says "While each of the Avangrid Renewables' REN
5 cases involves a separate facility with a unique
6 power flow study based on individual data," then the
7 sentence continues. Did I read that correctly?

8 A. It appears, yes.

9 Q. Okay. And where it says -- makes a
10 reference here to "a unique power flow study based on
11 individual data" means that you are representing here
12 that a separate DFAX study exists for each individual
13 facility, fair to say?

14 A. That's my understanding but we have a
15 joint witness, John Chiles, that will be able to talk
16 to you about DFAX.

17 Q. Okay. Still in the comments on page 7,
18 the middle paragraph says "For each of the five
19 facilities at issue in the Avangrid Renewable REN
20 cases, Applicants 'provided a DFAX power flow study
21 which was performed by PJM.'" Do you see that?

22 A. I do.

23 Q. And again, this would suggest that there
24 is a power flow study for each individual facility,
25 correct?

1 A. Yes.

2 Q. Okay. Now let's sort of fast forward
3 into the reply comments. Are you there, sir?

4 A. The reply -- which page are you talking
5 about?

6 Q. Page 6.

7 A. Okay.

8 Q. The bottom paragraph starts with the word
9 "When." Do you see that?

10 A. On page 6. No, I'm sorry, I don't.

11 Q. We were in the comments before. I've
12 moved ahead into the reply comments. It's about an
13 inch of paper further into your stack there.

14 A. Okay.

15 MS. BOJKO: I'm sorry. Which page are
16 you on?

17 MR. WHITT: Page 6.

18 A. Sorry. I still don't see that.

19 Q. Just to help you out, the Attachment B
20 has the comments and then attached to the comments
21 there are DFAX studies and expert reports and other
22 materials.

23 A. Okay.

24 Q. And then the reply comments are after
25 that stack.

1 A. Okay. Thank you. Okay. I'm there.

2 Q. Okay. The bottom paragraph on page 6 of
3 the reply comments says "When considering the results
4 of the DFAX studies for each facility, Staff looked
5 for both the highest value for a transmission line
6 with either a start or end point in Ohio, and the
7 highest value for a transition line with both a start
8 or end point in Ohio." Did I read that correctly?

9 A. Yes.

10 Q. And again, this would indicate a separate
11 DFAX study being performed for each facility,
12 correct?

13 MS. WHITFIELD: Objection. If you read
14 it, it says -- it's a mischaracterization, improper
15 question because it says "results of the DFAX studies
16 for each facility." It says each facility. It
17 doesn't say each DFAX facility [sic] for each
18 facility.

19 EXAMINER ST. JOHN: Could you restate the
20 question?

21 Q. (By Mr. Whitt) Let me just ask a
22 different question. It's fair to say that -- that
23 you personal -- you don't have personal knowledge of
24 what Staff looked at to perform whatever analyses it
25 performed in this case other than what we can all

1 read from the Staff Report, would that be fair?

2 A. Yes.

3 Q. And the Applicants are relying on the
4 DFAX studies that we've been talking about to satisfy
5 the deliverability requirement, correct?

6 A. Yes.

7 Q. Let's go back to your testimony. At page
8 1, line 10, when you say that -- let me make sure you
9 are there first. Are you there?

10 A. Yeah, I am.

11 Q. When you say that part of your job is
12 "protecting and enhancing the value of assets in
13 operation," what do you mean by that?

14 A. We work with our trading desk for --
15 looking at, again, ways -- how can we -- how can we
16 enhance the value of the assets. We work with the
17 operations staff. We work with the trading desk.
18 Work with the REC desk. Basically various
19 organizations in the company to see how we can
20 enhance value and protect value.

21 Q. By enhancing value, do you mean becoming
22 more profitable?

23 A. Yes.

24 Q. Okay. Would certification of these
25 facilities enhance their value?

1 A. My understanding is yes. Would have been
2 better two years ago but, yes, somewhat. But I'm not
3 the -- I don't control the REC desk that does the
4 trading of RECs and the things that -- to optimize
5 the renewable energy credits so. Work with them but
6 I don't have day-to-day knowledge.

7 Q. The facilities that are described in the
8 applications we talked about earlier, I believe most
9 of those were placed in service in the late 2000s; is
10 that correct? 2009, maybe some were a little
11 earlier, some a little later but these --

12 A. Yeah, 2003 to 2010.

13 Q. And why is it that Avangrid is only now
14 seeking certification of the facilities?

15 A. Again, as part of a way to enhance value,
16 we look to do the best that we can to monetize our
17 RECs, and we -- we -- at a certain point it was
18 brought up to us that this is a possibility, to
19 qualify in Ohio, so we went ahead.

20 Q. When you say it was brought up to us,
21 what was brought up to you or your company?

22 A. Yeah. We had another counterparty that
23 asked us about it and so that was kind of the
24 proverbial lightbulb for us to investigate it
25 ourselves.

1 Q. Can you give me some context here,
2 counterparty to -- to what?

3 A. PPA customer.

4 Q. Okay. Do you recall who the customer
5 was?

6 MS. WHITFIELD: I am going to object.
7 That's confidential.

8 EXAMINER ST. JOHN: I'll sustain the
9 objection.

10 Q. (By Mr. Whitt) And what -- what
11 information caused your company to conclude that
12 there was some opportunity to enhance value in Ohio
13 through REN certification?

14 A. I believe the REC desk was looking at the
15 price of Ohio RECs at that time.

16 Q. I understand Avangrid has a business
17 relationship with Blue Delta, correct?

18 A. They are -- I'm not sure how to answer
19 that. They are -- they are part of the Applicants
20 here so.

21 Q. Well, Blue --

22 A. Part of the proceedings.

23 Q. Well, why is that to your knowledge?

24 A. Honestly I don't know. I'm not that
25 familiar.

1 Q. Did you know who Blue Delta was before
2 this proceeding was initiated?

3 A. I did not.

4 Q. You did not?

5 A. Huh-uh.

6 Q. Sir, do you recall verifying or reviewing
7 some discovery responses that Avangrid prepared in
8 this case?

9 MS. WHITFIELD: Objection to the form.
10 If he wants to show the witness the discovery.

11 MR. WHITT: Okay. Can we approach?

12 EXAMINER ST. JOHN: Yes.

13 MR. WHITT: And while we are getting our
14 documents ready to pass out, I will hand you a
15 document we will mark for identification as CSG
16 Exhibit 1. CSG Exhibit 1.

17 MS. BAIR: Thank you.

18 MS. WHITFIELD: Sorry.

19 EXAMINER ST. JOHN: And that document
20 will be so marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 MR. DeMONTE: May I approach?

23 EXAMINER HICKS: You may.

24 Q. (By Mr. White) Sir, I have handed you a
25 document we have marked for identification as CSG

1 Exhibit 1, and I direct your attention more -- there
2 is a cover page or a cover letter more specifically
3 to the document with a partial title at least,
4 "Second Supplemental Responses and Objections of
5 Moraine Wind LLC," et cetera. Have you seen this
6 document before?

7 A. I may have glanced at it as it came
8 through an e-mail, but I don't know that I -- I'm not
9 intimately familiar with it.

10 Q. Okay. On page 6 of the document --
11 actually back up. On page 4 of the document, at the
12 top it says "Interrogatories," and then beneath it it
13 says "Interrogatory No. 2."

14 A. Okay.

15 Q. Do you see that?

16 A. Yes.

17 Q. And interrogatory No. 2 says "For each
18 Applicant Facility, for each calendar year,
19 commencing with the year the facility was placed into
20 service through 2021, Identify" and then item A
21 "Purchase Power Agreements for the sale of energy or
22 capacity associated with the facility." Do you see
23 that?

24 A. I do.

25 Q. And then if we go to page 6, at the top

1 it says "Supplemental response (September 15, 2022)."

2 Do you see that?

3 A. Yes.

4 Q. And under item A here, the response
5 indicates that for certain facilities there are no
6 associated purchase power agreements and then there
7 are references to the Rugby facility and Barton
8 Windpower. Are you still -- still with me?

9 A. Yes.

10 Q. Okay. Where this response refers to a
11 portion of Rugby for which the Applicants are seeking
12 certification has no PPAs, when the response refers
13 to a portion of Rugby, what does that mean?

14 A. It means --

15 MS. WHITFIELD: Objection. I am going
16 to -- that's getting into confidential information.

17 MR. WHITT: I don't know how it's
18 confidential. It's a discovery response verified by
19 the witness.

20 MS. WHITFIELD: Well, you are trying to
21 get into the confidential business relationship that
22 is subject to what's being referred to as the portion
23 of the Rugby facility.

24 EXAMINER ST. JOHN: I will go ahead and
25 instruct the witness to not reveal any such

1 confidential information and answer -- with that
2 being said answer to the extent that you are able.

3 A. Okay. Currently we have three PPAs with
4 three different customers for approximately -- again,
5 approximately half of the capacity of Rugby. What
6 we're looking for for certification for Rugby is for
7 the merchant half.

8 Q. So would you expect PJM to have included
9 or excluded the contracted megawatt-hours from the
10 Rugby facility in its power flow studies? If you
11 know.

12 A. Can you restate the question, please?

13 MR. WHITT: Could you reread -- have the
14 court reporter reread it?

15 EXAMINER ST. JOHN: Please reread --
16 please reread that question.

17 (Record read.)

18 A. I don't know.

19 Q. (By Mr. White) And is Rugby like the
20 Barton facility where there is a Barton 1 and there
21 is a Barton 2?

22 A. No.

23 Q. Okay. Rugby is a single facility?

24 A. Yes.

25 Q. And you said half of the capacity of that

1 facility is under PPA?

2 A. Roughly, approximately.

3 Q. And is the PPA counterparty located
4 within the PJM region?

5 A. I don't know. To me that's confidential
6 but.

7 Q. 40 megawatts of the Rugby facility is
8 contracted to Missouri River Energy Services; is that
9 right?

10 A. Correct.

11 MS. WHITFIELD: Objection. He already
12 answered.

13 EXAMINER ST. JOHN: The question has been
14 answered so.

15 MR. WHITT: Oh, did he say "yes"?

16 A. I said "yes."

17 Q. And the -- as you indicate in the
18 supplemental response to Interrogatory 2A, the Barton
19 Windpower facility also has a PPA; is that correct?

20 A. Yes.

21 Q. Would --

22 A. Actually agreements, I believe there is
23 two.

24 Q. Oh, okay. Is one of those an 80 megawatt
25 PPA with Dairyland Cooperative?

1 MS. WHITFIELD: Objection. That calls
2 for confidential information.

3 EXAMINER ST. JOHN: I don't know that
4 there is a way for the witness to answer this
5 particular question without divulging confidential
6 information.

7 MR. WHITT: Well, there's been no
8 indication that -- that it's confidential, you know,
9 especially when press releases are issued publicly
10 after these PPAs are executed.

11 MS. WHITFIELD: Objection, your Honor.
12 First of all, there's no press release in the record
13 but more importantly customer information and client
14 lists are considered proprietary and privileged and
15 are not subject to disclosure here. Ohio law and
16 Commission regulations protect that customer-specific
17 account data by not considering them public records
18 and exempting them from discovery or anything else
19 that would enable disclosure under Revised Code
20 1333.61, the information that they are talking about
21 here is considered a confidential trade secret and
22 prohibited from release under Ohio law.

23 EXAMINER ST. JOHN: Any response?

24 MR. WHITT: Well, it's -- the objection
25 doesn't go to the question. Does -- and if I know

1 the information, then it's not confidential. Or
 2 maybe I am incorrect. The witness manages these
 3 assets. Does Barton 1 have an 80 megawatt PPA with
 4 Dairyland Cooperative? That's the question.

5 MS. WHITFIELD: And that gets into, A,
 6 our confidential information with our client and the
 7 details of a particular power purchase agreement
 8 which we -- the specific terms and such which we are
 9 unable to disclose for confidentiality purposes.

10 MR. WHITT: I didn't ask anything about
 11 specific details.

12 MS. WHITFIELD: You just asked the amount
 13 of it. That is a detail and a term in the --

14 EXAMINER ST. JOHN: I will go ahead and
 15 jump in. At this point I will go ahead and sustain
 16 that objection.

17 Q. (By Mr. White) You'll agree it doesn't
 18 post confidential information on its website, does
 19 it?

20 MS. WHITFIELD: Objection, lack of
 21 foundation. He doesn't run Avangrid's website.

22 MR. WHITT: Well, he is purporting to
 23 decide what's -- what the Company considers
 24 confidential or not.

25 EXAMINER ST. JOHN: I don't think he is

1 purporting anything. I think counsel made an
2 objection and cites a section of the Revised Code.

3 MR. WHITT: Okay. Let me withdraw the
4 question.

5 Q. (By Mr. Whitt) You said -- in fact, you
6 volunteered without me asking the question there are
7 two PPAs associated with Barton Windpower, correct?

8 A. My testimony -- the response here is
9 Barton Windpower has entered into purchase agreements
10 for the facility.

11 MS. WHITFIELD: You can't leave the
12 stand.

13 THE WITNESS: Oh, I asked.

14 MS. WHITFIELD: Oh, you did ask? Okay.

15 THE WITNESS: I asked permission. I
16 raised my hand.

17 MR. WHITT: May we approach, your Honor?

18 Q. (By Mr. Whitt) Sir, the -- counsel --
19 co-counsel has handed you a document we marked for
20 identification as CSG Exhibit 2.

21 EXAMINER ST. JOHN: Would you like to
22 mark that as CSG Exhibit 2?

23 MR. WHITT: Yes.

24 EXAMINER ST. JOHN: That will be so
25 marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. (By Mr. Whitt) Have you seen this
3 document either in hard copy or electronic form
4 before? Does this appear to be consistent with the
5 form and format of things that your company posts on
6 its website?

7 A. Yes. It is out of date just because
8 there is only one customer on here so. Yep.

9 Q. So CSG Exhibit 2 would indicate that
10 there is this 40 megawatt PPA for the Rugby facility
11 with Missouri River Energy Services, correct?

12 MS. WHITFIELD: Objection. I think
13 there's lack of foundation here. He is just having
14 the witness read a press release.

15 MR. WHITT: He just said he knows what it
16 is.

17 MS. WHITFIELD: He just said he knows
18 it's in the form of a press release that's on the
19 website. That could be on the website because it has
20 Avangrid Renewables up on the corner. I don't
21 believe you have laid the foundation whether he has
22 seen this before.

23 EXAMINER ST. JOHN: Please lay some
24 additional foundation if you would like to ask
25 questions about this document.

1 Q. (By Mr. White) Sir, does this document
2 appear to be consistent with the type of information
3 that Avangrid posts on its website?

4 A. Yes.

5 Q. Any reason to believe that the document
6 that you are looking at is from a source other than
7 Avangrid Renewables' website? We can pull it up, I
8 suppose, but.

9 A. No.

10 Q. Okay. But you did indicate, I believe,
11 that it was out of date; is that right?

12 A. I'm sorry. I misspoke. This is specific
13 to Missouri River so it's correct.

14 Q. Okay. But in addition to the PPA
15 referenced in CSG Exhibit 2, there is another PPA
16 associated with Rugby; is that correct?

17 A. As I stated, there are two others.

18 Q. So a total of three for Rugby?

19 A. Yes.

20 Q. What is the total megawatt-hours of -- or
21 megawatts of Rugby that are contracted under PPA?

22 MS. WHITFIELD: Objection. I am going to
23 say that calls for confidential information. That's
24 a specific term of the PPA.

25 MR. WHITT: Well, we have just been

1 talking about a public document, public information
2 that discloses 40 megawatts. I didn't even ask
3 specific megawatts associated with specific
4 contracts, just the total megawatt-hours that are
5 contracted.

6 EXAMINER ST. JOHN: I will jump in here
7 and ask counsel because we have some noise out in the
8 hallway, it's difficult for at least me to hear some
9 of what has been said, so I would ask at least while
10 we have some significant noise outside in the hallway
11 to speak up.

12 With that, Karen, would you mind
13 rereading the question and the objection for me.

14 (Record read.)

15 EXAMINER ST. JOHN: Mr. Whitt, are you
16 asking a question about information that is found
17 directly on this document?

18 MR. WHITT: Well, it's based partially on
19 this document. The document discloses 40 megawatts
20 and if it's correct that is -- that's public
21 information, then although it would be perfectly
22 appropriate to ask what are the megawatts associated
23 with other specific PPAs, that actually isn't the
24 question that's pending. The question is what are
25 the total megawatts associated with all three PPAs

1 combined. We know that it's at least 40.

2 A. As I stated --

3 EXAMINER ST. JOHN: Before you answer --

4 MS. WHITFIELD: No, no.

5 EXAMINER ST. JOHN: -- there's a pending
6 objection. I am going to sustain the objection. At
7 this point we have some information, but going beyond
8 what you've already produced as public information,
9 to me that's confidential.

10 MR. WHITT: Very well. I have no further
11 questions and would move for the admission of CSG
12 Exhibits 1 and 2 into evidence.

13 EXAMINER ST. JOHN: Before I rule on the
14 motions to admit Applicants' or CSG's exhibits, I
15 will go ahead and ask if there are any redirect
16 questions for this witness?

17 MS. WHITFIELD: There may be. Could I
18 take like a 5- or 10-minute break to speak with him?

19 EXAMINER ST. JOHN: Yeah. Let's go ahead
20 and do that. We will take a 10-minute break, so we
21 will plan to come back on the record at 11:20.

22 And at this point we are off the record.

23 (Recess taken.)

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

1 And do you have any questions for
2 redirect?

3 MS. WHITFIELD: I do. I think just a
4 few, your Honor.

5 EXAMINER ST. JOHN: Go ahead.

6 - - -

7 REDIRECT EXAMINATION

8 By Ms. Whitfield:

9 Q. Mr. Landoni, just to clarify, are you
10 here testifying today on behalf of yourself or as a
11 representative of Avangrid and the Applicants?

12 A. Avangrid Renewables.

13 Q. And do you recall that there was some
14 questions about interactions with Staff in the
15 application submission?

16 A. Yes.

17 Q. Okay. And just to clarify, you or
18 someone on your team that you oversee submits the
19 applications to Staff?

20 A. Someone at Avangrid, yes, on my team
21 submits that, yes.

22 Q. And then would someone from your team or
23 at Avangrid receive the request from Staff for a DFAX
24 study?

25 A. Yes.

1 Q. And then once your team or the company
2 receives that request, do -- does the Company then
3 reach out to PJM to request the DFAX study?

4 A. Yes, we do.

5 Q. And do you do that through an online form
6 or submission that PJM has set forth with the
7 information they need?

8 A. Yes. I have not done it personally but,
9 yes, my understanding.

10 Q. And but it's been done by people at the
11 company that you may have oversight over.

12 A. Yes.

13 Q. Okay. And how do you know that PJM
14 prepares the DFAX studies?

15 A. PJM sends an e-mail to Avangrid, someone
16 in Avangrid, I don't recall who that was, but it was
17 someone at Avangrid probably on my team that receives
18 the e-mail.

19 Q. And does that e-mail include an
20 attachment with the DFAX study attached?

21 A. I believe so, yes.

22 Q. And -- and then once your team -- the
23 company receives the DFAX study, then does your team
24 at the company submit it to Staff at the PUCO?

25 A. Yes.

1 Q. And so just to be clear, you manage a
2 team at the company that interacts with both Staff --
3 PUCO Staff and PJM in this application process.

4 A. Yes.

5 Q. Now, with respect to the DFAX study, do
6 you know if the -- or studies. Let me clarify that.
7 Let me start over. Sorry.

8 With respect to the DFAX studies, do you
9 know whether when the company is requesting those
10 studies to be run by PJM you can make a request for
11 multiple facilities in a single request?

12 A. Yes.

13 Q. But does the DFAX -- is a DFAX study run
14 for each facility?

15 A. Yes.

16 Q. Will a cover letter accompany each of
17 those individual DFAX studies?

18 A. I believe that they can combine.

19 Q. In the cover letter?

20 A. Yeah, in the cover letter, yes.

21 Q. And again, to clarify, did the company
22 have a request that PJM run a DFAX study for each of
23 the six facilities at issue in this case?

24 A. Yes.

25 Q. And did the company submit those DFAX

1 studies to Staff at Staff's request?

2 A. Yes.

3 MS. WHITFIELD: That's all I have, your
4 Honor.

5 EXAMINER ST. JOHN: Thank you.

6 Any recross?

7 MR. WHITT: Just very briefly.

8 - - -

9 RECROSS-EXAMINATION

10 By Mr. Whitt:

11 Q. It sounds like, sir, if I am
12 understanding what you just said, that there should
13 be a record of e-mails between and among PJM, your
14 company, PUCO Staff indicating who is requesting DFAX
15 studies from whom and how all of that's communicated;
16 is that fair?

17 MS. WHITFIELD: Objection as to the
18 Staff. There is a portal process.

19 EXAMINER ST. JOHN: The witness --

20 MS. WHITFIELD: And as to PJM, there is
21 an online form he just testified about.

22 A. To request a DFAX there is an online
23 form. Receiving the DFAX from PJM is an e-mail or
24 e-mails.

25 Q. E-mails from PJM to somebody at your

1 company.

2 A. Yes.

3 Q. Okay. Have you seen any e-mails from PJM
4 with the DFAX studies specific to these facilities?

5 A. I may have, but it's been so long I don't
6 recall the content or if I saw all of them or not.

7 Q. Okay. And none of them are attached to
8 your testimony, right?

9 A. Can you clarify that?

10 Q. You don't have any e-mails from PJM
11 attached to your testimony, correct?

12 A. No.

13 MR. WHITT: That's all I have.

14 EXAMINER ST. JOHN: Any redirect?

15 MS. WHITFIELD: Nothing, your Honor.

16 Thank you.

17 EXAMINER ST. JOHN: With that, we have
18 pending motions to admit Applicants Exhibits 1
19 through 7. Let's go ahead and address those first.
20 Are there any objections to the admission of those
21 four -- excuse me, of those seven exhibits?

22 MR. WHITT: Your Honor, no objection to
23 Exhibits 1 through 6.

24 On Exhibit 7, I would have an objection
25 to the admission of Attachment A which are the DFAX

1 studies for which there is a lack of foundation.

2 EXAMINER ST. JOHN: Could you speak
3 further to that objection, please?

4 MR. WHITT: The witness doesn't know who
5 requested these studies from PJM, who at PJM
6 performed the studies, or really anything about the
7 studies other than what he knows from reading the
8 cover letter and the title page, that since -- since
9 it says it's from PJM, it must be. That's an
10 assumption on his part. I think he has testified
11 there is lack of knowledge, of personal knowledge of
12 involvement in the process to actually be able to
13 authenticate, lay a foundation properly for these
14 specific DFAX studies, and they are being sponsored
15 by other witnesses.

16 EXAMINER ST. JOHN: Okay. Thank you.
17 Response?

18 MS. WHITFIELD: Thank you, your Honor.
19 For example, first of all, this witness has laid the
20 foundation for his understanding and knowledge of the
21 DFAX studies. As you recall, he just testified that
22 he -- he's here today testifying as a representative
23 of Avangrid, the company, and the Applicants and not
24 personally. He manages a team and a department,
25 asset management department, at the company that is

1 involved in requesting the application process -- or
2 requesting the DFAX studies and getting the DFAX
3 studies to Staff as it's -- as it's requested from
4 Staff.

5 So he -- he actually testified earlier
6 that he's involved in providing the data requested
7 from PJM. It's set forth in question 14 where he
8 answers are you familiar with the DFAX study and the
9 process of obtaining that study. CSG didn't
10 cross-examine him on any of that but that lays out
11 the detail of his information.

12 So we would say that the witness has
13 explained the DFAX study process including how the
14 reports are requested from the company and -- or from
15 PJM and -- and the information needed to compile
16 those reports and how to get them to Staff.

17 MS. BOJKO: Your Honor, may Blue Delta be
18 heard on the issue, please?

19 EXAMINER ST. JOHN: Yes.

20 MS. BOJKO: Your Honor, I think that
21 opposing counsel mischaracterizes the testimony. The
22 witness here today did actually say that he received,
23 or his team, Avangrid, the company received e-mails
24 from PJM and there are also e-mails that go to Staff.
25 Under Evidence Rule 901(B)(7), a document may be

1 authenticated through evidence that a writing
2 authorized by law to be recorded or filed and, in
3 fact, recorded or filed in a public office or
4 purported public record, report, statement, or data
5 compilation, in any form, is able to be relied upon
6 by this witness. And if you look at the DFAX studies
7 themselves, they do say it is for public use, and it
8 is on PJM's letterhead.

9 Additionally, Evidence Rule 901(B)(9), a
10 document can be authenticated through testimony
11 describing a process or a system used to produce a
12 result and showing that the process or system
13 produces an accurate result. And here today
14 Avangrid's witness testified to the process of both
15 requesting and receiving the DFAX model from PJM and
16 then, in turn, how that is produced to Staff to use
17 for the Commission's Koda test. Thank you.

18 EXAMINER ST. JOHN: Thank you.

19 MR. WHITT: And to be clear, there is not
20 only the foundational problem, also the obvious
21 hearsay problem of out-of-court statements
22 purportedly from PJM being offered for their truth.
23 That's the other problem.

24 MS. WHITFIELD: Your Honor, can I be
25 heard on that?

1 EXAMINER ST. JOHN: Yes.

2 MS. WHITFIELD: Pursuant to Evidence Rule
3 803(6) and (8), the DFAX studies constitute business
4 records of regularly-conducted activities. Records,
5 reports, statements, or data compilations in any form
6 of public office or agencies are admissible. The
7 DFAX studies were generated by PJM at the request of
8 the company, at the request of Staff for the purposes
9 of the facilities' applications pursuant to
10 longstanding Commission regulation. These -- I would
11 say that these studies are business records that
12 can -- that are an exception from the hearsay rule
13 and can be admitted.

14 EXAMINER ST. JOHN: Thank you. Give us
15 just a moment, please.

16 Actually rather than just taking a few
17 moments on the record here, let's go ahead and take a
18 short 5- or 10-minute break off the record and then
19 we will come back and make our ruling.

20 (Recess taken.)

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

23 After briefly talking this over off the
24 record, first of all, there is no objections to the
25 admission of Applicants Exhibits 1 through 6 so those

1 are -- those six exhibits are hereby admitted.

2 (EXHIBITS ADMITTED INTO EVIDENCE.)

3 EXAMINER ST. JOHN: As to Applicants
4 Exhibit 7, at this time we will go ahead -- there
5 were two objections to the admission of that exhibit.
6 One is an objection based on hearsay. We will
7 overrule that objection. As to the foundation
8 objection, we will go ahead and defer ruling on the
9 admission of the exhibit based on that objection.

10 Moving forward obviously other witnesses
11 will be presumably asked questions about the DFAX
12 studies. We will allow questions on the DFAX
13 studies, and if ultimately we determine that adequate
14 foundation has not been laid for admission of the
15 DFAX studies, obviously all testimony related to the
16 DFAX studies could be stricken at that point.

17 Are there any questions about this plan?
18 I know it's not a typical way to proceed.

19 MS. BAIR: I have a question, your Honor.

20 EXAMINER ST. JOHN: Go ahead.

21 MS. BAIR: So you are deferring entirely
22 on Exhibit 7 because some of the testimony may have
23 to do with DFAX which you are deferring ruling on?

24 EXAMINER ST. JOHN: Correct.

25 MS. BAIR: Thank you.

1 EXAMINER ST. JOHN: Rather than at this
2 point in time chopping it up and admitting part of
3 the exhibit that doesn't relate to DFAX and deferring
4 the portions that do relate to DFAX, we will just go
5 ahead and defer the admission of the entire exhibit.

6 MR. DeMONTE: And, your Honor, may I ask
7 one last clarifying question?

8 EXAMINER ST. JOHN: Yes.

9 MR. DeMONTE: The ruling is with respect
10 to the witness's attachment, and so as I understand
11 it, if other witnesses are asked about other copies
12 or things like that, then those questions get asked,
13 there could still be a ruling on this witness's
14 foundational concerns, but obviously if it goes in
15 with a different witness, it's more a record-based
16 objection; am I getting that correct?

17 EXAMINER ST. JOHN: Could you say that
18 again?

19 MR. DeMONTE: Witness sponsors the DFAX
20 studies and then there are other witnesses that talk
21 about the DFAX studies. I just want to confirm we're
22 not trying to establish this witness's foundation
23 through other witnesses' testimony? It's basically
24 if it gets in because other witnesses testify about
25 it, then we are sort of in a different procedural

1 posture, and you can rule with this witness's exhibit
2 separately in light of whether or not another witness
3 brought it in or was able to testify about it based
4 on that witness's testimony. Am I getting that
5 right?

6 EXAMINER ST. JOHN: I think there are a
7 lot of if hypothetical situations based on your
8 question, so I will go ahead and defer on answering
9 that question.

10 MR. DeMONTE: To be honest, your Honor, I
11 might try to defer on clarifying it because I am
12 still trying to figure it out in my brain. I am
13 trying to make sure I have got it down. We will work
14 together to figure it out if we need to work together
15 to figure it out.

16 EXAMINER ST. JOHN: Absolutely.

17 MS. WHITFIELD: Your Honor, just to
18 clarify, the objection was to just the admissibility
19 of Attachment A, not to his testimony or Attachment
20 B. And you are saying that you're withholding
21 Attachment A and waiting to admit that, but his
22 testimony will go in, or you are waiting to admit --

23 EXAMINER ST. JOHN: So at this point in
24 time, to avoid chopping up admitting certain portions
25 of the testimony now and deferring other portions

1 such as Attachment A, I am just going to wait and
2 defer the admission of all of the testimony.

3 MS. WHITFIELD: Okay. So if the -- so if
4 the DFAX studies are brought in through another
5 witness, then you would come back and admit his
6 testimony because now the DFAX studies are now
7 admitted through another witness if you --

8 EXAMINER ST. JOHN: I will wait to make
9 that decision.

10 MS. WHITFIELD: Okay.

11 MS. BOJKO: But, your Honor, nobody
12 challenged the admissibility of his testimony, just
13 Attachment A.

14 EXAMINER ST. JOHN: That's correct. And
15 I apologize if I misinterpreted the question, but I
16 do -- I will say I do anticipate admitting his
17 testimony and any portion that's not been challenged
18 based on a foundational objection.

19 MS. WHITFIELD: Okay. Thank you, your
20 Honor.

21 EXAMINER ST. JOHN: Thanks.

22 MS. BOJKO: Your Honor, may I ask clarity
23 of your ruling on the foundational question? I guess
24 I need a little more information to assess previous
25 witnesses given that this witness described the

1 Avangrid process and the obtaining the document
2 directly from PJM. So could you maybe explain what
3 you found insufficient?

4 EXAMINER ST. JOHN: Well, at this point
5 in time, the witness has testified that he or someone
6 on his team had contacted PJM and he or someone on
7 his team received the DFAX reports from PJM. He has
8 stated that he is unable to provide a name of anyone
9 on his team who did -- who did receive those reports
10 or request those reports. And he also said that he
11 may or may not have even reviewed the e-mails, seen
12 the e-mails at any point in time. So without further
13 foundation in that specific request, that's the
14 reason we are deferring ruling.

15 MS. BOJKO: Thank you, your Honor.

16 EXAMINER ST. JOHN: So I believe --

17 MS. WHITFIELD: Your Honor, then can I
18 reserve the right to recall the witness if -- I guess
19 on rebuttal once -- I guess I'm a little bit unclear
20 given that he is representing the company, and I
21 understand your ruling, but I'm just trying to figure
22 out -- I don't want to get to the end of this hearing
23 and you say, okay, well, I am not admitting his
24 testimony because some other witness didn't lay the
25 foundation for the DFAX study or your finding the

1 DFAX study is not a business record and can't be
2 admitted that way. So I would like to, I guess,
3 reserve the right to recall Mr. Landoni if we get --
4 on rebuttal.

5 EXAMINER ST. JOHN: Yeah. I see no
6 problem with that.

7 MS. WHITFIELD: Okay. Thank you.

8 EXAMINER ST. JOHN: So there was also a
9 pending motion to move CSG Exhibits 1 and 2 into
10 evidence. Are there any objections to the admission
11 of those two exhibits?

12 MS. WHITFIELD: Your Honor, with respect
13 to Exhibit 1, it's my understanding that it's usually
14 Commission practice we admit what the witness has
15 been questioned about, so I don't have any objection
16 to the admission of the Interrogatory No. 2. He was
17 only questioned about that interrogatory and his
18 supplemental response to that. But I don't think
19 there's been a foundation laid for the admission of
20 the totality of the exhibit.

21 EXAMINER ST. JOHN: Response?

22 MR. WHITT: If I may, your Honor, the
23 totality of the exhibit would be admissible basically
24 as a self-authenticating document and admission of a
25 party opponent with respect to each of the requests

1 here that the witness has verified, so although I
2 didn't ask this specific witness about all of the
3 responses, there really isn't a need to do that. But
4 for clarity of the record, we would like all of the
5 responses admitted not only because this is the
6 verifying witness who at least talked about some of
7 them but on the grounds that under the rules,
8 interrogatories are admissible to the same extent as
9 admissions, and they should all be admitted on that
10 basis.

11 MS. WHITFIELD: Your Honor, can I be
12 heard on that?

13 EXAMINER ST. JOHN: Yes.

14 MS. WHITFIELD: He has not laid the
15 foundation for this witness for any of the other
16 discovery responses other than Interrogatory No. 2.
17 We can't just wholesale dump this document in. It
18 contains objections written by legal -- legal counsel
19 which has not been addressed with this witness, and
20 so I would say with -- I mean, it's somewhat similar
21 to lack of foundation with what you've just done with
22 the DFAX studies. If he doesn't have the foundation
23 for that, then he doesn't have a foundation for
24 anything but Interrogatory No. 2, answer to
25 Interrogatory No. 2 which the actual request for that

1 also has to be included.

2 EXAMINER ST. JOHN: I would tend to agree
3 with that, so we'll admit CSG Exhibit 1 pages -- it's
4 not marked at the bottom, but it is page 4, and then
5 also marked at the bottom pages 5 and 6 which the
6 witness has been asked questions about. The
7 remainder of the exhibit will not be admitted into
8 the record.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 MR. WHITT: Just to be clear, I did --
11 the witness did testify he reviewed and verified the
12 interrogatories. Is counsel -- are you saying that
13 this -- are you denying that these are your second
14 supplemental discovery responses?

15 MS. WHITFIELD: I am not --

16 EXAMINER ST. JOHN: Let's not get into a
17 back and forth here. I've made my ruling as to CSG
18 Exhibit 1. Are there any objections to the admission
19 of CSG Exhibit 2?

20 MS. WHITFIELD: No, your Honor.

21 EXAMINER ST. JOHN: All right. That
22 exhibit will be admitted into the record.

23 (EXHIBIT ADMITTED INTO EVIDENCE.)

24 EXAMINER ST. JOHN: With that, thank you
25 for your testimony, Mr. Lagoni.

1 MS. WHITFIELD: Pete, you can leave those
2 exhibits -- just leave all the documents that were
3 handed to you.

4 THE WITNESS: Okay.

5 EXAMINER HICKS: Applicants can go ahead
6 and call their next witness.

7 MS. WHITFIELD: Yes. At this time, your
8 Honors, the Applicants' next witness is John Chiles
9 who is a joint witness on behalf of Applicants and
10 Intervenor Blue Delta, and Blue Delta's counsel,
11 Ms. Bojko, will be presenting Mr. Chiles.

12 EXAMINER HICKS: Please raise your right
13 hand.

14 (Witness sworn.)

15 EXAMINER HICKS: Thank you. If you said
16 this, I'm sorry. Are you handling this, Ms. Bojko?

17 MS. BOJKO: Yes.

18 EXAMINER HICKS: You may have said that.
19 Whenever you are ready.

20 MS. BOJKO: Thank you, your Honor.

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JOHN CHILES

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

DIRECT EXAMINATION

By Ms. Bojko:

Q. Hello, Mr. Chiles. Could you please
state your name and address for the record.

A. Yes. My name is John Chiles. My
business address is 1850 Parkway Place Southeast,
Suite 800, Marietta, Georgia 30067.

Q. And on whose behalf are you testifying
today?

A. I am testifying on behalf of Avangrid,
Applicants, and Blue Delta Energy.

Q. And so you are a joint witness for the
Applicants and Blue Delta?

A. Yes, I am.

MS. BOJKO: Your Honor, at this time I
would like to mark as Joint Exhibit 1 the document
titled "Testimony of John Chiles" filed on August 12,
2022, in this proceeding.

EXAMINER HICKS: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. BOJKO: Your Honor, may I approach?

EXAMINER HICKS: Sure.

1 MS. BOJKO: Your Honors, do you need
2 copies?

3 EXAMINER HICKS: I have a PDF. I should
4 be all right.

5 MS. BOJKO: My apologies. I thought I
6 had four of them. Oh, yes, he has his own copy.
7 There you go.

8 Q. (By Ms. Bojko) Mr. Chiles, do you have in
9 front of you what has been marked as Joint Exhibit 1?

10 A. Yes, I do.

11 Q. Do you recognize this document as your
12 direct testimony filed in this proceeding?

13 A. Yes.

14 Q. Was the direct testimony prepared by you
15 or under your direction?

16 A. Yes, it was.

17 Q. Since the filing of your direct
18 testimony, do you have any changes?

19 A. Yes, I do.

20 Q. Could you please share those with us.

21 A. Yes. On page 4, line 14, need to change
22 the word "export" to "expert."

23 Q. Okay.

24 A. And then on page 13, line 11, after the
25 phrase "the transfer distribution" insert the word

1 "factor." And then on line 13, changing the word
2 "that" to "than."

3 Q. Okay. Are those all your changes, sir?

4 A. Those are all the changes to my direct
5 testimony.

6 Q. And so with those changes, if I were to
7 ask you the same questions today as they appear in
8 your direct testimony, would your answers be the
9 same?

10 A. Yes, they would.

11 MS. BOJKO: Your Honor, at this time I
12 would like to mark as Joint Exhibit 2 the document
13 titled supplemental testimony of John Chiles filed on
14 November 14, 2022, in this proceeding.

15 EXAMINER HICKS: It is so marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MS. BOJKO: May I approach?

18 EXAMINER HICKS: Yes. And it is marked.

19 MR. DeMONTE: As counsel is approaching,
20 what was the last one? I missed the line and the
21 page number.

22 THE WITNESS: It was on page 13.

23 MS. BOJKO: Page 13, "that" for "than."

24 EXAMINER HICKS: Page 13, line 13.

25 MR. DeMONTE: Thank you.

1 MS. BOJKO: Let the record reflect I have
2 handed to the witness what is marked as Joint Exhibit
3 2.

4 Q. (By Ms. Bojko) Mr. Chiles, do you
5 recognize this document?

6 A. Yes, I do.

7 Q. And could you tell us what that is.

8 A. It is a copy of my supplemental testimony
9 in this proceeding.

10 Q. And was this supplemental testimony
11 prepared by you and under your -- or under your
12 direction?

13 A. Yes, it was.

14 Q. And is this supplemental testimony also
15 filed on behalf of Applicants and Blue Delta in this
16 proceeding?

17 A. Yes, it is.

18 Q. Since the filing of your supplemental
19 testimony, do you have any changes?

20 A. I have two changes.

21 Q. Okay. Could you share those with us,
22 please.

23 A. Yes. The first is on page 7, line 11,
24 after the word -- after "PUCO" change the word "as"
25 to "has."

1 And then on page 8, line 11, change the
2 word "use" to "used."

3 Q. Any other changes, sir?

4 A. No.

5 Q. So with those changes, if I were to ask
6 you the same questions today as they appear in your
7 supplemental testimony, would your answers be the
8 same?

9 A. Yes, they would.

10 MS. BOJKO: At this time, your Honor, I
11 would like to move Joint Exhibits 1 and 2 into the
12 record, subject to cross-examination, and I tender
13 the witness for cross.

14 EXAMINER HICKS: Thank you. Go ahead and
15 turn it over to Carbon Solutions for
16 cross-examination.

17 MR. WHITT: Thank you, your Honor.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Whitt:

21 Q. Sir, could you turn to Attachment A to
22 your testimony, Joint Exhibit 1.

23 A. I'm there.

24 Q. That's your -- an expert report dated
25 August 12, 2022, correct?

1 A. That is correct.

2 Q. And you are the -- I assume the author of
3 this report?

4 A. Yes, I am.

5 Q. And you also printed a report in November
6 of 2021, correct?

7 A. That's correct.

8 Q. And from what I could tell, it appeared
9 that the only difference between the November 2021
10 report and the August 2022 report is that it was
11 updated to reflect the Barton 2 facility which has
12 been an application that was filed and consolidated
13 with these proceedings during the course of this
14 matter; is that a fair characterization?

15 A. That is correct. That is the only change
16 to the document.

17 Q. Okay. So looking at Attachment A, if you
18 would go with me to page 10. The Section 3.2, you
19 have a discussion of distribution factor basics. And
20 on page 11, at the top it says there are several
21 types of distribution factors, and then you go on to
22 list three different factors, correct?

23 A. That is correct.

24 Q. Can you tell me which of the three types
25 of distribution factors on page 11 did PJM use in its

1 analysis?

2 A. PJM used both the power transfer
3 distribution factor and the line outage distribution
4 factor. The power transfer distribution factor
5 assumes base case all lines in service and then the
6 other factor assumes loss of a facility and so
7 there's transfers from a facility which is previously
8 loaded to another facility. And so it reflects both
9 of those.

10 Q. Okay. And in your discussion here of
11 distribution factors, you provide various formulas
12 for the types of factors, correct?

13 A. That is correct.

14 Q. And the formulas have variables that we
15 need to input to calculate the factor, correct?

16 A. The -- the factors are actually derived
17 from the power flow model themselves because those
18 are based upon the topology and impedance of the
19 network. So a PTDF, OTDF, and LODF in this case are
20 all based upon the power flow model itself. They are
21 not inputs to the model. They are results from the
22 model.

23 Q. Okay. If we look at the first formula
24 here, flow $X = MW_A - A-B \times PTDF_{X(A-B)}$, in that
25 formula where it says flow and subscript X, X would

1 be a calculated value, correct?

2 A. No, sir. X would refer to a particular
3 line. So, for example, if -- if I had a line from
4 bus 1 to bus 2, and I wanted to see how much flows
5 across that line for an injection and withdrawal, I
6 would take the transfer distribution factor, the
7 PTDF, which is, once again, a result from the model,
8 multiply it by the amount of injection, and that
9 would give me the flow across the line. For example,
10 if I had a 100 megawatt facility, I had a PTDF of
11 5 percent, and the flow across that line would be
12 5 megawatts.

13 Q. Okay. The calculated flow would be
14 different for a 50 megawatt facility, correct?

15 A. It's based upon the megawatt injection,
16 that is correct.

17 Q. On page 12, Section 4.1, there is a
18 discussion here of use of a 5 percent DFAX cutoff. I
19 have a few questions about that. Within this section
20 you address the PJM/MISO joint operating agreement,
21 correct?

22 A. I do.

23 Q. And that agreement describes the things
24 that PJM and MISO will do to let each other know
25 about projects in one RTO that could affect the

1 other. Would that be a fair summary?

2 A. Subject to check, I believe that's
3 correct.

4 Q. Okay. And as part of the joint operating
5 agreement process, each RTO examines how
6 interconnections within that RTO might affect the
7 other RTO, correct?

8 A. Correct.

9 Q. And PJM and MISO have agreed that they do
10 not have to notify each other about impacts of less
11 than 3 percent distribution factor, correct?

12 A. According to the JOA, that's correct.

13 Q. And have you seen any studies by MISO
14 demonstrating that the potential impacts of any of
15 the facilities in this proceeding have any impact on
16 the PJM transmission system?

17 A. I would have to review the tables to make
18 sure because it's possible there could be tie lines
19 between PJM and MISO that are part of the studied
20 area, you know, for the analysis, but I will go back
21 and look to confirm that.

22 Q. On page 13 of your -- I am still on the
23 expert report. Table 4.1, you provide a summary here
24 of DFAX study results, correct?

25 A. That is correct.

1 Q. Did you pull -- let me back up. The far
2 right column is a list of -- of the DFAXs associated
3 with each facility, correct, the highest DFAX value?

4 A. It's the list of the highest DFAX value
5 associated with -- make a distinction because there
6 is two numbers, the first number is for any -- the
7 highest DFAX value for any facility which has one end
8 point in the State of Ohio.

9 Q. Okay.

10 A. The second number reflects the highest
11 DFAX impact for a transmission facility for both end
12 points -- starting and ending points are in the State
13 of Ohio.

14 Q. Okay. And you -- your references here
15 for these DFAX percentages are to the respective
16 Staff Reports in these proceedings, correct?

17 A. Correct.

18 Q. Have you confirmed any of the values
19 reported in the Staff Reports with -- have you
20 correlated those to specific DFAX studies?

21 A. Since it's my understanding that the
22 Staff Reports were supplied -- on the DFAX side were
23 supplied by PJM, it would have been redundant to
24 confirm a PJM report with the exact same study from
25 PJM.

1 Q. Okay. But you -- your -- is it your
2 assumption here that Staff pulled it -- pulled the
3 DFAX values that appear in your Table 4.1, that Staff
4 obtained those from the particular DFAX studies?

5 A. What -- these numbers did not come from
6 Staff. The Staff Report -- or the reports supplied
7 to Staff by PJM has in it a table which lists all of
8 the DFAX values that PJM calculated. And I went
9 through that list, and I identified in that list the
10 numbers you see here.

11 Q. When you say you -- I'm sorry.

12 A. I read through the entire list of all of
13 the lines, identified all the lines located either
14 within the State of Ohio completely or touching the
15 State of Ohio, and I reviewed that list. And I
16 identified the highest DFAX values which is what you
17 see on Table 4.1. So Staff did not provide this
18 table. I developed this table from the information
19 that Staff had received from PJM from the DFAX study.

20 Q. Okay. Did you go through each line of
21 each DFAX study to find the highest DFAX values?

22 MS. BOJKO: Objection, asked and
23 answered. That's what he just said.

24 EXAMINER HICKS: No need. I am going to
25 overrule the objection because frankly I am a little

1 confused as well. I think what you are getting at is
2 did you get the number from the DFAX study itself or
3 from the Staff Report? Is that the question?

4 MR. WHITT: That's a much better way of
5 asking it.

6 EXAMINER HICKS: I don't think that's
7 been clearly answered, so I will let him answer it.

8 MS. BOJKO: Thank you, your Honor.

9 A. So I got the numbers from -- my
10 understanding the numbers are from the DFAX study
11 which was supplied by PJM.

12 EXAMINER HICKS: Okay. That's still not
13 answering the question.

14 THE WITNESS: I'm sorry. If we could
15 provide some clarity because I'm --

16 EXAMINER HICKS: Did you pull these
17 numbers directly from the DFAX reports or from
18 looking at the Staff Reports?

19 THE WITNESS: I pulled these numbers
20 directly in the DFAX reports because the tables
21 are --

22 EXAMINER HICKS: Okay.

23 THE WITNESS: -- listed as part of the
24 DFAX -- part of the DFAX report. It is a list of all
25 of the facilities that I mentioned.

1 Q. (By Mr. Whitt) Well, sir, you cite -- for
2 each of the DFAX values, you cite the Staff Reports,
3 and the Staff Reports do not include -- with the
4 exception of Barton 2 don't include DFAXs with them.

5 MS. BOJKO: Objection, mischaracterizes
6 his testimony. He cites in Appendix A DFAX reports
7 and spreadsheets for each facility. Then he says see
8 also the Staff Report. He's misrepresenting this
9 testimony.

10 EXAMINER HICKS: Mr. Whitt.

11 MR. WHITT: Your Honor, I just have the
12 same question you do which is --

13 EXAMINER HICKS: He just testified he
14 pulled them from the Staff -- from the DFAX studies.

15 Q. (By Mr. Whitt) Okay. So you are saying
16 the cit -- the additional citations in your footnotes
17 to the Staff Reports are just redundant?

18 MS. BOJKO: Objection. I think it
19 mischaracterizes. There is no redundancy. He said
20 see also for different data points. He can explain.

21 A. I mean, if you look at both of those,
22 it's the same information. There's no -- there's no
23 point -- you know, is there a difference in the
24 output results from what was included in the
25 spreadsheet versus what was supplied by PJM. Those

1 are the exact same numbers, so I don't see there was
2 any redundancy at all. If I were to tell you I had
3 three sources that had all the same information, I
4 don't think you would consider that redundant. I
5 think you would consider that prudent.

6 Q. Okay. You personally have reviewed the
7 DFAXs and have reported in your table the highest
8 DFAX value that you could locate based on your review
9 of each DFAX study?

10 A. That is correct.

11 Q. Okay. What do these -- the DFAX values
12 are reported as percentages. And help me understand,
13 when we talk about a DFAX value, for example, of
14 16.37 percent, 16.37 percent of what? Like what does
15 that mean?

16 A. Okay. What that -- what that means is if
17 I am injecting power at a location and I am
18 withdrawing power at a location, that power flows
19 throughout the network based upon the physics of the
20 system. So every line is going to carry some portion
21 of that power injection, so the DFAX numbers here
22 reflect what percentage of that injected power at
23 that location flows across the facility that is
24 identified in the DFAX table.

25 Q. Okay. So if we look at Moraine, for

1 example, and for the sake of simplicity, we will just
 2 use round numbers of -- of 50 percent, if there is a
 3 50 megawatt facility that has a 16 percent impact on
 4 a particular transmission line, would that mean that
 5 there -- that 8 megawatts will flow over that
 6 particular transmission line?

7 MS. BOJKO: Objection to the form of the
 8 question. You said 50 percent. I don't -- there's
 9 nowhere in the table 50 percent.

10 MR. WHITT: Well, I said --

11 EXAMINER HICKS: I think you meant
 12 megawatts but go ahead and reask.

13 MR. WHITT: Yeah. Let me try again.

14 Q. (By Mr. Whitt) So Moraine, the first
 15 project on your table, the capacity is 51 megawatts,
 16 correct?

17 A. That is correct.

18 Q. And does the 16.37 percent DFAX value
 19 mean that basically 8 megawatts of the Moraine
 20 facility output would flow over the impacted line?

21 A. Yes. If you refer to my Table 4.2 on
 22 page 15, you will see those actual values, those
 23 numbers are the flow impact based upon the formula I
 24 gave previously which is the multiplication of the
 25 capacity injection amount times the DFAX.

1 Q. I could have saved myself so much work
2 had I just read to the -- read a little further.

3 A. Just making you later to lunch, sir.

4 Q. So does -- do these reported DFAX values
5 mean that PJM has to account for these energy flows
6 in its management of the transmission system?

7 A. PJM accounts for -- for network flows all
8 through its system, whether it be from these
9 facilities or any other facility which has -- flows
10 across their system. It could be facilities in North
11 Carolina, facilities in Ohio, or facilities in other
12 states.

13 Q. Okay.

14 A. So they account for total interface flow
15 coming into or out of their system under net
16 interchange.

17 Q. So the DFAX values that are reported in
18 Table 4.1 would trigger an obligation of MISO to
19 notify PJM of these impacts under the joint operating
20 agreement, wouldn't it?

21 A. They would not because if you refer back
22 to the language that you cited earlier, it refers to
23 interconnection and this is not interconnection.
24 This is a DFAX study related to the request that was
25 made earlier in this proceeding.

1 Q. And neither PJM nor MISO would have a
2 need to notify each other about facilities that
3 aren't actually interconnected under the joint
4 operating agreement, correct?

5 A. My understanding is that once a facility
6 would submit an interconnection request it's studied,
7 there would have been a notification under the JOA.

8 Q. Let me direct your attention, sir, to
9 Appendix C of your testimony. And Appendix C has a
10 cover page indicating that -- representing this
11 document as a DFAX analysis of renewable resources
12 for Avangrid, and it's dated Wednesday, July 27,
13 2022, correct?

14 A. That's what I read as well, yes.

15 Q. Okay. Do you know who at PJM would have
16 prepared this document?

17 A. I would not know because it says the
18 document comes from PJM Transmission Planning. My
19 assumption has been that consistent with other RTOs
20 when I do this business is a request is submitted,
21 and then the supervisors at the RTO will assign the
22 study to one of their staff members to perform the
23 analysis, so I do not know specifically who at PJM
24 would have performed this analysis.

25 Q. Have you talked to anyone at PJM about

1 the analysis reflected in Appendix C?

2 A. I have not.

3 Q. If we look at the cover page of Appendix
4 C, the cover page refers to the Barton Wind 2
5 facility if we look at the bottom of the cover page,
6 the first line item there, correct?

7 A. Under Appendix C, sir, I'm sorry. I
8 don't see that on mine.

9 Q. I am looking at the cover page -- I'm
10 sorry.

11 A. Are you referring to page 1 of the
12 document, sir?

13 Q. Yes, yes. At the bottom it says "Page
14 1." Thanks again. This refers to the Barton wind
15 facility and it's identified as an 80 megawatt wind
16 farm, correct?

17 A. That is correct.

18 Q. Okay. In the cover page if we look at
19 the first paragraph, the third sentence says
20 "Attached is a list of all the BES facilities." Let
21 me stop there for just a second. Would BES refer to
22 bulk electric system? Would that be your
23 understanding?

24 A. BES would refer to bulk electric system.
25 These facilities identified by NERC have 100 kV or

1 higher voltage and also that are network in nature.
 2 Radial facilities that are 100 kV would not be
 3 included in the BES definition.

4 Q. Okay. And is it your understanding that
 5 the spreadsheet that is included in Appendix C lists
 6 all of the BES facilities within PJM?

7 A. My understanding it lists all the BES
 8 facilities in PJM that are part of the State of Ohio
 9 because it lists AEP, Duke Energy, Dayton, and ATSI
 10 as the four entities. In the power flow model what
 11 happens is there are areas defined where you can --
 12 or zones defined where you can select and they
 13 monitor all in the list what facilities you are going
 14 to cover. So my understanding is that what's in the
 15 table is the DFAX facilities that are in those four
 16 areas. I do not know if this is a complete
 17 exhaustive lists of all the PJM facilities.

18 Q. Well, the next -- the next sentence says
 19 "Some of the facilities in the list are outside of
 20 Ohio because of service territories for AEP, ATSI,
 21 and DEOK extends to other states." What do you
 22 interpret that qualification to mean?

23 A. It can be two things. It can be that
 24 there are tie lines where one end point is in another
 25 state, or it could be a case where I have a

1 noncontiguous member of PJM. In which case the lines
2 were contained within the nonmember's territory, but
3 they would still be part of PJM.

4 Q. Now, in terms of the spreadsheet -- and I
5 apologize. It appears the version we have does not
6 have page numbers on it. I don't know that that
7 matters at the moment. But could you tell us what we
8 are looking at generally with this spreadsheet in
9 Appendix C?

10 A. Yes. We will walk through the columns
11 left to right. So the first column -- unfortunately
12 the -- the cell width is not sufficient for the
13 document, but in the first column it lists the
14 monitored facility which includes a bus number, a bus
15 name, a voltage level, an end point bus number, bus
16 name and voltage level. The from -- fr bus and fr
17 name are the from bus and from name. And then to bus
18 and to name are also the same thing. The circuit
19 indicates if there are multiple circuits on a line,
20 what that circuit number is. KV is voltage. The
21 area, as mentioned previously, this is a power flow
22 area which is established by usually the utility
23 which these are facilities which are touching or
24 within our balancing authority. And then you have
25 the area names associated with those listed in the

1 next column. The rate base is the base rating of the
 2 facility in MVA. The rate cont is a contingency
 3 loading on the facility. So if there is a
 4 contingency which occurred, then you would see the
 5 loading on that facility. Then the CONT name is the
 6 contingency name which would either be base case or
 7 could be another element. You know, if there was a
 8 line that was monitored and the situation occurred
 9 for loss of another facility, then you would see a
 10 different line besides base name. The base flow is
 11 what is on the circuit at the -- at the
 12 pre-contingency state. Contingency flow would
 13 indicate any change in flows due to the contingency
 14 which gets back to the OTDF that we discussed
 15 earlier. The final DC % loading is just the -- it's
 16 the loading -- is the line load and the -- and the --
 17 usually it's the line load of a facility divided by
 18 its base rating to say how much -- what percentage of
 19 the facility is loaded. And then on the last column
 20 that is the DFAX value which is for the facility
 21 identified in the first four columns.

22 Q. Okay. And in terms of the exercise that
 23 we're discussing today, the information in the far
 24 right column is -- is -- that's probably the most
 25 important piece of information on the entire

1 spreadsheet, isn't it?

2 A. It is. That and the -- that and the
3 facility name would be the two most important pieces
4 of information here because you want to know what
5 facility is identified in the DFAX.

6 Q. If you didn't have those two pieces of
7 information, you wouldn't be able to draw any
8 conclusions from your DFAX, would you?

9 A. No, because the DFAX relates to loading
10 on a facility.

11 Q. If we go to page -- page 1 of your
12 testimony -- I'm sorry, page 5 of your testimony,
13 line 13 -- question --

14 MS. BOJKO: Direct or supplemental?

15 MR. WHITT: Direct testimony.

16 Q. (By Mr. Whitt) Question and answer 7, you
17 indicate you are sponsoring Attachment A of the
18 expert report, as well as the six DFAX studies
19 regarding the Avangrid facilities. Your testimony
20 attaches three DFAX studies, correct?

21 A. I have to verify, but I believe that's
22 correct.

23 Q. Appendix A, B, and C.

24 A. Yes, sir, that is correct.

25 Q. Okay. Have you had any discussions with

1 Ohio PUCO Staff about the specific DFAX studies that
2 Staff reviewed in issuing their Staff Reports or
3 preparing testimony in this case?

4 A. I have not.

5 MR. WHITT: No further questions of this
6 witness.

7 EXAMINER HICKS: Thank you, Mr. Whitt.

8 Ms. Bojko, any redirect or do you need a
9 moment?

10 MS. BOJKO: Yeah. Do you mind, your
11 Honor, if we take 5 minutes?

12 EXAMINER HICKS: Okay. Let's go off the
13 record.

14 (Recess taken.)

15 EXAMINER HICKS: We'll go ahead and go
16 back on the record.

17 Just took a quick break and I will now
18 turn it over to Ms. Bojko if she has any redirect for
19 the witness.

20 MS. BOJKO: Thank you, your Honor. We do
21 have a few questions.

22 - - -

23 REDIRECT EXAMINATION

24 By Ms. Bojko:

25 Q. Mr. Chiles, do you remember some

1 discussion with CSG's counsel regarding your expert
2 report and Sections 3.2 and 4.1?

3 A. I do.

4 Q. And how do you know what distribution
5 factors PJM used in the DFAX studies?

6 A. PJM doesn't use distribution factors.
7 PJM uses a power flow model that distribution factors
8 are an output from the model. They are not an input
9 to the model.

10 Q. And can you explain the process of
11 obtaining the DFAX studies?

12 A. Yes. An Applicant --

13 MR. WHITT: I'll object. Lack of
14 foundation. The witness testified he has not talked
15 to anybody at PJM. He has not talked to anybody with
16 Staff about the particular DFAX studies relevant
17 here.

18 EXAMINER HICKS: I am not sure that's
19 what the question was. Do you want to rephrase the
20 question?

21 MS. BOJKO: My question was about the
22 process of an Applicant obtaining the DFAX studies.
23 He is here on behalf of the Applicants.

24 EXAMINER HICKS: Response?

25 MR. WHITT: That's even going beyond his

1 direct testimony where there is nothing establishing
2 how he would know what PJM does or their practices.

3 MS. BOJKO: Your Honor, that's not true.
4 Both his -- just because counsel opened the door when
5 he talked about the DFAX studies. He opened the door
6 with where the DFAX studies came from. The witness
7 reviewed the DFAX studies. Both his direct testimony
8 and supplemental testimony go into great detail about
9 the regular business, the activity of PJM creating
10 the DFAX studies, and how they are used and applied
11 in the Commission proceeding, Ohio Commission
12 proceeding, with regard to the Koda test.

13 MR. WHITT: My questions were to the
14 specific DFAXs we -- ones that we looked at.

15 MS. BOJKO: Your Honor, all the DFAX
16 studies for all six facilities were looked at in the
17 direct -- or cross-examination of this witness.
18 Appendixes A, B, and C are all -- I'm sorry, B, C,
19 and D are all of the DFAX studies for all six
20 facilities.

21 EXAMINER HICKS: So I'm confused as to
22 what -- you are objecting that you didn't ask about
23 them? I'm confused.

24 MR. WHITT: Well, she's asking about PJM
25 practices generally.

1 EXAMINER HICKS: Okay.

2 MS. BOJKO: I did not, your Honor.

3 MR. WHITT: Okay. I will withdraw my
4 objection.

5 EXAMINER HICKS: Well, then go ahead and
6 answer.

7 THE WITNESS: Could you repeat the
8 question, please?

9 Q. (By Ms. Bojko) I asked you to explain the
10 process of obtaining the DFAX studies and how you
11 came about obtaining the DFAX studies for your expert
12 report.

13 A. Yes. The Applicant here has what's
14 called a CEII clearance which is critical energy
15 infrastructure information. They are allowed to
16 request that -- those studies from PJM because they
17 are a member, and they do have that clearance. Those
18 studies are requested. PJM receives that request.
19 They perform the analysis. They send an e-mail back
20 to the requesting party, and then I would have
21 received them from that party. You know, this is
22 consistent with what PJM has done. I have been
23 working in the PJM region for probably 20, 25 years
24 and so this has been a very consistent form and
25 practice over there for the last quarter of a

1 century.

2 Q. And are the DFAX study results public
3 documents that can be used by the Applicants'
4 facilities or consultants to show the results for
5 application of renewable portfolio standards?

6 MR. WHITT: I will object to the extent
7 it calls for a legal conclusion.

8 MS. BOJKO: I am not asking -- I am
9 asking his expert opinion with 33 years of experience
10 in the field.

11 EXAMINER HICKS: So noted, the objection,
12 but he can answer based on his knowledge.

13 A. If you go to the cover page of the study,
14 it references for public use, so I would assume for
15 public use is for use by the public.

16 Q. And, sir, in your consulting capacity,
17 have you regularly used the DFAX reports to produce
18 expert reports for your customers, clients?

19 A. I have used DFAX reports and many other
20 reports in PJM to produce work for other clients.

21 Q. Does PJM regularly produce DFAX reports?

22 A. I would assume so. I can't -- I don't
23 know what regularly means, but I would assume that
24 they produce these on a consistent basis.

25 Q. And how long have you been reviewing DFAX

1 reports?

2 A. I have been reviewing reports in the PJM
3 region for, like I said, almost a quarter century.

4 Q. At the bottom of the DFAX report pointed
5 out by CSG's counsel, Appendix B, C, and D --
6 Appendix -- I'm sorry, it was Attachment A is your
7 expert report for the record, the DFAX reports are
8 attached as Appendix A, B, and C, so when you
9 discussed Appendices A, B, and C with CSG's counsel,
10 did you -- looking at the cover sheets, do you note
11 that the -- there's a copyright symbol on the bottom
12 of the PJM cover sheet?

13 A. Yes. The copyright symbol is noted on
14 page romanette i.

15 Q. And in your experience do you have any
16 question that these documents are, in fact, PJM
17 documents?

18 A. I do not. As I said, I have been
19 reviewing PJM reports for 25 years, and these reports
20 are consistent with PJM's form and format over that
21 time.

22 Q. And in a question from CSG's counsel, he
23 asked you if there were only three reports attached
24 to your expert report, Appendix A, B, and C --
25 Appendices A, B, and C. Do you recall that?

1 A. I do.

2 Q. And why would there only be three when
3 there are six facilities at issue here?

4 A. So one of the reports includes the study
5 for the four -- for four facilities, and the other
6 two are for individual assets. I think it's Barton 1
7 and Barton 2 which are individual asset studies, but
8 the results for each of those are independent, and it
9 references that, I believe, on page 1.

10 Q. So even though the cover sheets recognize
11 multiple facilities, there is a DFAX power flow study
12 done for each facility, correct?

13 A. They will look at each -- each source
14 injection as a separate study.

15 MS. BOJKO: Thank you, your Honor. I
16 have no further questions.

17 EXAMINER HICKS: Thank you.

18 Mr. Whitt?

19 MR. WHITT: Just a quick follow-up.

20 - - -

21 RE CROSS-EXAMINATION

22 By Mr. Whitt:

23 Q. Since we are on Appendix C, on the first
24 page of the spreadsheet, if you look at the header,
25 there appears to be some reference here to some

1 source information and software programs and so
2 forth. Give you a chance to get there.

3 MS. BOJKO: I'm sorry. You are at
4 Appendix C?

5 MR. WHITT: Yes.

6 A. I didn't do my tabs very well with these
7 appendices, but I think if you can refer to -- yeah,
8 Appendix C, here we go. So that is on the -- on the
9 spreadsheet which is the page following the cover
10 letter page 1.

11 Q. Correct. Up at the top it says "PJM N-1
12 DC Monitored Facility," and then there is some -- you
13 know, a few rows of information below that. Do you
14 see that?

15 A. Yes, I do.

16 MS. WHITFIELD: I'm sorry. I don't see
17 where you are at.

18 THE WITNESS: If you refer -- if you
19 refer to the first tab of the spreadsheet, first page
20 of the spreadsheet above the column headers.

21 Q. (By Mr. Whitt) And the information that's
22 displayed there would be helpful if one wanted to
23 review or replicate what PJM did, correct?

24 A. That is correct. These are -- these are
25 inputs to the model which is TARA on the top line

1 that's highlighted in green so the loadflow case, of
2 course, is the power flow model that's used. The
3 study data file includes a subsystem definition file
4 and includes a contingency file. It includes a
5 monitored element file. An exclude file is for
6 contingencies that I don't want to have as part of
7 the automated contingency analysis and that was not
8 provided.

9 Q. And this information is important
10 information, right?

11 A. It's important if you wanted to be able
12 to replicate the study because you would use the same
13 models. You would run the same version of TARA, and
14 I would expect to receive the same results.

15 Q. And I believe you testified these reports
16 are public, correct?

17 A. The reports are public. The question
18 would be are the models accessible because those raw
19 data files are CEII models and not just anybody could
20 run those reports. They would have to have that
21 clearance to be able to have access to those system
22 files.

23 Q. Right. But in terms of what we are
24 looking at, just seeing what PJM did, that's public
25 information, correct?

1 A. Because it's included in the report, this
2 is for public use, that is correct, sir.

3 MR. WHITT: Thank you. No further
4 questions.

5 EXAMINER HICKS: Thank you.

6 Mr. Chiles, thank you for your testimony.

7 MS. BOJKO: Your Honor, at this time I
8 would like to move the admission of Joint Exhibits 1
9 and 2.

10 EXAMINER HICKS: Okay. Is there an
11 objection to the admission of Joint Exhibit 1?

12 MR. WHITT: We will -- recognizing the
13 prior ruling -- actually no objections, no
14 objections.

15 EXAMINER HICKS: Okay. Then with that
16 Joint Exhibit 1 will be admitted.

17 Any objection to the admission of Joint
18 Exhibit 2?

19 MR. WHITT: That's the supplemental?

20 EXAMINER HICKS: Correct.

21 MR. WHITT: I would move to strike
22 Attachment A to Exhibit 2. The testimony indicates
23 at page 3 at the bottom "I will also be addressing
24 CSG's revised supplemental response to the
25 Applicants' discovery requests which are attached

1 hereto as Exhibit A" except the testimony never
2 addresses the discovery.

3 EXAMINER HICKS: Ms. Bojko?

4 MS. BOJKO: Yes, your Honor. I believe
5 that he does address the discovery. He addresses --
6 if you look at -- I'm sorry. I lost the page you are
7 on. Sorry. Oh, thank you. If you look at question
8 18, he's talking about -- excuse me. I'm sorry, your
9 Honor. May I have a moment?

10 EXAMINER HICKS: Sure.

11 MS. BOJKO: I am trying to find the
12 footnote reference. Your Honor, no questions were
13 asked about this on cross, so if I may confer, I am
14 sure it's embedded throughout his testimony. It
15 might be easier if I can ask the witness.

16 EXAMINER HICKS: I'm confused. What do
17 you mean?

18 MS. BOJKO: I mean question 12 has the
19 footnote that cites to the supplemental discovery
20 responses. He talks about CSG has claimed that the
21 output of a power flow study is heavily influenced by
22 the inputs. CSG did not provide any substantive
23 evidence as to how the Applicant might influence
24 these inputs.

25 There are other places in the testimony

1 that he talks about the lack of evidence from CSG and
2 if you look at the discovery, this was the motion to
3 compel and the many debates that we had. They did
4 not provide any documentation of what their position
5 was or what methodology they would do if not for the
6 Koda test. That's what he is referring to throughout
7 but he does cite to it in his testimony and he wasn't
8 challenged on that fact.

9 MR. WHITT: If I may, the testimony was
10 that the witness issued his first report in November
11 of '21 before CSG was even allowed in the case,
12 before discovery was even served. Notwithstanding
13 all the brouhaha we had about discovery, the witness
14 then issues an updated report August of 2022 which he
15 testified it's the same report he had before except
16 he updated it for Barton.

17 The discovery requests were immaterial
18 when issued. The witness hasn't considered anything,
19 hasn't cited any specific requests or responses as
20 the basis for any testimony. In fact, if you take
21 out the revised responses to the supplemental
22 testimony, it doesn't change the witness's testimony
23 at all.

24 MS. BOJKO: Your Honor, you intervened --
25 the CSG intervened in May 2021 before the August

1 report was issued. I think the whole point is his
 2 expert report did not change from the August filing
 3 of the comments. I mean, remember, first, we had
 4 comments in this case, and we didn't know if we were
 5 going to go to a hearing. So the expert report was
 6 issued with comments, and I think the point is CSG
 7 has not produced any additional evidence through
 8 discovery to change his expert report. So that's why
 9 his expert report did not change except for the
 10 addition of the six facilities that was then
 11 consolidated with the case after the August filing of
 12 the report. That's the whole point of the
 13 supplemental testimony, to say that they didn't
 14 provide any additional information so there was no
 15 need to revise this report.

16 MR. WHITT: We did provide information in
 17 the form of testimony and that's what the witness
 18 responds to.

19 MS. BOJKO: We disagree with --

20 EXAMINER HICKS: That's fine.

21 MS. BOJKO: -- the motion to compel and
 22 the basis of the testimony.

23 EXAMINER HICKS: Understood. I tend to
 24 agree with Mr. Whitt on the point though that this --
 25 other than just tacking on a footnote, this isn't

1 addressed in his testimony.

2 MS. BOJKO: It is, your Honor. It's
3 addressed on Q12 and A12. He specifically says
4 "Although CSG has claimed that the output of a power
5 flow study is heavily influenced by the inputs, CSG
6 did not provide any substantive evidence as to how an
7 Applicant might influence these inputs." And then
8 they attach the lack of evidence in the discovery
9 responses. That's the point is that they provided
10 nothing additional.

11 MR. WHITT: Well, perhaps we address this
12 as we did the Applicants and we show them their
13 discovery responses. You can point us to a specific
14 request and response that you think was addressed,
15 perhaps that one could come in.

16 MS. BOJKO: Your Honor, it's completely
17 different. This was attached to testimony. Counsel
18 had a right to question the witness on any exhibit
19 that was sponsored to his testimony. It's different
20 than pulling a document as a cross exhibit and
21 putting it before a witness and only asking the
22 witness on one interrogatory in the entire cross
23 document. It's completely different. He had this
24 for cross-examination. He could have used it. He
25 could have asked the witness about any of these

1 questions, and he did not.

2 EXAMINER HICKS: That's a valid point. I
3 mean, there were -- motions to strike could have been
4 filed. This does appear to be an exact quote from a
5 specific interrogatory that was requested.

6 MR. WHITT: Really?

7 MS. BOJKO: Yes.

8 EXAMINER HICKS: Really it does. There
9 is quotations and there is a footnote 3.

10 MS. BOJKO: And it specifically says --

11 EXAMINER HICKS: It says Interrogatory
12 01-017.

13 MR. WHITT: Okay.

14 EXAMINER HICKS: I mean, at the end of
15 the day whether it's there or not I am not sure has a
16 huge effect on the testimony. The testimony stands,
17 and certainly the Bench is capable of sorting through
18 discovery attached to testimony. We are going to
19 admit Joint Exhibit 1 -- 2. Apologies. 1 is already
20 in. We are not refighting that.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 MS. BOJKO: 1 is in in its entirety,
23 correct?

24 MR. WHITT: Might I suggest since there's
25 the outstanding ruling on the DFAX studies that the

1 Bench reserve the right to make a final ruling on the
2 DFAX studies until we've heard testimony of other
3 witnesses who also talk about those studies so
4 there's a complete understanding and complete record
5 of who knows what about these things, and then the
6 Bench can make an informed decision about whether
7 they ought to come in would seem to be the most
8 efficient way to address that.

9 MS. BOJKO: No.

10 EXAMINER HICKS: Hold on. Hold on. Hold
11 on. Now we are refighting Joint Exhibit 1?

12 MS. BOJKO: Yes.

13 MR. WHITT: Well, kind of. But I don't
14 think we are refighting it. As I understand the
15 prior ruling, the Bench is reserving judgment on
16 whether the attachments, the DFAXs, could come in.

17 EXAMINER HICKS: So why didn't you object
18 to them coming in?

19 MR. WHITT: Well, I think I did, and then
20 I didn't because there is a little bit of confusion
21 about what part of what is being admitted so.

22 MR. DeMONTE: And if I may, your Honor --

23 MS. BOJKO: No, no, no. Your Honor, we
24 have one -- we have a ruling in the Commission
25 proceedings one attorney per witness. You are either

defending the witness, or you are not. We do not tag
team attorneys.

EXAMINER HICKS: Let's go off the record.

(Discussion off the record.)

(Thereupon, at 1:25 p.m., a lunch recess
was taken.)

- - -

Monday Afternoon Session,
December 5, 2022.

- - -

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

We have just come back from a lunch
break. Before we went to lunch, we were taking up
the exhibits related to the testimony of Mr. Chiles,
and I'm just going to preface this with there is no
clean way to go through this here, what we are going
to do, so we are going to somewhat play it by -- play
it by ear so to speak.

But I do want to note that Ms. Bojko
moved for the admission of these exhibits. There was
no objection made to their admission. Let me back
up. There was no timely objection made to their
admission. It was untimely, but we do acknowledge
that the initial ruling with respect to deferring the
testimony is somewhat unorthodox. There was
questions asked on that.

And so with respect to the untimely
objection that was made and in light of that, the
Bench will agree to keep this consistent with the
previous deferral. Joint Exhibit 1 will not be
admitted into evidence at this moment. And we are

1 going to defer ruling on that.

2 And with that -- but with that being
3 said, we do want to make clear, you know, Avangrid,
4 you are Applicants. You are going to be afforded
5 every opportunity to recall your witness, recall your
6 rebuttal witness of some sort to lay a foundation as
7 to essentially the provenance of the PJM DFAX
8 studies.

9 Any questions?

10 MS. BOJKO: Yes, your Honor. I would
11 like to be heard on the -- first of all, I don't
12 think CSG's counsel has stated a proper objection to
13 the admissibility of the DFAX studies related to
14 Mr. Chiles, so I would like to hear that objection,
15 the basis of the objection.

16 And then I would like to respond because
17 the basis of the objection for -- for Avangrid's
18 first witness was lack of foundation, and the expert
19 testimony that was provided by Mr. Chiles, there was
20 a different foundation. And it's per witness. It's
21 not grouped by a party. And so we would like to be
22 heard on the response to the objection, whatever
23 basis that might be, whether it's lack of foundation
24 or some other basis as it applies to Mr. Chiles
25 because I think there's a different standard, and I

1 think Mr. Chiles has -- has clearly showed that there
2 is foundation for the DFAX studies.

3 EXAMINER HICKS: Go ahead and restate
4 your objection.

5 MR. WHITT: Your Honor, different parties
6 have sponsored the same witness. First witness the
7 objection was based on lack of foundation and
8 hearsay. Those are also the bases for our objections
9 for the admission of the reports through the second
10 witness.

11 I appreciate the Bench's indulgence.
12 Absolutely right. You asked if we had an objection.
13 We said no prematurely. You've indicated what the
14 confusion is. And I guess other than that, we are
15 willing to stand on that objection and respect the
16 Bench's ruling and prepared to go forward.

17 MS. BOJKO: Your Honor, with respect to
18 the hearsay objection, that's already been overruled.
19 The hearsay objection is on the document itself, and
20 the Attorney Examiners denied that objection.

21 With regard to the lack of foundation,
22 pursuant to Rule -- Evidence Rule 602, a witness may
23 established that he has personal knowledge on a
24 subject matter with his own testimony, and the
25 witness testified in his direct testimony about his

1 role in the application process, how he received the
 2 application, his knowledge of the DFAX studies, his
 3 correspondence with the Applicant of obtaining it,
 4 how DFAXs were obtained, his experience of 33 years
 5 or quarter of a century he stated with reviewing DFAX
 6 studies, and then also with his knowledge of going
 7 line by line and actually reviewing the DFAX studies
 8 knowing what the inputs were to the DFAX study,
 9 knowing what the results were, and reviewing PJM's
 10 analysis, and confirming that analysis with regard to
 11 the Commission's Koda test and the outputs and the
 12 results of the DFAX analysis.

13 That is different testimony than what was
 14 provided earlier by Avangrid's first witness, so we
 15 think that that alone via an expert witness should be
 16 sufficient to allow the DFAX studies to be in.

17 And then in addition to that, under Rule
 18 901(B)(1) and (B)(7), the testimony of a witness with
 19 knowledge is sufficient to establish that a matter is
 20 what it is claimed to be. Here the witness testified
 21 that this document is the same form of the PJM DFAX
 22 studies that are traditionally produced and regularly
 23 produced in the normal course of business and in his
 24 consulting practice with various renewable
 25 facilities. And then also this document is used by

1 the Public Utilities Commission of Ohio which is a
2 state agency and that document is produced and used
3 in order to base the Staff Reports in a public
4 decision. It's normally used in the regular course
5 of a public record and with a public agency.

6 So for those reasons we believe that this
7 witness has laid the foundation for his understanding
8 and knowledge of the DFAX studies as well as the
9 production of such DFAX studies. Thank you.

10 EXAMINER HICKS: Any response?

11 MR. WHITT: No, your Honor.

12 EXAMINER HICKS: Okay. I understand your
13 arguments, Ms. Bojko, but his testimony came across
14 to us as he -- he has reason to believe that they've
15 represented to him, his client, that they are what
16 they say. We are skipping a step here. We have no
17 one being able to say who from PJM, what -- I'm
18 confused as to the -- what you're arguing he's
19 actually testified to. He had no interaction with
20 PJM, correct?

21 MS. BOJKO: I don't think that's exactly
22 completely correct. He had -- he received e-mails
23 between the Applicants that would have forwarded the
24 DFAX studies. And I think, your Honor, there is a
25 misconception here. Because the two witnesses cannot

1 recall the name of the person on the e-mail doesn't
 2 mean that they are not testifying that the e-mail
 3 exists. There clearly is a chain of custody. There
 4 clearly is testimony. But it's been two years since
 5 this case was originally -- you know, the application
 6 was submitted to Staff. So two years, they do not
 7 have the recollection of the name of the person.
 8 That does not mean that the Applicants themselves did
 9 not request it and that a manager that oversees
 10 people in his team or in the company and is here as a
 11 company representative cannot attest that they
 12 received the e-mails from PJM and then subsequently
 13 forwarded them to Staff.

14 Just because he doesn't recall the
 15 person's name doesn't mean that he's not attesting to
 16 the fact that they received the e-mails from PJM in
 17 the normal course of business.

18 EXAMINER HICKS: I'm going to stand by my
 19 ruling then. It seems very -- an easy way to cure
 20 this, and I will leave it at that.

21 MS. BOJKO: Thank you, your Honor.

22 I'm sorry, your Honor. Are you doing the
 23 same thing we did with the first witness meaning you
 24 are not even admitting the testimony?

25 EXAMINER HICKS: Joint Exhibit 1,

1 correct.

2 MS. BOJKO: Thank you.

3 EXAMINER ST. JOHN: Ms. Bojko, I know you
4 have already been in the spotlight, so now officially
5 turning things over to you, you have already been
6 calling witnesses, but at this point I will ask do
7 you have any other witnesses you would like to call?

8 MS. BOJKO: Yes, your Honor. On behalf
9 of Blue Delta Energy, LLC, we call Mr. Ken Nelson to
10 the stand.

11 EXAMINER ST. JOHN: Please step forward.

12 (Witness sworn.)

13 EXAMINER ST. JOHN: Thank you.

14 Please proceed.

15 - - -

16 KENNETH NELSON

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

19 DIRECT EXAMINATION

20 By Ms. Bojko:

21 Q. Good afternoon, Mr. Nelson. Please state
22 your name and address for the record.

23 A. My name is Ken Nelson. My place of
24 business is 458 Grand Avenue, Suite 201, New Haven,
25 Connecticut 06513.

1 MS. BOJKO: Your Honor, at this time I
2 would like to mark as Blue Delta Exhibit 1 the
3 document titled "Testimony of Ken Nelson" filed on
4 August 12, 2022, in this proceeding.

5 EXAMINER ST. JOHN: That will be so
6 marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MS. BOJKO: Your Honor, may I approach?

9 EXAMINER ST. JOHN: Yes, you may.

10 MS. BOJKO: And please let the record
11 reflect I have handed Mr. Nelson what's previously
12 been identified as Blue Delta Energy Exhibit 1.

13 Q. (By Ms. Bojko) Mr. Nelson, do you have in
14 front of you the document that's been marked as Blue
15 Delta Exhibit 1?

16 A. I do.

17 Q. And do you recognize this document as
18 your direct testimony filed on August 12, 2022, in
19 this proceeding?

20 A. I do.

21 Q. Was the direct testimony prepared by you
22 or under your direction?

23 A. It was.

24 Q. Since the filing of your direct
25 testimony, do you have any changes?

1 A. I do.

2 Q. Could you provide those to us, please.

3 A. Yes. On page 5, line 9, there is a
4 misspelling. The word is "proceeding." There is an
5 I missing.

6 On page 6, line 19, the certification,
7 word "certification" is missing an I as well.

8 And then on page 7, line 15, the same
9 issue with "certification," missing an I.

10 Q. Thank you. Do you have any other
11 changes?

12 A. I do not.

13 Q. Mr. Nelson, with those changes, if I were
14 to ask you the same questions today that appear in
15 your testimony, would your responses be the same?

16 A. It would.

17 MS. BOJKO: Your Honor, at this time I
18 would like to mark as Blue Delta Exhibit 2 the
19 document titled "Supplemental Testimony of Ken
20 Nelson" filed on November 14, 2022, in this
21 proceeding.

22 EXAMINER ST. JOHN: That will be so
23 marked.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 MS. BOJKO: May I approach?

1 EXAMINER ST. JOHN: Yes.

2 MS. BOJKO: Let the record reflect I have
3 handed Mr. Nelson what's been previously identified
4 as Blue Delta Exhibit 2.

5 Q. (By Ms. Bojko) Mr. Nelson, do you have in
6 front of you what's been marked as Blue Delta Exhibit
7 2?

8 A. I do.

9 Q. And do you recognize this document as
10 your supplemental testimony filed in this proceeding
11 on November 14, 2022?

12 A. I do.

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

15 A. It was.

16 Q. And since the filing of your supplemental
17 testimony, do you have any changes?

18 A. I do.

19 MS. BOJKO: Your Honor, at this time I
20 would like to mark as Blue Delta Exhibit 2A an errata
21 sheet to Mr. Nelson's supplemental testimony that
22 outlines the proposed corrections to his testimony.

23 EXAMINER ST. JOHN: That will be so
24 marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 MS. BOJKO: May I approach?

2 EXAMINER ST. JOHN: Yes.

3 Q. (By Ms. Bojko) Mr. Nelson, do you have in
4 front of you what's been previously identified as
5 Blue Delta Exhibit 2A?

6 A. I do.

7 Q. Is this the errata sheet that was
8 prepared by you or under your direction?

9 A. It is.

10 MS. BOJKO: Also, your Honor, I would
11 like to note for the record that the copies that I
12 passed out of supplemental Exhibit 2 do now include
13 page numbers. We've previously referenced that off
14 the record.

15 EXAMINER ST. JOHN: Thank you.

16 Q. (By Ms. Bojko) And with the changes
17 provided to you in Blue Delta Exhibit 2A, if I were
18 to ask you the same questions contained in your
19 supplemental testimony, would your responses be the
20 same today?

21 A. They would.

22 MS. BOJKO: At this time, your Honors, I
23 would like to move Blue Delta Exhibits 1, 2, and 2A,
24 and subject to cross-examination, I tender the
25 witness for cross.

1 EXAMINER ST. JOHN: All right. Thank
2 you.

3 Carbon Solutions.

4 MR. DeMONTE: Thank you, your Honor.

5 May I ask a clarification? When you said
6 2 -- you passed around a copy of 2. Is that the one
7 with the page numbers that you are asking to be
8 submitted into the record?

9 MS. BOJKO: Yes.

10 MR. DeMONTE: Okay. Thanks.

11 MS. BOJKO: For ease of
12 cross-examination, we thought it would be appropriate
13 to add page numbers.

14 MR. DeMONTE: I tried to do my own, but
15 we'll see. Hopefully it's the same way you paginated
16 it.

17 MS. BOJKO: We did confirm that, sir.

18 MR. DeMONTE: Thanks.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. DeMonte:

22 Q. Good afternoon, Mr. Nelson. My name is
23 Mark DeMonte. We met earlier this morning. I will
24 be asking you some questions on cross-examination.

25 So you have before you the testimony and

1 supplemental testimony. You have that available to
2 you?

3 A. I do.

4 Q. Great. If you could go to your testimony
5 page 1, question 2. You reference here you are the
6 President of Blue Delta Energy, LLC. Just confirming
7 that's a for-profit corporation, correct?

8 A. I am, and it is.

9 Q. Thank you. You are not a lawyer, sir?

10 A. I am not.

11 Q. Not here to testify as an expert in the
12 law?

13 A. I am not.

14 Q. Not testifying in any expert capacity,
15 correct?

16 MS. BOJKO: Objection. I think that
17 mischaracterizes the testimony.

18 MR. DeMONTE: I'm sorry. I'm asking
19 about the clarification of the testimony, but I am
20 happy to rephrase if that's helpful.

21 EXAMINER ST. JOHN: Go ahead and
22 rephrase.

23 Q. (By Mr. DeMonte) Mr. Nelson, it says you
24 are -- who are you testifying on behalf of in
25 question 3?

1 A. I am testifying on behalf of Blue Delta.

2 Q. And that's as a layperson's testimony on
3 behalf of Blue Delta?

4 MS. BOJKO: Objection.

5 Q. Do you understand that you are testifying
6 as an expert in this case?

7 A. I am -- as far as I understand, yes.

8 Q. Okay. So on page 4 of the testimony,
9 question 8, "What is your recommendation in this
10 case?" Do you see that?

11 A. Yes.

12 Q. And there you talk about your
13 understanding of the PUCO rules and the Ohio law?

14 A. Yes.

15 Q. You drop a footnote down in footnote 5?

16 A. Yes.

17 Q. Those are the laws that you are
18 referencing when you talk about PUCO rules and Ohio
19 law, correct?

20 A. Correct.

21 Q. And that's the standard that Blue Delta
22 is advocating in here is application of those -- the
23 rules and Ohio law that you cited?

24 A. Yes.

25 Q. And again, just for clarification

1 purposes, any expert testimony you have offered is
2 not inclusive of any legal opinions with respect to
3 these rules or Ohio law.

4 A. Not being a lawyer, I don't think I could
5 offer legal opinion.

6 Q. Great. Thank you for that clarification.
7 I am trying to streamline, sir. If I could draw your
8 attention to page 12. This is still in your direct
9 testimony. Let me know when you are there.

10 A. Yes, I'm there.

11 Q. Great. You have a chart that identifies
12 numerical values on the left and dates on the bottom?

13 A. Yes.

14 Q. Those dates go from June 2021 through
15 November 2021, correct?

16 A. Correct.

17 Q. If I could draw your attention to the
18 first page of your testimony. You filed this
19 August 12 of 2022, right?

20 A. Yes. The process started in 2021, and we
21 finally got around I think to the testimony phase in
22 2022.

23 Q. So that's yes?

24 A. Yes.

25 Q. Thank you. With respect to the dates

1 that you outlined here, you didn't include anything
2 from 2022, correct, in the chart that's in front of
3 you?

4 A. Correct.

5 Q. Right. And would it surprise you to
6 learn that the REC values that are consistent with
7 what you have shown were 4 to 5 dollars on the date
8 you filed your testimony?

9 A. Yes, I am aware of the REC prices.

10 Q. And you were aware of it when you filed
11 it on August 12, 2022?

12 A. Yes.

13 Q. But you didn't include it in your
14 testimony?

15 MS. BOJKO: Objection, misstates the
16 testimony. 2022 REC prices are included in the
17 discussion under the table.

18 MR. DeMONTE: I'm talking about the
19 table, counsel.

20 MS. BOJKO: That wasn't your question.

21 MR. DeMONTE: Okay. Thank you.

22 Q. (By Mr. DeMonte) So in the table I'm
23 saying. I have already asked you questions about the
24 table, and I am comfortable with your answers. Thank
25 you. And I am comfortable that you've identified

1 that you were aware of the REC prices as of the date
2 of the filing as well, so we don't need to continue
3 there. Thank you.

4 MS. BOJKO: Objection. Counsel is
5 testifying. There was no question in the three
6 statements he made.

7 MR. DeMONTE: Counsel, I am trying to
8 streamline just to help the witness know that we
9 are -- he doesn't have to answer another question.
10 We are going to move on to another topic.

11 But I apologize for referencing counsel
12 and not the Bench, your Honor. So I am moving on to
13 another topic.

14 EXAMINER ST. JOHN: Okay.

15 MR. DeMONTE: Thank you.

16 Q. (By Mr. DeMonte) So with respect to page
17 1 of your direct testimony.

18 A. Yes.

19 Q. You see -- you talk about Blue Delta and
20 who Blue Delta is? On line 24, you talk about "Among
21 other services, this includes assisting and in some
22 cases representing clients, including out-of-state
23 clients, in obtaining certifications for qualifying
24 renewable energy resources in Ohio"?

25 A. Yes.

1 Q. Is that a service you are providing in
2 this docket?

3 A. We have a client who has a PPA with one
4 of the facilities that is included in this docket.

5 Q. But are you representing or providing
6 services to any Applicant in this docket?

7 A. I am not.

8 Q. And for clarity, when you were
9 referencing who you work with, could you explain the
10 client -- is it the client of Blue Delta that you are
11 saying is on the other side of an agreement with one
12 of the Applicants?

13 MS. BOJKO: Objection to the extent that
14 the question calls for customer/client names.

15 MS. WHITFIELD: I would also join that
16 objection since it sounds like it was a customer of
17 one of the Applicants so.

18 EXAMINER ST. JOHN: Is the objection to
19 the -- the specific name?

20 MS. BOJKO: Yes.

21 MS. WHITFIELD: Yeah. If he can answer
22 the question without discussing the client or the
23 name, that's fine.

24 EXAMINER ST. JOHN: Okay. Please do so.

25 A. Can you repeat the question?

1 Q. I am just confirming you had referenced a
2 client that Blue Delta serves in one of your prior
3 answers.

4 A. Yes.

5 Q. And that client is not an Applicant in
6 this case.

7 A. Correct.

8 Q. But it's an -- and without disclosing the
9 name, it's a counterparty to a PPA to one of the
10 Applicants in this case?

11 A. That is correct.

12 Q. Okay. Thank you. And that's the
13 services that you reference here on page 1 that you
14 are providing for that client. You are being
15 compensated for those services?

16 A. Yes.

17 Q. Okay. So with respect to -- you were in
18 the room earlier today when there was testimony about
19 the process of obtaining the DFAX?

20 A. Yes.

21 Q. And in there you heard that you have to
22 have CEII clearance in order to request that?

23 A. Yes.

24 Q. Blue Delta doesn't have CEII clearance,
25 does it?

1 A. The way the process works with PJM is
2 that you either have the clearance or have someone
3 with clearance communicate that clearance to PJM
4 representing that we are working on their behalf.

5 Q. So you either -- either Blue Delta has
6 CEII clearance, that was your testimony?

7 A. No. What I am saying is the client we
8 are representing has CEII clearance and that PJM
9 accepts as part of their process the ability for the
10 client to allow for CEII access to Blue Delta.

11 Q. Okay. But just to confirm Blue Delta
12 does not have CEII clearance, correct?

13 A. That is correct.

14 MR. DeMONTE: Your Honor, I would like to
15 ask a question about Joint Exhibit 1 for convenience
16 purposes. I know that there is a reservation on the
17 ruling of whether it's admissible but rather than
18 having that ruling come in and potentially have to
19 call -- may I ask Mr. Nelson very limited questions
20 about one of those attachments subject to your
21 ruling?

22 EXAMINER ST. JOHN: You are welcome to
23 ask the question. We've had quite a few questions on
24 that exhibit so, yeah, feel free to proceed.

25 MR. DeMONTE: Thank you, your Honor.

1 Q. (By Mr. DeMonte) If I could draw your
2 attention to Joint Exhibit 1 which should be to the
3 left of you, I believe. It's the big pile, I think.
4 And I am going to draw your attention to Attachment
5 A.

6 A. I guess -- they are not numbered here but
7 I am guessing is this --

8 MS. BOJKO: It would be Mr. Chiles
9 testimony; is that correct?

10 A. Mr. Chiles.

11 Q. That's correct.

12 A. Mr. Chiles' report as of which date?

13 Q. Mr. Chiles' report as of -- I think it's
14 the one you marked as August 22 -- August 12, 2022,
15 Joint Exhibit 1.

16 A. This one is the November 18. I don't
17 know if I have it up here. August 12 is on that one?

18 EXAMINER ST. JOHN: Did you say your
19 question involves Attachment A?

20 MR. DeMONTE: Attachment A, yes, your
21 Honor.

22 A. Okay. This is the August. Attachment A?

23 Q. Yeah. And specifically Appendix B.

24 A. I'm sorry, specifically --

25 Q. Appendix B.

1 A. Attachment A, Appendix B. DFAX reports
2 and spreadsheets provided. Okay. I think I am on
3 the right page.

4 Q. It should say "DFAX Analysis of Wind
5 Farms"?

6 A. "For Blue Delta Energy."

7 Q. "For Blue Delta Energy, LLC"?

8 A. Yes.

9 Q. And this is one of the DFAX studies that
10 the Applicants are relying on for approval in this
11 docket?

12 A. I don't know if Applicants relied on this
13 study or they ran their separate study. I do not
14 know.

15 Q. Well, Applicants were -- regardless, this
16 document suggests that Blue Delta was hired by
17 someone to request a -- request a DFAX analysis from
18 PJM, correct?

19 A. Yes.

20 Q. And under the process you just
21 identified, you would have to certify or inform PJM
22 that you were representing someone and asking on
23 their behalf if they had CEII clearance, correct?

24 A. Correct.

25 MR. DeMONTE: One moment, your Honor.

1 No further questions on cross. Thank
2 you.

3 EXAMINER ST. JOHN: Thank you.

4 Are there any questions on redirect?

5 MS. BOJKO: Yes, your Honor. May we have
6 a few minutes? 5 minutes?

7 EXAMINER ST. JOHN: Yeah. Let's go off
8 the record for 5 minutes.

9 (Recess taken.)

10 EXAMINER ST. JOHN: Let's go back on the
11 record.

12 At this time are there any questions on
13 redirect?

14 MS. BOJKO: Yes, your Honor. We have a
15 few questions on redirect.

16 EXAMINER ST. JOHN: Go ahead.

17 MS. BOJKO: Thank you.

18 - - -

19 REDIRECT EXAMINATION

20 By Ms. Bojko:

21 Q. Mr. Nelson, do you recall questions
22 regarding Appendix B, the Barton 1 facility DFAX
23 report?

24 A. I do.

25 Q. And is this DFAX report from PJM?

1 A. Yes, it is.

2 Q. Did you request and receive this DFAX
3 report?

4 A. I did.

5 Q. Could you explain for us the process of
6 how you received this DFAX report?

7 A. So once I was granted the authority by
8 PJM to submit a CEII request, they have a portal on
9 the PJM website where I enter the requested
10 information which is a DFAX study for Barton 1. Then
11 I am contacted by PJM. Mark Kuras, K-U-R-A-S, is the
12 liaison for the Transmission Planning Group. So Mark
13 then is -- sort of coordinates with Aaron Berner, who
14 is the head of the Transmission Planning Group, who
15 assigns the DFAX request to one of his staff. So
16 once the Staff prepares the DFAX report, they then
17 send it to me and to Mark Kuras. We are still
18 coordinating through Mark.

19 Q. So to be clear, did you communicate with
20 PJM directly about PJM's DFAX report?

21 A. I did.

22 Q. And is it your understanding that
23 Appendix B attached to Mr. Chiles' testimony is, in
24 fact, that DFAX report that you received?

25 A. Yes. I think there was some confusion

1 on -- that Barton 1 was the only of the Applicants'
2 facilities for which we specifically requested a DFAX
3 report from PJM.

4 Q. For purposes of this proceeding.

5 A. For purposes of this proceeding.

6 Q. Okay. And your client is the -- is the
7 one who gave you authorization to request the PJM
8 report, correct?

9 A. That is correct.

10 Q. And do you recall questions of whether --
11 you were asked to review page 1 of your direct
12 testimony. And do you recall questions regarding
13 whether you are in this proceeding for a particular
14 client?

15 A. Yes.

16 Q. Is that the only reason you are in
17 this -- involved in this proceeding?

18 A. Actually, no. I am in this proceeding
19 for a number of reasons. I think the fact that
20 there's been a challenge to what has been a
21 long-established precedent under the AEPS of Ohio and
22 we have multiple clients who would be impacted as
23 well as just the integrity of the entire AEPS if we
24 were to make such a radical change under the existing
25 understood law -- or, I'm sorry, regulation, that is

1 partly -- and also the fact that I think there was a
 2 challenge to even existing units that had been
 3 previously approved by CSG. So CSG is not only
 4 attempting to intervene against these units and all
 5 the other previous units that had been -- that they
 6 had objected to, which I think may have been eight,
 7 eight or so units from other filers, other
 8 Applicants, so this is a very important -- obviously
 9 I think has big ramifications for the entire AEPS as
 10 it exists today and that's why I believe 3Degrees is
 11 here, I believe even CSG is here.

12 MR. DeMONTE: Your Honor, I would like to
 13 move to strike anything that's referencing the -- the
 14 witness's interpretation of the law with respect to
 15 radical changes or drastic changes. I can't recall
 16 exactly the word that the witness used. But he
 17 already testified on direct -- excuse me, on
 18 cross-examination he is not here to provide legal
 19 opinion.

20 So, your Honor, I would ask those
 21 portions of his testimony -- his testimony be
 22 stricken.

23 EXAMINER ST. JOHN: He is not here --

24 MS. BOJKO: Oh, sorry.

25 EXAMINER ST. JOHN: You are about to win.

1 MR. DeMONTE: Okay. All right.

2 EXAMINER ST. JOHN: He is not here
3 testifying as a legal expert now, but he is here
4 testifying as an expert, and he has testified to
5 his -- his observations and his perspective, so I
6 will let the answer stand.

7 Q. (By Ms. Bojko) Mr. Nelson, on the bottom
8 of page 1, line 4, you were asked questions about the
9 services and the assistance that you provide to
10 customers. Do you provide or did you provide
11 services to customers that were -- that received
12 certification from the Ohio Commission and CSG asked
13 the Commission to revoke those certifications in this
14 proceeding?

15 A. Yes.

16 MS. BOJKO: Thank you, your Honor. I
17 have no further questions.

18 EXAMINER ST. JOHN: I have just a
19 clarifying question. So we were looking at the DFAX
20 study. I believe that was in -- was it Appendix B?
21 Does that sound right?

22 MS. BOJKO: Yes, your Honor.

23 EXAMINER ST. JOHN: I know we have looked
24 at a number of DFAX studies through the hearing
25 today, and we have noticed that sometimes the DFAX

1 studies apply to more than one facility even though
2 the studies are done specifically for each facility.
3 Could you tell me for this specific DFAX study which
4 facility or facilities it applies to?

5 THE WITNESS: Yes. I think on the cover
6 page for Appendix B, it says for Barton 1 facility is
7 the one that's involved in this hearing.

8 EXAMINER ST. JOHN: Thank you. I
9 appreciate that. That was the only question that I
10 have. Do you have any recross?

11 MR. DeMONTE: Very limited, your Honor.

12 EXAMINER ST. JOHN: Go ahead.

13 MR. DeMONTE: Thank you.

14 - - -

15 RE-CROSS-EXAMINATION

16 By Mr. DeMonte:

17 Q. Mr. Nelson, you talked about the process
18 and your interest in the process for certification.
19 Would you agree that the integrity of the process is
20 important?

21 A. Of course.

22 Q. And if the process leads to an Applicant
23 not making the showing under whatever standard that
24 you want to apply, that would be part of -- that
25 would be the appropriate outcome in your opinion for

1 a process that has integrity?

2 A. I have no idea what you mean by a
3 showing.

4 Q. So as I understand it -- and you have
5 testified about standards that the Commission
6 applies.

7 A. Okay.

8 Q. If under that standard an Applicant
9 doesn't produce enough evidence to be approved, in
10 your opinion it would be part -- the integrity of the
11 process would be upheld if that Applicant was denied,
12 right?

13 MS. BOJKO: Objection. I think he is
14 asking for a showing which calls for a legal opinion.

15 MR. DeMONTE: It's just a hypothetical,
16 Judge, to say -- I'm just assuming if Mr. Nelson is
17 here being able to testify what establishes an
18 application to be approved, that the integrity of the
19 process that he is concerned about is upheld even if
20 that -- in another situation if the Applicant doesn't
21 win and the process was followed. That's all I am
22 trying to get.

23 EXAMINER ST. JOHN: I am going to ask,
24 Karen, could you reread the question for me.

25 (Record read.)

1 EXAMINER ST. JOHN: Could you reread it a
2 second time, please?

3 MR. DeMONTE: I am not sure it gets any
4 better the second time.

5 EXAMINER ST. JOHN: Actually before you
6 reread it, would you possibly care to ask the
7 question again?

8 MR. DeMONTE: Certainly. If I could have
9 just one second to think about it.

10 EXAMINER ST. JOHN: Thank you.

11 MR. DeMONTE: Thank you, Judge.

12 Q. (By Mr. DeMonte) Mr. Nelson, the
13 integrity of the process is important regardless of
14 whether an Applicant wins or losses, true?

15 A. Yes.

16 MR. DeMONTE: That's it. No further
17 questions.

18 EXAMINER ST. JOHN: Thank you.

19 Any further questions on redirect?

20 MS. BOJKO: Yes, your Honor.

21 - - -

22 FURTHER REDIRECT EXAMINATION

23 By Ms. Bojko:

24 Q. Do you believe that the DFAX analysis in
25 this case does, in fact, demonstrate the showing of

1 deliverable -- deliverability in the State of Ohio?

2 MR. DeMONTE: I am going to object to a
3 legal conclusion. That's one of the questions that
4 the Commission has to resolve.

5 MS. BOJKO: No. As an expert, he can
6 give a recommendation or opine. Your witnesses both
7 do it. He can opine on his recommendation of whether
8 the facilities satisfy the regulatory standards and
9 the requirements in this case.

10 EXAMINER ST. JOHN: I will let the
11 witness answer the question.

12 A. Yes. They satisfy the Koda test as it is
13 currently understood.

14 MS. BOJKO: Thank you. No further
15 questions.

16 EXAMINER ST. JOHN: Anything further?

17 MR. DeMONTE: No. Thank you, Judge.

18 EXAMINER ST. JOHN: All right. Thank you
19 for your testimony.

20 We have three pending exhibits that have
21 been moved into evidence, Blue Delta Exhibits 1, 2,
22 and 2A. Are there any objections to the admission of
23 these three exhibits?

24 MR. DeMONTE: Your Honor, just the
25 objection with respect to the DFAX studies that are

1 attached to the reply comments. I believe it's the
2 reply comments. It's attached to one of the comments
3 Mr. Nelson also sponsors. It would be to remove the
4 objections that we have made before and when that was
5 the questions that I had asked, as long as the
6 questions we asked were subject to those objections.

7 EXAMINER ST. JOHN: Could you point me to
8 which specific exhibit and where in that exhibit you
9 are talking about?

10 MR. DeMONTE: So attached to Mr. Nelson's
11 testimony he is --

12 EXAMINER ST. JOHN: His direct testimony,
13 Mr. DeMonte?

14 MR. DeMONTE: Direct testimony, yes, your
15 Honor. He says he also sponsors comments filed in
16 this docket with respect to Blue Delta. I can give
17 you a page number, your Honor. On page 4, lines 4
18 through 7, that's the only reference with respect to
19 Blue Delta's comments and the fact that Mr. Nelson is
20 sponsoring Blue Delta's comments. And so if you go
21 to the attachment that's in the back part of his
22 testimony, the comments themselves attach the DFAX
23 studies as part of Mr. Chiles' expert report that was
24 filed at the time. And so the same objections that
25 would apply to that report that were made with

1 respect to Mr. Chiles' report, the inherent DFAXs,
2 are once again made to these documents as well.

3 MS. BOJKO: Your Honor -- oh, I'm sorry.

4 EXAMINER ST. JOHN: Just for
5 clarification, the cross-reference that you are
6 talking about are multiple DFAX studies?

7 MR. DeMONTE: Yes, your Honor. Let me go
8 ahead and -- it's -- mine are not paginated, so I am
9 referring to documents that were put together in a
10 PDF so that's why I am having trouble pointing you to
11 the specific page number because I don't have the PDF
12 in front of me.

13 EXAMINER ST. JOHN: I see.

14 MR. DeMONTE: November of 2021,
15 Mr. Chiles had filed a report and in that -- from GDS
16 Associates, and it's within that document that's
17 attached to the comments that the DFAX studies or
18 DFAX information is a part of the Appendix A, though
19 I would note these DFAXs, Appendix A, do not have any
20 of the cover notes associated with them that came
21 from PJM so.

22 EXAMINER ST. JOHN: I just want -- are
23 we -- I mean, so the direct testimony of Mr. Nelson
24 is quite long. Are we generally kind of like in the
25 middle of that testimony?

1 MR. DeMONTE: It's what's attached to the
2 testimony.

3 EXAMINER ST. JOHN: Right. Are they in
4 Attachment A? Attachment B?

5 MR. DeMONTE: About this much. It's
6 Attachment -- Appendix A to -- Attachment A of the
7 comments.

8 EXAMINER ST. JOHN: Okay. Thank you.
9 Just give me a moment here.

10 MR. DeMONTE: I want to make sure I said
11 that right too, Judge. Thank you.

12 EXAMINER HICKS: There's a lot of
13 attachments.

14 MR. DeMONTE: What counsel said, to
15 clarify my -- where I was pulling it, again, because
16 I am trying to recreate off the paper copy that
17 doesn't have the sequential pagination to it.

18 MS. BOJKO: Rule of completeness, your
19 Honor. May I respond?

20 EXAMINER ST. JOHN: I want to make sure
21 that I am looking at the right thing because we had
22 testimony specific about receiving the DFAX study for
23 Barton 1.

24 MS. BOJKO: Correct.

25 EXAMINER ST. JOHN: But it sounds as

1 though there are additional DFAX studies that are
2 attached, so I just want to make sure I know -- I
3 guess maybe rather than where it's located, my
4 question to you should be is your objection to all of
5 the DFAX studies that are attached to Blue Delta
6 Exhibit 1?

7 MR. DeMONTE: Yes, your Honor. They are
8 not substantively the same that are attached to Joint
9 Exhibit 1 because they were filed before the update
10 to Mr. Chiles' report which included the Barton 2
11 DFAX so these are just a series of spreadsheets
12 without cover notes that are attached to Mr. Chiles'
13 November 2021 report.

14 MS. BOJKO: Your Honor, we disagree with
15 that characterization. The DFAX models did not
16 change. They all have the same date on them. They
17 did not change. And when you are ready, if I could
18 be heard.

19 EXAMINER ST. JOHN: Yes. Go ahead.

20 MS. BOJKO: Okay. I mean, here we have a
21 case of a witness that personally requested the DFAX
22 studies. He gave you names of people he requested it
23 from, people that responded, e-mails that he
24 received. Clearly this witness has personal
25 knowledge of the DFAX as it relates to Barton 1, and

1 they personally requested that DFAX. And they also
 2 told you the process, explained the process that he
 3 deals with often in this. And as far as chain of
 4 custody, the proof of the chain of custody of an
 5 exhibit is not a requirement of admissibility.
 6 Instead evidence about chain of custody is merely a
 7 means of satisfying authentication. Clearly this
 8 document was authenticated through Mr. Nelson, and
 9 the DFAX study, at least as it refers to Appendix B,
 10 we obviously think he can -- the others have already
 11 been authenticated and foundation has been
 12 established, but clearly the foundation has been
 13 established with regard to Appendix B for the Barton
 14 1 facility, one of the Applicants in this proceeding.

15 EXAMINER ST. JOHN: Any response?

16 MR. DeMONTE: Yes, Judge. So I think
 17 counsel's argument is directed to the Joint
 18 Exhibit 1. You had asked about what's attached to
 19 the appendix. There is one appendix, Appendix A.,
 20 that has a series of spreadsheets. That is not
 21 what -- the question I had asked Mr. Nelson about was
 22 one that had the cover sheet on it that was part of
 23 Joint Exhibit 1. So when -- I understand there is --
 24 it's challenging because we have many different
 25 copies of -- of spreadsheets that were put into the

1 record, and we've been trying to unpack and
2 understand what each one is.

3 On this particular attachment that was a
4 part of Mr. Nelson's testimony, all the arguments
5 that counsel just made lead to the conclusion it
6 should be kept out because Mr. Nelson didn't testify
7 about these spreadsheets. He didn't prepare the
8 spreadsheets. They are a part of the reply comments
9 that he made one statement on and said Blue Delta
10 filed comments and I am sponsoring those comments and
11 they were attached to his testimony.

12 So for those reasons in addition to what
13 we had talked about before, I would ask that your
14 Honor keep that information out of the record.

15 EXAMINER ST. JOHN: So it sounds like --
16 correct me if I am wrong, but it sounds like we might
17 have two issues going on. It sounds like you are
18 saying that this document that's attached as Appendix
19 B is not the same that was attached to Joint Exhibit
20 1; is that correct?

21 MR. DeMONTE: Well, Appendix A is not in
22 the -- which was part of the November 2021 report
23 that was attached to the comments --

24 EXAMINER ST. JOHN: I am truly confused.

25 MR. DeMONTE: Your Honor, that's part of

1 our problem. The integrity, again, not to borrow
2 Mr. Nelson's, the integrity of the process, we need
3 to know what's in the record so we know what people
4 are arguing. We don't know what this is. And this
5 isn't what Mr. Nelson testified to.

6 EXAMINER ST. JOHN: So you are talking
7 specifically --

8 MR. DeMONTE: It's incomplete, Judge.

9 EXAMINER ST. JOHN: I just need to know
10 what we are talking about because I thought we were
11 talking about Appendix B.

12 MS. BOJKO: We are talking about the DFAX
13 analysis, and they are not substantially different.
14 Whether there is a cover letter attached to them or
15 not does not change the substance of the DFAX
16 analysis for each of the facilities. Mr. Nelson
17 testified to the one DFAX that actually supports the
18 facility that he is here today to sponsor and to
19 testify to and the comments were available.

20 If counsel wanted to cross the witness on
21 anything in the comments, they were attached to the
22 testimony. The spreadsheets were attached to the
23 testimony. The DFAX analysis was attached to the
24 testimony. And he chose not to question the witness
25 on it. We had the same problem we did earlier. Just

1 because he chooses not to cross-examine the witness
2 doesn't mean their direct testimony doesn't stand as
3 filed. It does. And we are moving the entirety of
4 the document because Mr. Nelson did draft the
5 comments. He said he drafted the comments. And he
6 has personal knowledge of the DFAX analysis, all of
7 them, but particularly Barton 1 which he requested.
8 He testified to that.

9 MR. DeMONTE: And, your Honor, it is not
10 the obligation of opposing counsel to cure on direct
11 insufficient foundation. So we don't -- the fact
12 that we did not cross-examine Mr. Nelson with respect
13 to testimony that was insufficient goes to the fact
14 that direct testimony in and of itself is
15 insufficient.

16 There's no waiver of an objection. We
17 are cross-examining on the information, and the
18 direct then stands as it is and as it is filed. And
19 as it's filed, as counsel prepared it -- as counsel
20 filed it, it's insufficient for the evidentiary
21 standard and should not be admitted to the record.

22 EXAMINER ST. JOHN: So you are saying
23 that there is a lack of foundation for the admission
24 even of the DFAX study for Barton 1?

25 MR. DeMONTE: I don't know, your Honor,

1 if what is here -- and, counsel, you made a
 2 representation about it, and I don't challenge your
 3 representation by any means, Appendix A to me does
 4 not have the same indicia of the cover note that I
 5 had asked about the Barton 1 so that's why -- that's
 6 why this Appendix A is -- why this particular
 7 objection is being objected to.

8 EXAMINER ST. JOHN: I guess I am still
 9 confused because the witnesses -- the witness
 10 testified that he had requested this document from
 11 PJM and received it from PJM so what is the basis for
 12 your objection?

13 MR. DeMONTE: So with respect to his
 14 document, if the objection is still the hearsay
 15 objection, if you're ruling what the witness has
 16 testified to with respect to Barton is -- he has
 17 established a foundation, the objection would still
 18 be hearsay, and it would be to the extent that it's
 19 argued that it's a business record. It is hearsay
 20 within hearsay. The information contained within the
 21 business record is in and of itself hearsay.

22 EXAMINER ST. JOHN: Okay. I will
 23 overrule the objection as to hearsay.

24 Putting the DFAX study aside for Barton
 25 1, are there any other portions of this exhibit that

1 you object to coming into the record?

2 MR. DeMONTE: For clarity, Judge, we
3 object to Attachment A to the November 2021 report
4 specifically because we don't know which one is
5 Barton and which one is not. So just for clarity of
6 the record, but respecting your ruling, the
7 November 2021 report in its entirety is outdated.
8 The witness himself submitted the August 12, 2022,
9 report, so we would suggest that that -- the report
10 that was given to the comments not be admitted
11 because it's duplicative of what's already been
12 admitted into the record.

13 EXAMINER ST. JOHN: I'm just still
14 confused. This is a very long exhibit. We're
15 casually referring to the November 2021 study. I
16 need to -- I need to be able to look at it. So
17 November what? I am just trying to do like a control
18 find.

19 MS. BOJKO: November 18, your Honor.

20 EXAMINER ST. JOHN: November 18, thank
21 you.

22 MS. BOJKO: And, your Honor, for clarity,
23 it does say Barton 1 on it. There is a sheet, it
24 doesn't have the cover letter, the words, but there
25 is a sheet that says "Barton 1 Facility DFAX study,"

1 so it is in the document itself, and I would just
2 note that the November 18, 2021, report the witness
3 testified that there were no updates to that report
4 except for the addition so no changes to the other
5 report.

6 Mr. Nelson testified that he was
7 responsible for the comments and that report is part
8 of the comments because, if you recall, there was no
9 testimony back in the comments. It was a joint
10 witness. It's Blue Delta's witness for its comments.
11 And, your Honor, if we would look at the DFAX
12 spreadsheets, you would actually see line by line
13 that they are identical. There's been no changes to
14 the DFAX. They only requested the DFAX once and that
15 was in July 27, 2020.

16 Are you still having difficulty locating
17 the document?

18 EXAMINER ST. JOHN: Yeah.

19 MS. BOJKO: If you go to Attachment A
20 right after the testimony -- there is only how many
21 pages of testimony? There's 16 pages. So it would
22 be like page 17 of the PDF --

23 EXAMINER ST. JOHN: Okay.

24 MS. BOJKO: -- is Attachment A which is
25 the expert report and then --

1 EXAMINER HICKS: November 18, 2021, is
2 page 40.

3 MS. BOJKO: Okay.

4 EXAMINER ST. JOHN: You made a number of
5 objections to the admission of Blue Delta's
6 Exhibit 1. At this point all of your objections are
7 overruled except as to the DFAX studies for the
8 Applicants except for Barton 1. And as we have done
9 with the previous exhibits, we will defer ruling on
10 the admission of the exhibit in totality until a
11 later point in the hearing.

12 MS. BOJKO: Thank you, your Honor.

13 MR. DeMONTE: Thank you.

14 EXAMINER ST. JOHN: Are there any
15 objections to the admission of Blue Delta Exhibits 2
16 or 2A?

17 MR. DeMONTE: No, your Honor.

18 EXAMINER ST. JOHN: Okay. And those two
19 exhibits will be admitted at this time.

20 (EXHIBITS ADMITTED INTO EVIDENCE.)

21 EXAMINER ST. JOHN: Thank you, everyone.
22 At this time I would like to go ahead and take a
23 break off the record. Let's go ahead and take 10
24 minutes and come back at 3:55. Thanks.

25 (Recess taken.)

1 EXAMINER HICKS: Go ahead and go back on
2 the record.

3 We just took a quick break. I will just
4 confirm I guess with Applicants and Blue Delta that
5 we are safe to move on to the presentation of the CSG
6 witnesses?

7 MS. WHITFIELD: Yes.

8 MS. BOJKO: Well, your Honor, I guess,
9 yes, except I would just say subject to all the
10 rulings that you are not ruling on certain exhibits
11 or testimony at this time.

12 EXAMINER HICKS: Say that again. I'm
13 sorry.

14 MS. BOJKO: Except that you have withheld
15 ruling on admissibility of our witnesses' testimony.
16 With that understanding, yes, we have no further
17 witnesses.

18 EXAMINER HICKS: So noted.

19 Then I will turn it over to Carbon
20 Solutions to call their first witness.

21 MR. WHITT: Thank you, your Honor. This
22 is partially a housekeeping matter here but if I
23 could just inquire, because I may be able to speed
24 things along here if -- I know that a motion to
25 strike a significant portion of Mr. Gopaul's

1 testimony had been filed, hasn't been ruled on. I am
2 assuming that would be pursued. It still stands?

3 MS. BOJKO: Of course. I thought we were
4 taking Mr. Stewart next.

5 MR. WHITT: Well, in light of the
6 outstanding motion, to move things along, spare your
7 Honors any sort of ruling, we will not be calling
8 Mr. Gopaul at all.

9 MS. BOJKO: Oh.

10 MR. WHITT: So we will put Mr. Stewart on
11 the stand now.

12 MS. WHITFIELD: Will you be striking and
13 withdrawing his testimony?

14 MR. WHITT: It's not been offered.

15 EXAMINER ST. JOHN: So you do not plan to
16 introduce his testimony?

17 MR. WHITT: Correct.

18 EXAMINER ST. JOHN: Okay.

19 MR. WHITT: And I am just giving the
20 heads up on that.

21 EXAMINER ST. JOHN: All right. Thank
22 you.

23 EXAMINER HICKS: Go ahead and call your
24 first witness.

25 MR. WHITT: Thank you. Carbon Solutions

1 Group would call Mr. Travis Stewart.

2 EXAMINER HICKS: Please raise your right
3 hand.

4 (Witness sworn.)

5 EXAMINER HICKS: Go ahead when you are
6 ready, Mr. Whitt.

7 - - -

8 TRAVIS STEWART

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

11 DIRECT EXAMINATION

12 By Mr. Whitt:

13 Q. Good afternoon, Mr. Stewart. Would
14 you --

15 MR. WHITT: Let's mark for identification
16 CSG Exhibit 3.

17 EXAMINER HICKS: Which is?

18 MR. WHITT: A document titled "Direct
19 Testimony of Travis Stewart on behalf of Carbon
20 Solutions Group, LLC," dated August 26, 2022.

21 EXAMINER HICKS: So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MS. BOJKO: Your Honor, the witness is
24 frantically looking for it. It wouldn't be up there,
25 sir.

1 THE WITNESS: I have my own copy so.

2 MR. WHITT: You have yours.

3 THE WITNESS: Thank you.

4 EXAMINER HICKS: That was the one good
5 thing about Webex hearings, everybody would say go to
6 page 8 of the PDF.

7 MR. WHITT: We are lacking one for the
8 court reporter. We will get a copy for the court
9 reporter. Does the Bench have -- it would have been
10 prefilled.

11 EXAMINER HICKS: I have the PDF version,
12 but if you could ensure that the court reporter gets
13 one.

14 Q. (By Mr. Whitt) Do you have that document
15 we've identified --

16 A. Yes, I do.

17 Q. -- marked for identification? What is
18 this document, sir?

19 A. This is my direct testimony on behalf of
20 Carbon Solutions Group filed on August 26, 2022.

21 Q. And was this document prepared by you or
22 under your direction and supervision?

23 A. Yes, it was.

24 Q. Do you have any corrections to make to
25 your testimony?

1 A. No, I do not.

2 Q. If I were to ask you the same questions
3 that appear in CSG Exhibit 3 today, would your
4 answers be the same?

5 A. They would. However, I would like to
6 note that I have reviewed the second supplemental
7 responses that were filed on September 15, 2022, and
8 my answers today may reflect some of that
9 information.

10 EXAMINER ST. JOHN: What document in
11 particular are you referring to?

12 THE WITNESS: The second supplemental
13 responses and objections of the Applicants. It was
14 filed on September 15, 2022. It addresses various
15 discovery requests including things like
16 interconnection rights, PPAs, and so forth.

17 MS. BOJKO: Your Honor, I am going to
18 object. I don't know what the clarification that the
19 witness said. Is he making changes to his testimony
20 based on those discovery responses, his direct, or is
21 he not?

22 MR. WHITT: I think the witness may have
23 been asked -- answering a different question than
24 asked.

25 Q. (By Mr. Whitt) In terms of the written

1 document in front of you, do you have any corrections
2 to make to the document?

3 A. I do not.

4 Q. Thank you.

5 MS. BOJKO: Thank you, your Honor. I
6 still don't understand what the witness was
7 referencing, and I will object if there is any change
8 to the direct testimony that hasn't been noticed and
9 provided to the parties. We've requested several
10 times for supporting documentation as you both well
11 know, and we have received no supporting
12 documentation in response to any of the outstanding
13 discovery. So if the witness is going to change his
14 testimony live, we will have to object at that time,
15 I guess.

16 EXAMINER HICKS: Yes. I don't want to
17 rule on a hypothetical. You are free to object
18 whenever you feel it appropriate.

19 MR. WHITT: To be absolutely clear --

20 EXAMINER HICKS: He has testified he has
21 no changes to his direct testimony. We were all
22 onboard with that.

23 THE WITNESS: Sorry for the confusion,
24 counsel. I will take that.

25 MR. WHITT: Thank you. The witness is

1 are available for cross.

2 MS. BOJKO: Your Honor, at this time
3 would it be appropriate to do motions to strike?

4 EXAMINER HICKS: With respect to
5 Mr. Stewart?

6 MS. BOJKO: Yes, sir.

7 EXAMINER HICKS: Can I ask why this would
8 not have been filed as clearly you filed one for
9 Mr. Gopaul's testimony?

10 MS. BOJKO: Your Honor, I mean, I
11 typically do motions to strike live unless they are
12 very complicated with a lot of reasoning and
13 rationale and if it would have affected the
14 supplemental testimony. This is different.
15 Mr. Gopaul was prefiled because of the length, the
16 complexity, the number of objections that we had for
17 that as well as the reasoning and hopeful to not have
18 to produce supplemental testimony addressing all of
19 Mr. Gopaul's statements had it been ruled upon prior
20 to the supplemental filing deadline. Otherwise, your
21 Honor, we historically do motions to strike right
22 before the witness testifies.

23 EXAMINER HICKS: Give me one second.

24 MS. BOJKO: Actually in the world of
25 Teams, Webex hearings is really when a couple parties

1 started filing prefiled motions to strike. Before
2 that it was all done live.

3 EXAMINER HICKS: Just checking the
4 document. Just go ahead. I am confused on the one
5 getting filed, the one not.

6 MS. BOJKO: Your Honor, we were hoping
7 the one got ruled upon prior to the hearing because
8 it would have excluded the testimony. But as for
9 Mr. Stewart, it's just certain passages we are
10 requesting. It's not more wholesale motions to
11 strike.

12 So the first one, your Honors, is at page
13 4, line 78, through page 4, line 80, ending at the
14 word "markets." Your Honor, this portion of the
15 witness's testimony should be stricken for hearsay,
16 lack of relevancy, lack of foundation, and for being
17 improper expert testimony pursuant to Evidence Rule
18 401 and 2 -- 402, evidence that lacks any tendency to
19 make the existence of any fact that is of consequence
20 to the determination of the action more probable or
21 less probable is inadmissible.

22 Pursuant to Evidence Rule 801 and 802, a
23 statement other than a statement made by the
24 declarant, which is the witness in this case, is
25 inadmissible when offered for the truth of the matter

1 asserted therein. The witness is not an RTO
2 representative, and he himself is not a participant
3 in the wholesale markets. He is a consultant, so he
4 cannot speak for these entities.

5 So pursuant to Evidence Rule 602, a
6 witness may not testify to a matter unless evidence
7 is introduced sufficient to support a finding that
8 the witness has personal knowledge of the matter.
9 The Commission has relied on this rule pursuant to
10 Ohio Administrative Code 4901-1-27(B) to strike
11 portions of testimony that are speculative or
12 unsupported by personal knowledge.

13 Finally, while an expert may offer
14 opinion testimony, under Ohio law the reviewing body
15 such as the Commission may exclude the purported
16 expert testimony that is only a legal opinion since
17 the Commission is capable of interpreting and
18 applying their own rules and Ohio law. Here the
19 witness claims to define deliverability as it means
20 to Regional Transmission Organizations and
21 participants in the wholesale market. Ohio law,
22 Administrative Code, and the Commission's
23 interpretation thereof define what the term
24 deliverable or physically deliverable means in Ohio.

25 The purported opinions in undefined third

1 parties are irrelevant to this analysis. The witness
2 does not lay a foundation to establish why he is able
3 to offer these purported opinions on behalf of RTOs
4 and market participants.

5 Finally, by offering the purported
6 opinions of undefined third parties, the witness is
7 presenting inadmissible, out of court hearsay
8 statements, and, thus, it should be stricken.

9 EXAMINER HICKS: Thank you. Give me the
10 page -- what -- where does it run through? I'm
11 sorry, the number.

12 MS. BOJKO: Sure. Page 4, line 78
13 through 80, ending at the word "market." It's the
14 first sentence of question and answer 9.

15 EXAMINER HICKS: You want to respond?

16 MR. WHITT: Well, this would be the first
17 time in 25 years practicing here where a witness
18 would not be allowed to explain what they are
19 testifying about, the purpose of their testimony.
20 Citing evidence rules and statutes as if that gives
21 the argument some aura of persuasiveness, it just
22 isn't. The witness explains his education, training,
23 and experience to offer the opinions which he is
24 offering in the case, expressly disclaiming any legal
25 opinion, acknowledging the Commission's role, and

1 ultimately determining what deliverability means.

2 He is offering an opinion in a specific
3 context. We will argue the significance, the weight,
4 the relevance, so forth of the testimony in the
5 briefs. Nothing they said goes to admissibility. It
6 all goes to weight and relevance. That is not a
7 proper basis to strike testimony.

8 MS. BOJKO: Your Honor, that's simply not
9 the case and I am citing Ohio Rules of Evidence which
10 is the proper rules and it is very appropriate to
11 cite Rules of Evidence when you are arguing a motion
12 to strike. And it has been done in the 25 years that
13 I have been practicing here, so I don't understand.

14 He's stating what an RTO person and
15 participants in the wholesale energy. It's purely
16 hearsay. He's stating what it means to these people
17 without identifying the people, without telling us
18 who the people are, without telling us when he asked
19 the people, and how it applies to Ohio law. It's
20 hearsay plain -- plain as day, and it's improper.

21 MR. WHITT: It sounds a lot like the
22 testimony we heard about these DFAXs. Certainly if
23 opinion testimony can be offered by the Applicants
24 and Blue Delta on how they believe PJM goes about its
25 business, then a similarly qualified individual,

1 again, can offer the opinions that he's offered.
2 That's all I have to say.

3 EXAMINER HICKS: I am going to assume we
4 have heard from all that wish to chime in.

5 We are going to deny the motion to
6 strike. The testimony will stand. I understand
7 your -- I understand the basis for your motion.
8 While we do typically try to follow the Rules of
9 Evidence, they are not binding on us. The Commission
10 has the expertise to be able to weigh evidence such
11 as this. The issues that you bring up are certainly
12 fair game for any questions you -- I assume you may
13 be about to ask, but we are going to let that
14 testimony stand.

15 MS. BOJKO: Thank you, your Honor. My
16 second motion to strike is on page 4, line 84,
17 through page 5, line 106. Your Honor, this portion
18 of the witness's testimony should be stricken for
19 hearsay and violations of Rules 801 and 802, lack of
20 relevancy and violations of Rules 401 and 402, and
21 lack of foundation and personal knowledge in
22 violation of Rule 602.

23 At this portion of the witness's
24 testimony, the witness simply quotes what appears to
25 be an out-of-context position of a MISO tariff

1 related to transmission capacity. The witness does
2 not lay any foundation as to this tariff provision or
3 explain how this tariff applies to a deliverability
4 analysis for a generation facility under the Ohio RPS
5 program, and Ohio is in PJM, not MISO. Ohio doesn't
6 operate under the MISO tariff. This tariff was not
7 produced in discovery even though the Applicants
8 requested any factual basis or support for CSG's
9 arguments about deliverability as well as any
10 documents relied upon when drafting comments or
11 expert reports in this case.

12 The tariff was also not filed on the
13 docket and was not included in the witness's
14 testimony. The witness is relying on an out of court
15 statement by a nonparty without explaining the
16 foundation or the relevancy of this provision. As
17 such, this witness -- this portion of the witness's
18 testimony should be stricken. Thank you.

19 MR. WHITT: Again, your Honor, the
20 question is experts are permitted to testify about
21 matters that technically meet the definition of
22 hearsay if it's the type of material ordinarily
23 relied upon by experts in that field which this
24 material is for the reasons the witness explains.

25 The MISO tariff is a publicly-available

1 document. Just like many things cited in the
2 Applicants' expert reports and footnoted, copies
3 weren't provided to us nor were they demanded because
4 we are perfectly happy to go obtain publicly
5 available things ourselves.

6 The testimony plainly answers very simple
7 questions, what's it mean for electricity to be
8 physically deliverable, again, with the caveats about
9 what the witness means by that and the witness
10 explains. Again, all of this is going to weight,
11 credibility, areas that would be appropriate to probe
12 on cross-examination but not to a threshold question
13 of admissibility.

14 MS. BOJKO: Your Honor, this isn't a
15 question of admissibility. That is a motion to
16 strike based on relevancy and hearsay. Admissibility
17 comes when they move the document into evidence in
18 the case. So as far as to respond, we did provide
19 all copies of -- if you are referring to DFAX studies
20 and the like, those were all served on counsel of
21 record. I am not sure what he is saying wasn't
22 served on him but those were all served. And also
23 under the counsel's own admission right now, the DFAX
24 analysis is also regularly relied upon and used by
25 expert witnesses.

1 If this testimony is allowed in, then the
2 DFAX analysis and studies are clearly allowed in
3 under counsel's own argument here today.

4 MR. WHITT: I have nothing to add.

5 EXAMINER HICKS: So I guess I am somewhat
6 concerned as to this is -- again, all these issues
7 leading up to here intermingling in terms of what may
8 or may not have been provided in discovery, et
9 cetera.

10 MR. WHITT: Do you want to refer counsel
11 to what discovery request you are talking about that
12 wasn't responded to?

13 MS. BOJKO: We asked for a factual
14 basis -- or Applicants, and we obviously didn't do
15 the same discovery.

16 MR. WHITT: That's problem No. 1. You
17 served no discovery.

18 MS. BOJKO: The Applicants, and we are
19 served with discovery, and the Commission's rules
20 require us not to duplicate.

21 MR. WHITT: Did Blue Delta file a motion
22 to strike or motion to compel? It didn't. You never
23 served any discovery.

24 MS. BOJKO: Your Honor, the Commission's
25 rules are if one party serves discovery, it is

1 inefficient for the second party to serve the same
2 discovery. We all received copies of the discovery.
3 We all received supplemental responses to discovery.

4 So in this case we relied on the
5 discovery that was already submitted and did not
6 duplicate that discovery and in that discovery there
7 was a request of any factual basis or support for
8 CSG's arguments about deliverability as well as any
9 documents relied upon when drafting comments or
10 expert reports in this case. And they did not
11 provide the MISO tariff as a basis for their
12 argument, and the MISO tariff is, your Honor,
13 relevant because we are in PJM.

14 MR. WHITT: If I might add, your Honor,
15 the comments were filed before CSG was permitted to
16 intervene in the case, before we knew there was going
17 to be a case, before we had witnesses, before any
18 testimony was filed. Again, the purpose of this
19 proceeding and the purpose of prefiled testimony,
20 again, which has been on file since August has
21 telegraphed CSG's entire case. We are not trying to
22 bring in anything else.

23 There have been all of these months to
24 take a deposition. You don't want to do that. You
25 have to serve interrogatories, document requests.

1 You know, based on the testimony, give us this or
2 that. There's no effort to hide anything here. And
3 again, when you say, you know, this -- the arguments
4 don't pertain to admissibility, I mean, the purpose
5 of a motion to strike is to preclude the admission of
6 certain evidence and that's what they are trying to
7 do.

8 At the end of the day, the Commission
9 ought to have a full and complete record. As the
10 Bench has indicated, the Commission has the expertise
11 to know weight to be given to various opinions, the
12 type of material folks rely on. Again, MISO tariff,
13 PJM tariff, all of that is publicly available just
14 like, you know, citations to the Commission's rules
15 or other public materials. You know, the idea that
16 there is anything here that's been hidden or
17 claimed -- trying to play hide the ball is just --
18 just doesn't hold up to the facts.

19 MS. BOJKO: Your Honor, if I may just add
20 one data point, the discovery cutoff was August 5.
21 They filed this testimony after August 5, so I
22 appreciate counsel's saying we had all this time to
23 do additional discovery, but we did not. We did not
24 have any time to do any discovery on this testimony
25 itself as the discovery cutoff had ended. And under

1 Rule 26, counsel has a duty to supplement the
2 discovery responses and that is the reason that
3 Applicants filed multiple motions to compel and
4 motions to renew sanctions and things because there
5 was no duty of supplement followed by counsel. And
6 that's what they had to do. So they needed to
7 supplement after they filed their -- their August
8 testimony of this witness and they did not.

9 MR. WHITT: The rules require
10 supplementation of a very narrow category of
11 information. And again, this discovery, the
12 supplemental responses were served in April of 2022.
13 There were offers made of joint witness disclosures
14 and deposition, a whole host of things offered above
15 and beyond anything required by the rules. Anybody
16 could get whatever information they wanted. That was
17 all on the table. It was all rejected.

18 MS. BOJKO: Objection.

19 MR. WHITT: Notwithstanding the discovery
20 cutoff, it didn't stop you from filing these motions
21 for sanctions one after the other.

22 EXAMINER HICKS: All right.

23 MR. WHITT: I'm hoping we've moved beyond
24 that issue.

25 MS. BOJKO: Your Honor, I do move to

1 strike any kind of reference to any settlement
2 because frankly it is simply not true. None of those
3 offers were put on the table and it is simply not
4 true. And there was no offer to do depositions and a
5 whole host of discovery items after the --

6 EXAMINER HICKS: You both got your tit
7 for tat. We're fine. Are there more motions to
8 strike?

9 MS. WHITFIELD: Well, could I be heard on
10 this motion for just a second because I heard, your
11 Honor, one of you asking if there were specific
12 discovery requests that we could identify that were
13 the subject of the motions that I filed that related
14 to deliverability? So again, if you look at
15 Interrogatory 17 --

16 MR. WHITT: Could you hold on a second,
17 counsel?

18 MS. WHITFIELD: Yep.

19 EXAMINER ST. JOHN: Can you point us to a
20 filing in the docket that would include Interrogatory
21 17 or?

22 MS. WHITFIELD: It would have been
23 included with our motion -- our original motion to
24 compel filed back on, I believe, April -- or
25 February.

1 EXAMINER ST. JOHN: Thank you.

2 MS. WHITFIELD: Hold on a second. I have
3 got it here. First motion to compel was February 1.

4 EXAMINER ST. JOHN: Thank you.

5 MS. WHITFIELD: Actually I misspoke.
6 It's Interrogatory 19, Interrogatory 01-019, subject
7 to the same motion to compel filed in February,
8 subject to your order of April 4, and then subsequent
9 orders.

10 EXAMINER HICKS: I'm sorry. Could you
11 give me the second one? The numbering on this is
12 throwing me on this testimony. So give me the page
13 and line number.

14 MS. BOJKO: I'm sorry. Do you not have
15 the correct testimony? I apologize.

16 EXAMINER HICKS: No, no, I have it.

17 MS. BOJKO: I'm sorry. So I was asking
18 to strike page 4, line 84, so it's answer 10 --

19 EXAMINER HICKS: Thank you.

20 MS. BOJKO: -- in its entirety, your
21 Honor. So it goes over to page 5, line 106.

22 EXAMINER HICKS: Not that it is wrong but
23 the rolling numbers, I think, is throwing me because
24 I am used to seeing the renumbering on each page.

25 MS. BOJKO: Oh, right. It may be helpful

1 we do line numbers going forward since they are
2 rolling.

3 EXAMINER HICKS: I say this jokingly, are
4 there more of your short motions to strike?

5 MS. BOJKO: Your Honor, I will forego my
6 last one, but I believe that another party might have
7 one.

8 MS. WHITFIELD: Yeah. I have one, but to
9 the extent that you were asking about the point that
10 Ms. Bojko was making in her motion to strike just now
11 that's pending regarding any factual basis or support
12 for CSG's argument about deliverability as well as
13 documents relied upon by the experts, those were
14 specific requests, Interrogatory 19 and Document
15 Request RFP-1-11, that were the subject of all those
16 discovery motions.

17 And if you recall, your Honors sent an
18 e-mail November 29 saying that Carbon Solutions seeks
19 to introduce evidence at the hearing that has been
20 withheld during the discovery process, the Attorney
21 Examiners may reevaluate the motion for sanctions at
22 that time. So request -- for example, request --
23 document request No. 11, produce and attach each and
24 every report or other document reviewed or relied
25 upon by the person retained by you related to this

1 proceeding. Okay. So there is a document that he
2 obviously reviewed and relied upon that has not been
3 produced in discovery. We have --

4 EXAMINER HICKS: I guess what I --

5 MS. WHITFIELD: And it has not been
6 attached and it's irrelevant so.

7 EXAMINER HICKS: Go ahead. We may have
8 to break for us to speak rather than you sit here and
9 watch us pretend like we are testifying before
10 Congress here.

11 MS. BOJKO: But to answer your question,
12 your Honor, there was one more motion to strike, if
13 that's what you were asking.

14 MS. WHITFIELD: If you want me to do that
15 one.

16 EXAMINER HICKS: Just give me a second.
17 I am comparing between what you just cited for the
18 interrogatories and response for production. I do --
19 I mean, I will say I'm not -- it's not as if this is
20 a total shock what the tariff is, right? He does
21 reference it. You are saying it's more a timing
22 issue?

23 MS. BOJKO: No.

24 EXAMINER HICKS: I believe there's a
25 footnote that says see MISO tariff module.

1 MS. BOJKO: The whole reliance on the
2 MISO tariff is the shock. We are in PJM. So a
3 reliance on the MISO tariff is what would have been
4 helpful to know that in order to be able to prepare
5 our testimony or supplemental testimony or if that
6 was the basis of their arguments. So it is, yes, a
7 timing issue, and it is also they didn't tell us that
8 that's what they were relying on.

9 MS. WHITFIELD: And just adding a
10 citation to the testimony does not relieve them from
11 their obligation in discovery and in accordance with
12 your orders --

13 EXAMINER HICKS: Understood.

14 MS. WHITFIELD: -- to provide this stuff
15 to us.

16 EXAMINER HICKS: All right. Go ahead,
17 Ms. Whitfield, with your motion to strike.

18 MS. WHITFIELD: Okay. So mine is a small
19 one. It's page 17, line --

20 EXAMINER HICKS: You can probably just do
21 lines at this point.

22 MS. WHITFIELD: Line 390 starting with
23 "The Ohio renewable," the end of that line, to the
24 end of that sentence on line 392. Your Honor, this
25 portion of the testimony should be stricken for lack

1 of foundation and personal knowledge in violation of
2 Rule 602, and it is calling for speculation. The
3 witness attempts to testify about what Ohio renewable
4 requirements "are designed" or intended to do.

5 Mr. Stewart, according to his own direct testimony,
6 is not a member of the Ohio General Assembly or any
7 other regulating body establishing the renewable
8 requirements for Ohio.

9 As such, he does not have the personal
10 knowledge to testify as to the intent or purpose or
11 design of those requirements. He is merely
12 speculating as to what he thinks the General Assembly
13 or regulating body intended in enacting renewable
14 requirements in Ohio. That is not proper evidence.
15 It should be stricken.

16 MR. WHITT: Again, your Honor, this is
17 opinion testimony. And the expert is offering an
18 opinion based on his education, training, and
19 experience in the field, again with the caveat early
20 on he is not telling the Commission how it must
21 interpret anything. He is offering his opinion into
22 policy issues which are relevant to the case and
23 which Mr. Nelson himself had testified on sort of the
24 flip side of the same issue.

25 Certainly because this witness has an

1 opinion on the subject isn't binding on the
2 Commission in any way. The Commission is free to
3 make that determination, but again, that's the
4 witness's opinion.

5 MS. WHITFIELD: Your Honor, if I could
6 just respond very briefly.

7 EXAMINER HICKS: Sure.

8 MS. WHITFIELD: He says it's an opinion,
9 but if you read the statement, it is stated as fact.
10 It doesn't say I believe, I opine, it's my
11 impression. It says "The Ohio renewable requirements
12 are designed to be procured," and it goes on. So he
13 is stating that as he knows it. He has personal
14 knowledge of it. That's not an opinion.

15 EXAMINER HICKS: So I am going to deny
16 this motion to strike. Certainly free to probe as to
17 any basis for opinion.

18 MS. WHITFIELD: Thank you, your Honor.

19 EXAMINER HICKS: All right. Let's go off
20 the record.

21 (Recess taken.)

22 EXAMINER HICKS: We can go ahead and go
23 back on the record.

24 We took a quick break to discuss the one
25 remaining pending -- I believe the one remaining

1 pending motion to strike the testimony of Mr. Stewart
 2 relative to question and answer 10 in his testimony
 3 which would go from lines 84 to 106. At this time we
 4 are going to deny the motion to strike. The
 5 testimony will stand. We do think this is a little
 6 different than a document -- a surprise document
 7 being produced in cross-examination and trying to
 8 move into evidence. You are free to probe anything
 9 on cross-examination relative to these sections, but
 10 we will let the testimony stand.

11 MS. BOJKO: Thank you, your Honor.

12 MS. WHITFIELD: Thank you.

13 EXAMINER HICKS: And with that I believe
 14 we had some discussions off the record of the idea of
 15 being we will go ahead and adjourn for the day? Am
 16 I -- I can see quizzical looks, so I just want to
 17 make sure.

18 MS. BOJKO: I think that's the general
 19 consensus around the room, your Honor.

20 EXAMINER HICKS: Okay.

21 MS. BOJKO: I think the witness that had
 22 difficulty might be able to --

23 MS. WHITFIELD: He is actually out in the
 24 hallway trying to switch his flight to a 6:00 p.m.
 25 flight tomorrow so.

1 EXAMINER HICKS: So then based upon that,
2 we will go ahead and reconvene at 9:00. Do you still
3 want to do 9:00 a.m. tomorrow?

4 MS. WHITFIELD: Yes.

5 MS. BAIR: Yeah. No, we're fine with
6 that.

7 MR. WHITT: Would that be this hearing
8 room or?

9 EXAMINER ST. JOHN: Tomorrow we will be
10 back in 11A.

11 EXAMINER HICKS: I did not know that.

12 MR. WHITT: I never check. I get off the
13 elevator, start walking to find my room.

14 EXAMINER HICKS: Okay. With that then we
15 will adjourn for the day and see you all tomorrow
16 morning.

17 (Thereupon, at 4:51 p.m., the hearing was
18 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 Monday, December 5,
2022, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7381)

- - -

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Case No(s). 22-0380-EL-REN

Summary: Transcript December 5th 2022 In the Matter of the Application of Barton Windpower, LLC, for Certification as an Eligible Ohio Renewable Energy Resource Generation Facility. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.