

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

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. :

- - -

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

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-A,
Columbus, Ohio, called at 10:04 a.m. on Thursday,
December 8, 2022.

- - -

VOLUME III

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481

- - -

1 APPEARANCES:

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

6 On behalf of the Applicants and Avangrid
 7 Renewables.

8 Carpenter Lipps & Leland LLP
 9 By Ms. Kimberly W. Bojko
 10 280 North High Street, Suite 1300
 11 Columbus, Ohio 43215

12 On behalf of the Blue Delta Energy, LLC.

13 Whitt Sturtevant LLP
 14 By Mr. Mark Whitt
 15 and Mr. Mark W. DeMonte
 16 88 East Broad Street, Suite 1590
 17 Columbus, Ohio 43215

18 On behalf of the Carbon Solutions Group,
 19 LLC.

20 Ice Miller LLP
 21 By Mr. Christopher Miller
 22 and Ms. Nicole R. Woods
 23 250 West Street, Suite 700
 24 Columbus, Ohio 43215

25 On behalf of the 3Degrees Group, Inc.

NiSource
 By Mr. John Ryan
 290 West Nationwide Boulevard
 Columbus, Ohio 43215

and

Mr. M. Bryan Little
 150 West Market Street, Suite 600
 Indianapolis, Indiana 46204

On behalf of the Northern Indiana Public
 Service Company.

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

APPEARANCES: (Continued)

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

On behalf of the Staff of the PUCO.

- - -

1	INDEX		
2	- - -		
3	WITNESS		PAGE
4	Kristin Clingan		
	Direct Examination (Continued) by Ms. Bair		341
5	Cross-Examination by Mr. Whitt		347
	Cross-Examination by Ms. Whitfield		375
6	Examination by Examiner St. John		401
	Redirect Examination by Ms. Bair		403
7	Recross-Examination by Mr. Whitt		405
8	Jason Cross		
	Direct Examination by Ms. Bair		409
9	Cross-Examination by Mr. Whitt		411
	Cross-Examination by Ms. Whitfield		420
10	Examination by Examiner St. John		422
11	John Chiles		
	Direct Examination by Ms. Bojko		425
12	Cross-Examination by Mr. DeMonte		437
13	Kenneth Nelson		
	Direct Examination by Ms. Bojko		446
14	Cross-Examination by Mr. Whitt		542
15	Pete Landoni		
	Direct Examination by Ms. Whitfield		461
16	Cross-Examination by Mr. Whitt		476
17	- - -		
18	APPLICANTS EXHIBITS	IDENTIFIED	ADMITTED
19	7 Testimony of Pete Landoni	I-15	482
20	7A Corrected Attachment A	462	482
21	7B Corrected Attachment B	462	482
22	8 E-mail String with Attachment	467	482
23	9 E-mail String with Attachment	467	482
24	10 E-mail String with Attachment	467	482
25	- - -		

1	INDEX (Continued)		
2	- - -		
3	APPLICANTS EXHIBITS	IDENTIFIED	ADMITTED
4	11 E-mail String Between PJM and Staff and Avangrid	387	--
5	- - -		
6	BLUE DELTA EXHIBITS	IDENTIFIED	ADMITTED
7	1 Direct Testimony of Ken Nelson	I-115	460
8	1A Attachment A	447	460
9	- - -		
10	JOINT EXHIBITS	IDENTIFIED	ADMITTED
11	1 Direct Testimony of John Chiles	I-68	445
12	1A Attachment A	426	445
13	- - -		
14	CSG EXHIBIT	IDENTIFIED	ADMITTED
15	4 Interrogatories and Requests	484	488
16	- - -		
17	STAFF EXHIBITS	IDENTIFIED	ADMITTED
18	1 Prefiled Testimony of Jason Cross	410	423
19	2 Prefiled Testimony of Kristin Clingan	I-325	408
20			
21	2A Correspondence and DFAX for Moraine, Rugby, Buffalo Ridge	242	408
22	II, and Elm Creek		
23	2B Correspondence and DFAX for Barton 1	242	408
24			
25	2C Correspondence and DFAX for Barton 2	242	408

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

INDEX (Continued)

- - -

STAFF EXHIBITS	IDENTIFIED	ADMITTED
3 Staff Review and Recommendation for Moraine Wind	344	408
4 Staff Review and Recommendation for Rugby	344	408
5 Staff Review and Recommendation for Elm Creek II	346	408
6 Staff Review and Recommendation for Buffalo Ridge II	346	408
7 Staff Review and Recommendation for Barton 1 Windpower	344	408
8 Staff Review and Recommendation for Barton 2	344	408

- - -

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

Thursday Morning Session,
December 8, 2022.

- - -

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

Good morning, everyone. We are now resuming with our third day of the hearing for Case No. 21-516-EL-REN, et al.

When we left off, Witness Ms. Clingan had been on the stand. She had already been sworn in and a few questions had been asked of her. I would like to instruct you, Ms. Clingan, you are still under oath at this time.

THE WITNESS: Yes.

EXAMINER ST. JOHN: So with that, Ms. Bair, please feel free to proceed with your testimony.

I'm sorry. Before you start, one thing that was brought up before we went off -- before we went on the record is just to confirm the exhibits. So to the extent there was any lack of clarity, Staff Exhibit 2, which is the prefiled testimony of Ms. Clingan, has been marked into the record.

MS. BAIR: Thank you, your Honor.

- - -

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

KRISTIN CLINGAN

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

DIRECT EXAMINATION (Continued)

By Ms. Bair:

Q. I'm going to go through the basics with Staff Exhibit 2. Do you recognize Staff Exhibit 2, Ms. Clingan? Do you have that up there with you?

A. Yes; yes, I do.

Q. And can you tell me what that document is?

A. This is my prefiled testimony in this case.

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

A. Yes.

Q. Do you have any additions or changes to make to that document at this time?

A. Yes. I -- I would like to add the three PJM DFAX studies that Staff relied upon in its review of these applications to my prefiled testimony at this time.

MS. BAIR: Your Honor, may I approach?

EXAMINER ST. JOHN: Yes, you may.

MS. BAIR: Your Honor, I would like to

1 have marked as Staff Exhibit A, the DFAX studies
 2 of -- A is Moraine, Rugby, Buffalo Ridge II, and Elm
 3 Creek.

4 MS. WHITFIELD: Is that going to be 2A?

5 MS. BAIR: That's 2A, yeah.

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

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 MS. BAIR: 2B is the DFAX study for
 10 Barton 1, and 2C is the DFAX study for Barton 2.

11 EXAMINER ST. JOHN: Those exhibits will
 12 be so marked. Thank you.

13 (EXHIBITS MARKED FOR IDENTIFICATION.)

14 MS. BAIR: Parties, would you like copies
 15 of them?

16 MS. WHITFIELD: No, thank you. We have
 17 got them.

18 MS. BAIR: Mark, yeah?

19 MR. WHITT: Please.

20 Q. (By Ms. Bair) And, Ms. Clingan, can you
 21 please identify Exhibit -- Staff Exhibit 2A.

22 A. Exhibit 2A is e-mails related to Staff's
 23 receipt -- request and receipt of the DFAX analysis
 24 run by PJM for the four facilities that you
 25 referenced.

1 Q. And in those e-mails, you are copied on
2 those, you actually received those, correct?

3 A. Yes. The review of these four
4 applications were split between myself and a
5 colleague, former colleague, so we received
6 correspondence and the DFAX analysis for our
7 respective assigned applications.

8 Q. And could you please look at Staff
9 Exhibit 2B and tell me what that document is.

10 A. 2B is correspondence and the DFAX
11 analysis performed by PJM for the Barton 1
12 application.

13 Q. And again, you received this, and the
14 e-mail at the front of this document indicates that
15 you've received this DFAX study?

16 A. Yes.

17 Q. Thank you. And could you please look at
18 Staff Exhibit 2C and tell me what that document is.

19 A. 2C is correspondence and the PJM DFAX
20 analysis related to the Barton 2 application.

21 Q. And I see your name on e-mails there.
22 You also were in receipt of that through these
23 e-mails; is that correct?

24 A. That's correct.

25 Q. Thank you. And with these additions to

1 your testimony, do you have any other changes to make
2 to your testimony?

3 A. I do not.

4 Q. If I were to ask you the questions
5 contained in your testimony including the additions
6 that we've just talked about, would your answers be
7 the same?

8 A. Yes.

9 MS. BAIR: Your Honor, may I approach the
10 witness?

11 EXAMINER ST. JOHN: Yes, you may.

12 MS. BAIR: And, your Honor, I would like
13 to mark these exhibits. Staff Exhibit 3 would be the
14 Review and Recommendation for Moraine Wind. Staff
15 Exhibit 4 is the Review and Recommendation for Elm
16 Creek II. Staff Exhibit 7 is the Review and
17 Recommendation for Barton 1 Windpower. And Staff
18 Exhibit 8 is the Staff Review and Recommendation for
19 Barton 2.

20 EXAMINER ST. JOHN: Those will be so
21 marked.

22 (EXHIBITS MARKED FOR IDENTIFICATION.)

23 EXAMINER ST. JOHN: I believe you --

24 MS. BAIR: Got one wrong?

25 EXAMINER ST. JOHN: I believe you marked

1 Staff Exhibit 3 as Moraine and then what was the next
2 one?

3 MS. BAIR: Staff Exhibit 4 is Rugby.

4 EXAMINER ST. JOHN: Got it. Thank you
5 and those will all be so marked.

6 MS. BAIR: Thank you.

7 Q. (By Ms. Bair) Ms. Clingan, do you
8 recognize Staff Exhibits 3 through 8?

9 A. Yes, I do.

10 Q. And what was your role in preparation of
11 this Staff review?

12 A. I filed the Staff Report in three of
13 these applications as the lead reviewer, and I
14 oversaw review of the other three which were filed by
15 our colleague Stuart Siegfried.

16 Q. Which three did you personally lead, if
17 you remember?

18 A. Luckily I reviewed all of the ones that
19 end in a II, Elm Creek II, Buffalo Ridge II, and
20 Barton 2 coincidentally.

21 MS. BAIR: Your Honor, I -- do you have a
22 question?

23 EXAMINER ST. JOHN: Let's go off the
24 record for a second.

25 (Discussion off the record.)

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

3 Q. (By Ms. Bair) Just to review, you are
4 sponsoring Staff Exhibit 3, the review and
5 recommendation for Moraine. Which one is Staff
6 Exhibit 4?

7 A. Rugby.

8 Q. Okay. And Staff Exhibit 5, the review
9 for Elm Creek?

10 A. Yes.

11 Q. Staff Exhibit 6, Buffalo Ridge II?

12 A. Yes.

13 Q. Staff Exhibit 7, Barton 1 Windpower;
14 Staff Exhibit 8, Barton 2?

15 A. Yes.

16 EXAMINER ST. JOHN: To the extent that
17 Staff Exhibits 5 and 6 have not been previously
18 marked, those will be marked at this time.

19 (EXHIBITS MARKED FOR IDENTIFICATION.)

20 MS. BAIR: Thank you, your Honor. I move
21 Staff Exhibits 2 through 8 into evidence, subject to
22 cross-examination.

23 EXAMINER ST. JOHN: Thank you.

24 Mr. Whitt, I will turn things over to
25 you.

1 MR. WHITT: Thank you, your Honor.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Whitt:

5 Q. Ms. Clingan, I would like to start by
6 having you help us walk through and compare the DFAX
7 reports that, at least for CSG that we saw for the
8 first time on Tuesday afternoon this week and compare
9 those to what had been introduced by other witnesses
10 just to make sure we understand and are able to
11 distinguish what Staff looked at versus other
12 testimony.

13 If we could start, do you have up on the
14 bench Mr. Landoni's direct testimony?

15 A. Yes.

16 Q. Is there an exhibit number on the version
17 you have?

18 A. Avangrid Exhibit 7.

19 Q. Okay. If you could go in Avangrid
20 Exhibit 7 to Attachment B.

21 A. Yes.

22 EXAMINER ST. JOHN: Could you wait just
23 an additional moment?

24 MR. WHITT: Sure. Your Honor, what I am
25 looking for specifically I will direct the witness to

1 the comments of the Applicants that are attached to
2 Exhibit C, Avangrid Exhibit C.

3 EXAMINER ST. JOHN: That's helpful.
4 Thank you. I am almost there.

5 A. I'm sorry. I thought you said B.

6 EXAMINER HICKS: Attachment B you said.
7 I believe it's page 197 for those of us following
8 along on the PDF.

9 A. Attachment B, not Appendix B? Sorry.

10 Q. Are you with -- are we looking at
11 Mr. Landoni?

12 A. Yes.

13 MS. BAIR: Mr. Whitt, can you tell us the
14 name of the document you were referring to?

15 MR. WHITT: What I'm trying to get to are
16 the Applicants' comments that were filed in the
17 proceeding last November, and it is Attachment B --
18 Applicants' Exhibit 7, Attachment B. In the PDF I
19 believe it's page 198.

20 MS. BAIR: What date were those comments
21 filed?

22 MR. WHITT: November --

23 MS. WHITFIELD: 18.

24 MR. WHITT: -- 18, 2021.

25 MS. BAIR: Thank you.

1 A. Oh, not the August 12? It says
2 August 12.

3 MS. WHITFIELD: There should be two sets
4 of applications -- or two sets of comments.

5 EXAMINER ST. JOHN: Ms. Clingan, I think
6 you are looking at the very front page of the
7 document which would have that August date on it.
8 I'm locating it about halfway through the stack of
9 pages.

10 THE WITNESS: Okay. Attachment B.

11 Q. (By Mr. Whitt) And the document Comments
12 of Applicants, et cetera?

13 A. Yes.

14 Q. Okay. Now, attached to the comments
15 there is a report titled "PJM Deliverability
16 Assessment-Ohio." Do you see that?

17 A. GDS Associates?

18 Q. Yes.

19 A. Yes.

20 Q. That's dated November 18, 2021?

21 A. Yes.

22 Q. And attached to that report, which is 19
23 pages, there is an Appendix A to the report.

24 A. Yes.

25 Q. Do you see that?

1 A. Yes.

2 Q. And the appendix has a title page
3 identifying the attachment as "Appendix A. DFAX
4 Reports and Spreadsheets Provided by PJM for Moraine,
5 Rugby, Elm Creek II, and Buffalo Ridge II
6 Facilities." Do you see that?

7 A. Yes.

8 Q. And the next page appears to be the first
9 page of a spreadsheet of a DFAX study, does it not?

10 A. It does.

11 Q. And there is no PJM what I'll call a
12 cover letter associated with this spreadsheet,
13 correct?

14 A. Correct.

15 Q. And if we go to Appendix B of the
16 comments and expert report.

17 A. Yes.

18 Q. Appendix B is entitled "DFAX Reports and
19 Spreadsheets Provided by PJM for Barton Facility and
20 other facilities," correct?

21 A. Correct.

22 Q. And like Appendix A, Appendix B also does
23 not include a cover letter from PJM, correct?

24 A. Correct.

25 Q. Do you know if Appendices A or B that we

1 just looked at have been reviewed by PUCO Staff with
2 respect to some other facilities that are not part of
3 this proceeding? Is there a way to tell, I suppose,
4 just from the spreadsheets?

5 A. I'm sorry. Could you restate the
6 question?

7 Q. Let me ask it a different way, have you
8 ever seen Appendix B before?

9 A. Outside of this proceeding?

10 Q. Yes.

11 A. No.

12 Q. Same question with respect to Appendix A.

13 A. No.

14 Q. Now, if we can go to Mr. Chiles' direct
15 testimony. Different document now. I believe that
16 is Joint Exhibit 1.

17 A. Okay.

18 Q. And if we go to Attachment A of Joint
19 Exhibit 1, we see what Mr. Chiles had testified to as
20 an updated version of the report that we had just
21 looked at in Avangrid Exhibit 7. Do you recall that
22 testimony?

23 A. Yes.

24 Q. Okay. And on Joint Exhibit 1 Attachment
25 A, there are -- there is an -- if we keep going there

1 is an Appendix A, correct?

2 A. Correct.

3 Q. And the material within Appendix A
4 includes a cover letter from PJM, correct?

5 A. Correct.

6 Q. And if we were to compare the
7 spreadsheets associated with this cover letter, we
8 would find that these are the same spreadsheets that
9 we just reviewed in Avangrid Exhibit 7, fair to say?

10 A. Subject to check. I have not compared
11 them.

12 Q. Okay. And would you have any reason to
13 disagree, subject to check, that in Appendix B within
14 the same document there is a PJM cover sheet and
15 cover letter dated July 27, 2020, regarding the
16 Barton Windpower facility and other facilities,
17 correct?

18 A. Correct.

19 Q. And, subject to check, would you agree
20 that the spreadsheet associated with this cover
21 letter is the same spreadsheet included in the
22 comments within Avangrid Exhibit 7?

23 A. Subject to check.

24 Q. Okay. And then Appendix C, the same
25 document as "DFAX Reports and Spreadsheets Provided

1 by PJM for Barton 2 Facility," correct?

2 A. Correct.

3 Q. And Appendix C includes information that
4 was not included in the Applicants' original
5 comments, correct?

6 A. Meaning Barton 2?

7 Q. Correct.

8 A. Correct.

9 Q. Okay. If we look at Exhibit -- I'm
10 sorry, Attachment -- Attachment A, Appendix B, so
11 flip backward now, DFAX reports and spreadsheets for
12 Barton 1. The cover page says "DFAX Analysis of Wind
13 Farms for Blue Delta Energy, LLC." Do you see that?

14 MS. BAIR: Mr. Whitt, where are we? We
15 are in Chiles' testimony, Direct, Joint Exhibit 1,
16 Attachment A, Appendix what?

17 MR. WHITT: B as in boy.

18 MS. BAIR: B.

19 A. For Barton 1.

20 Q. Yes.

21 A. Yes.

22 Q. And if you go to the page 1 of the cover
23 letter.

24 A. Yes.

25 Q. It lists Barton Windpower as the first

1 among a list of 14 facilities, correct?

2 A. Yes, I see that.

3 Q. Okay. If we go to Staff Exhibit 2B and
4 compare that to Chiles' Appendix B, I'll call it, it
5 appears to be the same cover page, correct?

6 A. Meaning the PJM just blue cover sheet?

7 Q. Yes.

8 A. Yes.

9 Q. If we go to page 1 of each of these cover
10 letters, the version Staff has sponsored omits the
11 list of facilities except for Barton, correct?

12 A. Correct.

13 Q. Has Staff to your knowledge received --
14 well, has Staff received from PJM any study that we
15 are looking at -- let me strike that.

16 Did PJM provide Exhibit 2B to Staff?

17 A. Directly?

18 Q. Yes. Is Exhibit -- was Exhibit 2B
19 provided to Staff directly by PJM?

20 A. No. We received it from the Applicant.

21 Q. Okay. And what Staff received from the
22 Applicant, the only facility referenced in the letter
23 was the Barton Windpower facility; is that correct?

24 A. Correct, because that's the application
25 we are reviewing.

1 Q. But you don't know what PJM provided to
2 the Applicant, correct?

3 A. The file referenced says "Attached File
4 PJM DFAX Analysis for Wind Farms, June 2020."

5 Q. Right. The spreadsheet is the same
6 but --

7 A. Okay.

8 Q. -- in terms of the cover letter that PJM
9 issued to the Applicants, Staff doesn't have
10 knowledge of the specific document, the cover letter,
11 that PJM issued to the Applicants?

12 MS. BAIR: Objection, asked and answered.

13 EXAMINER ST. JOHN: I will give Mr. Whitt
14 a little bit of leeway. And, Ms. Clingan, please
15 answer the question.

16 MR. WHITT: I will actually agree with
17 you, Jodi.

18 Q. (By Mr. Whitt) I just wanted to confirm
19 that, sort of tie this off, Staff received and relied
20 on the DFAX cover letter and spreadsheet that was
21 provided to them by the Applicants, not from PJM
22 directly, fair to say?

23 A. That's correct.

24 Q. Go to Exhibit -- Staff Exhibit 2C,
25 please.

1 A. Yes.

2 Q. And in particular the first page of the
3 spreadsheet.

4 A. Yes.

5 Q. At the top of the spreadsheet there is
6 some information in the header of that, I believe
7 Mr. Chiles had testified would indicate some source
8 data files that PJM used for its DFAX analysis.

9 MS. BAIR: Where are we referring to, top
10 of the header?

11 MR. WHITT: On 2C, the very top -- the
12 first page of the spreadsheet at the top.

13 MS. BAIR: Oh, thank you, first page of
14 the spreadsheet.

15 A. Yes.

16 Q. Now, if we go to Staff Exhibit 2B, the
17 top of the spreadsheet associated with 2B does not
18 have that information, correct?

19 A. Correct.

20 Q. And the same would be true if we looked
21 at Staff Exhibit 2A, that the spreadsheet does not
22 include the information at the top, correct?

23 A. Correct.

24 Q. Did Staff receive the spreadsheets and
25 cover letters associated with Exhibits 2A and 2B from

1 the Applicants?

2 A. The cover letter?

3 Q. Let me try to ask the question a little
4 clearer. And I think we already established with
5 respect to Staff Exhibit 2B that DFAX study was
6 provided by the Applicants to Staff, correct?

7 A. Correct.

8 Q. And would the same be true for Staff
9 Exhibit 2A, that this information was provided by the
10 Applicants to Staff and not from PJM directly?

11 A. Correct. That is our standard practice.

12 Q. Okay.

13 EXAMINER HICKS: Mr. Whitt, could you
14 pull the microphone a little closer? I am having a
15 little bit of trouble hearing you.

16 MR. WHITT: Sure.

17 Q. (By Mr. Whitt) With respect to Staff
18 Exhibit 2C, I thought that I -- well, was 2C received
19 from the Applicants or did that come directly from
20 PJM?

21 A. In regards to Barton 2, we had some
22 communication with PJM because Staff had a question
23 regarding the DFAX, but it is -- we received the DFAX
24 directly from the Applicant, and PJM confirmed that
25 there was no need to provide another DFAX analysis.

1 Q. Okay. Go back to Staff Exhibit 2B, the
2 PJM cover letter.

3 A. Yes.

4 Q. It says that the identification of the
5 facility where there is -- where Barton Windpower is
6 listed, it describes Barton Windpower as a 160
7 megawatt wind farm, correct?

8 A. Yes.

9 Q. Would this indicate that the information
10 or the DFAX was modeled as a 160 megawatt facility?

11 A. I believe it's -- the second sentence
12 says it's modeled as two 80 megawatt facilities.

13 Q. Meaning both the -- both Barton 1 and 2
14 were modeled within this DFAX, correct?

15 MS. WHITFIELD: Can I have her prior
16 answer read back? I'm sorry. I don't understand his
17 question.

18 EXAMINER ST. JOHN: Yes, please, Karen.

19 (Record read.)

20 MS. WHITFIELD: I am going to object to
21 that mischaracterizes the report. We have a 2A -- or
22 2B which is Barton 1 and 2C which is Barton 2 DFAX
23 studies.

24 MR. WHITT: Well, the question is is
25 that, in fact, what we have? Because the DFAX study

1 I am looking at, I am just asking the witness if she
2 knows, seems to be a DFAX that modeled both Barton 1
3 and 2 together.

4 EXAMINER ST. JOHN: I'll allow the
5 witness to answer the question to the extent that she
6 knows the answer.

7 A. I don't know.

8 Q. Okay. And Exhibit 2B is dated July 27,
9 2020, correct?

10 A. The cover sheet is, yes.

11 Q. And would you agree, subject to check,
12 that the application for Barton 1 wasn't filed until
13 April of 2021?

14 A. That's correct.

15 Q. Fair to say that -- strike that.

16 After the Barton 2 application was filed,
17 PJM performed another DFAX study specific to Barton 2
18 and that is the study reflected in exhibit Staff
19 Exhibit 2C, correct?

20 A. Correct.

21 Q. I'm pleased to report that's all I am
22 going to ask you about the DFAX studies, I think.
23 And thank you, by the way, for helping us understand
24 what we are looking at.

25 A. No problem.

1 Q. So your testimony, Staff Exhibit 2, on
2 page 1 of your testimony, you indicate that you
3 joined the Commission as aide to Commissioner
4 Trombold in 2013, correct?

5 A. Correct.

6 Q. That's a couple years after the Koda
7 decision.

8 A. Correct.

9 Q. Fortunately for you.

10 A. Yes.

11 Q. And would you agree -- I don't even know
12 if you need to check, but subject to check, if it
13 makes you more comfortable, none of the Commissioners
14 who signed the Koda order are Commissioners today,
15 fair to say?

16 A. Subject to check.

17 Q. And when the -- when an application such
18 as the one we've been discussing in this case are
19 filed, these applications aren't something that the
20 five Commissioners huddle around and look at
21 themselves personally, correct?

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

24 MR. WHITT: I will withdraw.

25 Q. (By Mr. Whitt) The Commission relies on

1 Staff in making deliverability assessments and
2 recommendations, correct?

3 A. Correct.

4 Q. And to the extent the only information
5 the Commission has to go on is Staff's
6 recommendation --

7 MS. BOJKO: Objection.

8 Q. -- that doesn't give the Commission any
9 alternative views to consider in rendering its
10 decision, fair to say?

11 MS. BOJKO: Objection, assumes facts not
12 in evidence. Documents are filed on DIS. The
13 Commission -- the Commissioners -- she doesn't know
14 what the Commissioners may or may not have reviewed.

15 EXAMINER ST. JOHN: I'll sustain that
16 objection.

17 Q. (By Mr. Whitt) I am just talking in
18 gen -- when you were an aide to Commissioner
19 Trombold, and I am not asking about any specific case
20 or decision-making process on anything specific, but
21 just in general, the Commission -- individual
22 Commissioners are looking for record evidence and
23 factual basis for decisions, correct?

24 MS. BOJKO: Objection. I don't think she
25 can speak to what Commissioners are looking for.

1 EXAMINER ST. JOHN: I am going to sustain
2 that objection as well.

3 Q. (By Mr. Whitt) If you go to page 2 of
4 your testimony, line 6, in describing the cases you
5 say at line 6, "The applicant in each case filed an
6 application for certification as an Ohio renewable
7 energy resource," et cetera. And when I
8 characterized these proceedings as the Applicants
9 filing the applications, I was corrected on that and
10 want to make sure or understand whether Staff agrees
11 with the Applicants' characterization that these
12 applications are actually filed by Staff and not by
13 the representatives of the facilities.

14 A. Are you referring to the Commission's
15 docketing system?

16 Q. Yes.

17 MS. WHITFIELD: Can I object for just a
18 moment? Sorry. I didn't want to interrupt. I think
19 he is mischaracterizing the objection. I said -- on
20 the first day of the hearing what I said was that the
21 submission from the Applicants goes onto -- into a
22 portal, and then Staff opens a matter on the docket.
23 That's what I believe was in the testimony. I didn't
24 say they filed an application. They open the matter
25 on the docket.

1 MR. WHITT: I will withdraw the previous
2 question. Let me ask it a better way, if I can.

3 Q. (By Mr. Whitt) I don't want to get hung
4 up on the word filed. At the end of the day, the
5 Applicants initiate the process that leads to a Staff
6 review and eventual Commission recommendation,
7 correct?

8 A. The Applicant initiates the process.

9 Q. At page 3 of your testimony, line 3, you
10 talk about the things that the Staff confirms in its
11 review of these REN applications. Do you see that?

12 A. Yes.

13 Q. Does Staff confirm whether the Applicant
14 facility is actually operating at the time of the
15 application?

16 A. Yes.

17 Q. And what do you look at to confirm
18 whether or not that's the case?

19 A. The online or in-service date that's
20 referenced in the application.

21 Q. Does Staff assume that if the -- by
22 confirming the in-service date that the facility is
23 actually operating as of the date of an application?

24 A. It's operating as of the in-service date
25 referenced in the application.

1 Q. Okay. Facilities at issue in these
2 proceedings have all been in service for, subject to
3 check, a decade or more, fair to say?

4 A. Subject to check.

5 Q. Does -- and I didn't see anything in the
6 application materials filed in the dockets indicating
7 whether Staff requires disclosures or asks for
8 information about PPAs associated with the Applicant
9 facility. Is that something that Staff reviews?

10 A. Staff's interest in PPAs is limited to
11 the double counting, the prohibition on double
12 counting as referenced in our rule, so we do confirm
13 with the Applicant that there will be no double
14 counting of RECs. That is our interest in PPAs.

15 Q. Okay. Page 6 of your testimony at lines
16 10 through 12, you identify an Ohio statute
17 establishing the deliverability requirement we've
18 been talking about in this proceeding, correct?

19 MS. BAIR: Page 6, lines?

20 MR. WHITT: I'm sorry, page 3.

21 MS. BAIR: Page 3, what lines?

22 MR. WHITT: 10 through 12.

23 MS. BAIR: Thank you.

24 A. Yes.

25 Q. And so as we go down the page to line 17,

1 when the question is "Please describe the
2 Commission's deliverability standard," it would be
3 more accurate to characterize this as the Ohio
4 General Assembly's delivery standard, wouldn't it?

5 MS. BAIR: Objection, calls for a legal
6 conclusion.

7 EXAMINER ST. JOHN: Mr. Whitt.

8 MR. WHITT: The witness has cited the
9 statute and then question -- the following question
10 and answer talk about something that seems to be
11 inconsistent with the statutory provision. Let me
12 try it a different way.

13 Q. (By Mr. Whitt) The deliverability
14 standard that we have been discussing in this
15 proceeding is not something that the Commission to
16 your knowledge came up with on its own and decided
17 should be some requirement that the Commission is
18 endeavoring to implement directives of a statute,
19 fair to say?

20 A. We are implementing the statute.

21 Q. And the statute that you cite doesn't say
22 anything about Koda, fair to say?

23 A. Correct.

24 Q. And the rule that you cite makes a
25 specific reference to Koda, correct?

1 A. Correct.

2 Q. And by trying to further refine the term
3 deliverable into this State, Commission rules add
4 the -- let me strike that.

5 I am sure we can all read the statute and
6 rules and argue what they mean. The Koda facility
7 was -- when I am talking about Koda, I am talking
8 about the case you cite on page 4 of your testimony,
9 Case 09-0555-EL-REN.

10 A. Yes.

11 Q. And as you indicate, that facility was
12 located in Minnesota, correct?

13 A. Correct.

14 Q. And I think at least one of the
15 facilities at issue in this case is also in
16 Minnesota, isn't it?

17 A. Yes.

18 Q. Okay. And is it Staff's position that
19 based on the Koda decision, does Staff believe that
20 the only evidence of deliverability it may consider
21 is a power flow study?

22 A. The power flow study was established as
23 the means by which to demonstrate deliverability.

24 Q. In the Koda case -- I mean, but even
25 following the Koda decision, there was no change to

1 the Commission rules incorporating any specific
2 language out of the Koda order, correct?

3 A. Correct.

4 Q. And it would seem reasonable to me, and I
5 guess I will ask if it seems reasonable to you, that
6 to the extent Staff wishes to look at additional
7 information beyond a power flow study, that Staff
8 would have the ability and authority and discretion
9 to do so, wouldn't it?

10 A. I believe so, yes.

11 Q. All right. Could we characterize Koda --
12 strike that.

13 The -- on page 5 of your testimony, your
14 question and answer 12, you offer some statistics, I
15 guess, about applications from out of state,
16 noncontiguous Applicants, I guess that's how I will
17 call them, cases where the Koda standard has been
18 considered, correct?

19 A. Correct.

20 Q. And as you indicate on line 17, if we
21 look at the period from when the renewable portfolio
22 standards statute was enacted through the middle of
23 2022, over 11,000 facilities have been certified,
24 correct?

25 A. Correct.

1 Q. And when we compare that to your
2 disclosure that Staff has reviewed 28 applications
3 from facilities located in states noncontiguous to
4 Ohio, it's fair to say that the applications of the
5 flavor that bring us all here today represent a very
6 small percent of overall REN applications, correct?

7 A. Correct.

8 Q. And as you indicate, Staff has
9 recommended -- let me back up a second. You say that
10 including Koda, Staff has reviewed 28 applications
11 from facilities located in states noncontiguous to
12 Ohio. And I guess my first question is does the 28
13 applications referenced here include or exclude the
14 facilities at issue in these cases?

15 A. Excludes.

16 Q. Okay. So not including the cases that we
17 are discussing today, Staff has recommended that 16
18 of those 28 applications be denied, correct?

19 A. Correct.

20 Q. And it has recommended that 12 of the 28
21 applications be approved, correct?

22 A. Correct.

23 Q. Would you agree, subject to check, that
24 10 of those 12 approvals have occurred in 2022 -- I'm
25 sorry, in 2020 or later?

1 A. Sorry. Could you repeat the question?

2 Q. You say at lines 11 and 12 of your
3 testimony that Staff has recommended 12 applications
4 for approval, correct?

5 A. Yes.

6 Q. Would you agree, subject to check, that
7 10 of those 12 approvals occurred by Commission order
8 issued in 2020 or later?

9 A. Subject to check.

10 Q. Fair to say prior to 2020, Staff looked
11 at and reviewed very few applications from Applicants
12 in states not contiguous to Ohio?

13 MS. BAIR: Your Honor, could I have that
14 question reread, please?

15 EXAMINER ST. JOHN: Yes, please, Karen.

16 (Record read.)

17 A. I'm not sure what proportion of the 28
18 were prior to 2020. More accurate to say very few
19 were approved.

20 Q. Okay. And this is the first renewable
21 application case that's ever actually been litigated,
22 isn't it?

23 A. Correct.

24 MS. BOJKO: Objection. Sorry.

25 Objection.

1 Q. (By Mr. Whitt) I would like to introduce
2 an exhibit with you. Let me describe -- I've
3 prepared what I will represent is a complete printout
4 basically of the docket sheet and all the documents
5 referenced in the docket sheet for the Koda decision
6 which I thought might be helpful for the record to
7 have everything just in one place.

8 MR. WHITT: I can have the witness review
9 the document and get it admitted through her, or if
10 the parties want to stipulate that, obviously after
11 they have a chance to read this, that the document is
12 what I have represented it to be and want to agree to
13 its admission, we can do it that way too.

14 MS. BOJKO: Your Honor, I think the
15 problem with the document that's going to be
16 presented is that two of the documents contained
17 therein have already been marked. One of them has
18 already been admitted. And I think that there -- it
19 needs to be a requirement to lay a foundation with
20 this witness or any witness of any of the documents
21 that would be admitted.

22 Attached to this compilation is a DFAX
23 study, and as we've experienced this week, you have
24 to lay the proper foundation for a DFAX study and
25 apparently have to have a chain of custody also

1 associated with it. So that would need to be done
2 before any of these documents are admitted, so we do
3 object to a compilation of documents. They have to
4 be gone through one by one. And again, I think it
5 would confuse the record since two of them have
6 already been marked.

7 EXAMINER ST. JOHN: I think let's take
8 first things first. Would you like to mark this?

9 MR. WHITT: You know what? There is no
10 need to. We will just cite it in the docket and do
11 it the hard way. That's fine.

12 Q. (By Mr. Whitt) At the bottom of page 6 of
13 your testimony going over to page 7 --

14 MS. WHITFIELD: What page did you say,
15 Mr. Whitt?

16 MR. WHITT: Bottom of page 6.

17 Q. (By Mr. Whitt) The sentence that begins
18 on page 6 and goes over onto page 7, it says "It is
19 Staff's understanding that PJM has, or is able to
20 obtain, all the requisite information it needs to run
21 power flow studies across RTOs." And my question
22 pertains to your statement that it is Staff's
23 understanding. What is the basis of your
24 understanding for this statement you are making?

25 A. I'm sorry. Could you repeat the

1 question?

2 Q. You say that "It is Staff's understanding
3 that PJM has, or is able to obtain," certain
4 information. And my question is what information
5 informs that understanding? Why do you believe this?

6 A. Because PJM runs the power flow study and
7 if they need inputs to that study, they would obtain
8 it or else they wouldn't be able to run the model.

9 Q. How do you know? What you are saying
10 makes sense but I am just understanding if this is an
11 assumption or something that you've inquired of.

12 A. It may be a better question for Staff
13 Witness Cross.

14 Q. Is it your belief that the PJM DFAX
15 studies that have been introduced are some evaluation
16 of power flow studies within both RTOs, both meaning
17 PJM and MISO?

18 A. I'm sorry. Could you restate?

19 Q. Is it your understanding that the PJM
20 power flow studies modeled power flows within PJM, or
21 did they model powerflows in both PJM and MISO, if
22 you know?

23 A. Again, a better question for Staff
24 Witness Cross.

25 Q. Are you -- have any REN applications from

1 anyone been filed in 2022 for any facility other than
2 Barton 2?

3 A. Any facility?

4 Q. Any facilities.

5 MS. WHITFIELD: Objection, outside the
6 scope of this proceeding.

7 MS. BOJKO: I would add objection for
8 overbroad.

9 Q. (By Mr. Whitt) Well, the accusation has
10 been lodged that CSG's participation in this case has
11 thrown the REC market into havoc. And when I check
12 the Commission docket for REN filings in 2022, the
13 only thing that comes up is Barton. I don't know why
14 that is. Maybe it's because the standard has changed
15 about what gets actually filed and assigned a case
16 number. It seemed weird to me. Just being candid
17 about it and I was wondering if you could help us
18 understand it.

19 MS. BOJKO: Objection, your Honor.
20 Counsel's testifying and honestly think that he's
21 mischaracterizing all the evidence before the
22 Commission as well as the Commission's docketing
23 system and prior testimony.

24 EXAMINER ST. JOHN: I agree with that.
25 It did sound like there was some testimony in your

1 response, and it also sounded not exactly in line
2 with the question that was asked of the witness which
3 was just have there been any other applications
4 filed, not why have there been no other applications
5 filed.

6 So, Karen, would you mind rereading the
7 question that was asked.

8 (Record read.)

9 MR. WHITT: Let me withdraw that
10 question. It is to satisfy my personal curiosity.
11 Happy to talk to you off the record about it. It's
12 not that material.

13 Give me one moment, if you would, please.

14 MS. BOJKO: Your Honor, at this time I am
15 going to move to strike counsel's testimony both in
16 the prior answer and then just that one. He is not
17 the witness, and he shouldn't be adding that kind of
18 thing to the record.

19 EXAMINER ST. JOHN: I will say that his
20 response to your objection --

21 MR. WHITT: I don't mind if you strike
22 it.

23 EXAMINER ST. JOHN: We will go ahead and
24 strike that.

25 Q. (By Mr. Whitt) The Koda decision was

1 rendered in 2011, correct?

2 A. Correct.

3 Q. The application in that case was filed in
4 2009, correct?

5 A. Correct.

6 Q. Would you agree, subject to check, that
7 that process took about 20 months?

8 A. Yes.

9 Q. And that case involved no Intervenors or
10 a litigated proceeding, fair to say?

11 A. Yes.

12 MR. WHITT: That's all. No further
13 questions.

14 - - -

15 CROSS-EXAMINATION

16 By Ms. Whitfield:

17 Q. Good morning, Ms. Clingan. I just have a
18 few questions for you. If you turn to page 2, line
19 12, starting at lines 12 of your testimony through
20 15. Are you there?

21 A. I'm sorry. What line?

22 Q. Page 2, lines 12 through 15.

23 A. Yes.

24 Q. You state that you were the lead reviewer
25 on some of the applications, correct?

1 A. Yes.

2 Q. And I believe you testified earlier that
3 you were the lead reviewer for all of them that ended
4 in II?

5 A. Correct.

6 Q. And you over -- and as manager of the
7 renewable certification team, you oversaw the review
8 of the other three applications that we are here for,
9 correct?

10 A. Correct.

11 Q. And in that role, either you or someone
12 in your team contacted the Applicants and requested
13 DFAX studies to support each application; is that
14 correct?

15 A. I believe so. If we don't receive it
16 from the Applicant, we will request it from the
17 Applicant.

18 Q. And with respect to each of the
19 applications here, did you or someone on your team
20 request DFAX studies?

21 A. Yes, although it appeared in the case of
22 Barton 1 that the DFAX was just provided. I did not
23 find record of us requesting it.

24 Q. Okay. And Staff can't perform -- well,
25 strike that.

1 Staff uses these DFAX studies to perform
2 the deliverability analysis for facilities pursuant
3 to the Koda test, correct?

4 A. Correct.

5 Q. And I believe Staff indicates that they
6 cannot perform these analyses without those DFAX
7 studies, right?

8 A. Correct.

9 Q. And with the e-mails that we have seen
10 that are attached to Staff Exhibit 2A, 2B, and 2C,
11 it's fair to say, is it not, you communicated with
12 the Applicants through e-mail correspondence?

13 A. That's correct.

14 Q. Did you also at times communicate
15 directly with PJM?

16 A. At times in the case of Barton 2, for
17 example.

18 Q. All right. We will get to that one in
19 just a minute. Now, if I could have you turn to what
20 was marked as Staff Exhibit 2A.

21 A. Yes.

22 Q. I want to make sure I understand these
23 e-mails a little bit.

24 MR. WHITT: At this point I am objecting
25 to counsel's questions of the witness about these

1 e-mails. She's just had the witness confirm that
2 communications occurred with the Applicants and Staff
3 via e-mail. Those communications would be plainly
4 responsive to numerous discovery requests that CSG
5 served. E-mails have not been provided by the
6 Applicants ever. We've seen them for the first time
7 when Staff has graciously turned them over.

8 I don't plan -- it's one thing if Staff
9 wants to introduce these through their witness on
10 direct as part of what Staff reviewed. I'm okay with
11 that. What I am not okay with is the Applicants now
12 using information that was never provided to us and
13 questioning the Staff witness about it, especially
14 when my cross didn't get into those e-mails either.

15 MS. WHITFIELD: Well, first of all, your
16 Honor, the scope of his cross has nothing to do with
17 the scope of my cross. Second of all, if we had
18 tried to address these e-mails from Staff that they
19 just marked as 2A, 2B, and 2C, with other parties,
20 CSG would object to those for hearsay and lack of
21 foundation.

22 Only Staff's witnesses can provide the
23 information I am going to ask about and can
24 authenticate these communications involving Staff and
25 the facts surrounding the actions that Staff itself

1 took in reviewing the applications and making
2 recommendations to the Commission in its Staff
3 Reports.

4 CSG itself raised the chain of custody
5 issue the first day of the hearing, although, you
6 know, we still maintain that chain of custody is not
7 a requirement for authentication, and now CSG seems
8 to be objecting to my questioning regarding the very
9 proof it demanded.

10 But with respect to the point about
11 discovery, these e-mails that are attached here come
12 from Staff. But more importantly whether we were on
13 them or not doesn't affect anything.

14 And at the risk of being cussed out and
15 attacked personally with profane language like
16 Mr. Whitt did to my colleague Ms. Bojko at Tuesday's
17 hearing when your Honors stepped out of the room, I
18 disagree with his arguments that these e-mails cannot
19 be admitted, these e-mails and then ones that we
20 intend to produce on rebuttal. First, these e-mails
21 were not requested in discovery in this case. Not a
22 single document request served by CSG upon Applicants
23 sought communications. Not a single one. And, more
24 importantly, CSG's discovery requests in their own
25 instructions differentiated between "documents" and

1 "communications." So if CSG wanted communications,
2 it should have requested those communications. It
3 did not.

4 And how else do we know that? Because
5 Mr. Whitt never once raised until Tuesday at this
6 hearing that they had requested e-mails in this case.
7 When he didn't receive a single communication
8 provided by Applicants, he never complained. He
9 didn't send a deficiency letter saying, hey, where
10 are the e-mails. He sent a deficiency letter, but it
11 didn't relate to e-mails or communications with Staff
12 or communications with PJM. He didn't file a motion
13 to compel the production of communications such as
14 e-mails. He did again file a motion to compel.
15 Nothing about communications with PJM, communications
16 with Staff was the subject of that motion.

17 And I would also argue that Mr. Whitt's
18 opened door to these communications and these e-mails
19 when he brought up for the first time as a surprise,
20 as your Honors even indicated, that this had become a
21 big issue that first day of hearing to challenge the
22 chain of custody of the DFAX studies. Remember,
23 Applicants had been asking CSG for the basis of these
24 challenges it had to these certifications, asking for
25 the facts and evidence allegedly supporting those

1 challenges and never received anything despite four
2 orders from your Honors and certainly nothing about
3 this chain of custody issue or potential claim that
4 the PJM DFAX studies may not, in fact, have even come
5 from PJM to begin with or someone stole PJM's
6 copyright and forged a report under their letterhead
7 or whatever else CSG is trying to argue here.

8 We are entitled to bring them in on cross
9 with this witness and then address them with my
10 crossing this witness and then bring them in on
11 rebuttal.

12 EXAMINER ST. JOHN: Mr. Whitt.

13 MR. WHITT: Your Honor, what is unfolding
14 is the consequence of a party who really has no
15 regard for their own discovery obligations, and
16 because of their refusal literally, as she's just
17 admitted we provided no e-mails, they didn't provide
18 even the correct DFAX studies. They literally
19 provide nothing.

20 And, sure, I could file a motion to
21 compel, or I can let you attempt to -- put you on
22 notice early in the case you cannot refuse to turn
23 over information in discovery and then attempt to use
24 that information at hearing because it defeats the
25 very purpose of the discovery rules. And the thing

1 about it is if -- if the discovery obligation had
2 been honored and these e-mails were turned over, the
3 correct DFAXs given to us, then this issue that arose
4 on Tuesday would have been eliminated because we
5 could say, oh, yeah, we have the correct DFAXs. We
6 see these other ones. That's not what you gave us.
7 Yeah, obviously this is a mistake.

8 But because they wouldn't -- they weren't
9 willing to play ball with anybody, that has now blown
10 up in their face spectacularly and all I am asking is
11 that the Bench enforce the rule that I assumed when
12 it was -- when the warning that was issued to me was
13 a warning that would apply to everyone which is
14 nobody gets to come in and introduce new evidence
15 that have been requested in discovery and not
16 provided.

17 Again, the issue isn't whether the
18 e-mails get to come in. They can come in with this
19 witness through the foundation laid by Staff counsel.
20 My objection is to Applicants' counsel questioning
21 these -- the witness about this material for any
22 reason.

23 MS. WHITFIELD: Can I respond briefly?

24 EXAMINER ST. JOHN: I think that you both
25 have had an opportunity to give your perspectives so

1 at this point I will go ahead and cut things off so
2 we don't get into a back and forth. The first thing
3 I would like to point out is the Applicants here are
4 not introducing this. These are documents that have
5 been marked by Staff. They are Staff's own exhibits.
6 I understand your point about the Applicants being
7 able to ask questions then about the e-mails. I'm
8 unsure frankly about the discovery issue, whether it
9 should have been produced or should not have been
10 produced. But I don't think that that issue in
11 particular is key here as, again, I mentioned, you
12 know, these are documents that are coming in through
13 Staff.

14 I'll also note this issue arose earlier
15 just on the flip side where there was a document, I
16 believe a MISO document, that had not been turned
17 over to Applicants as a document that was relied upon
18 by CSG's witness.

19 MR. WHITT: The public document they used
20 in their own cross, that one?

21 EXAMINER ST. JOHN: Again, this was --
22 this was a discovery issue that they had pointed out
23 where they had requested the documents that your
24 witness had relied on. At that point in time we had
25 ruled that, you know, this was not sanctionable.

1 Questions would be asked. You know, we didn't stop
2 anything just because of the production issue. So in
3 fairness, the ruling on this is I will allow the
4 Applicants to ask questions on these e-mails.

5 MS. WHITFIELD: Thank you, your Honor.

6 Q. (By Ms. Whitfield) So, Ms. Clingan, if
7 you could turn to what Staff has marked as Staff
8 Exhibit 2A and go to the last e-mail in that chain
9 before you get to the report.

10 A. Yes.

11 Q. Okay.

12 EXAMINER ST. JOHN: I'm sorry. Can I
13 jump in? Which exhibit are we on again?

14 MS. WHITFIELD: We are on 2A, your Honor.

15 EXAMINER ST. JOHN: And this is on what
16 page of 2A?

17 MS. WHITFIELD: The e-mails aren't --
18 it's the last e-mail before you get to the cover
19 sheet for the PJM DFAX report.

20 EXAMINER ST. JOHN: Okay. Thank you.

21 MS. BAIR: Is it the e-mail from Zena
22 Parks dated May 19, 2022?

23 MS. WHITFIELD: I am actually starting
24 with the one at the bottom of the page dated
25 April 30, 2021, from Stuart Siegfried.

1 MS. BAIR: Thank you.

2 Q. (By Ms. Whitfield) And, Ms. Clingan, you
3 are copied, are you not, on this e-mail from
4 Mr. Siegfried?

5 A. It appears so, yes.

6 Q. And did Mr. Siegfried report to you, or
7 did you report to him?

8 A. Neither.

9 Q. Well, let me maybe -- let me ask it this
10 way, was he part of the REN certification group?

11 A. Yes.

12 Q. And he says in his e-mail that you are
13 copied on "As an update on your Moraine Wind and
14 Rugby Wind certification applications, I wanted to
15 let you know that this morning I opened cases on DIS
16 and moved copies of the applications over to the
17 respective cases." Do you see that?

18 A. Yes.

19 Q. Is that what you were referring to with
20 respect to the process on how these applications
21 would get their way into the DIS PUCO docket?

22 A. Sorry. Did I make reference to that?

23 Q. I thought I heard earlier in questioning
24 that you said that Staff would be involved in the
25 process of opening a DIS docket for these

1 applications.

2 A. I think the question was asked. I don't
3 think I answered it. But that has been our process
4 since 2020 when the Commission made a change to
5 REN -- the REN certification application process.

6 Q. And so this sentence that I just read
7 from Mr. Siegfried, am I saying that correctly?

8 A. Yes.

9 Q. Mr. Siegfried was consistent with Staff's
10 practice at least as of -- after 2020?

11 A. Yes.

12 Q. And then he is in this e-mail requesting
13 DFAX studies for Moraine Wind and Rugby Wind, does he
14 not?

15 A. It looks like in this particular e-mail
16 he's just letting the Applicant know that the dockets
17 were opened.

18 Q. Okay. All right. So then let's go to
19 the next -- like go back to the e-mail directly above
20 his. Actually let's just skip -- try to short
21 circuit this a little bit. Let's skip to the top
22 e-mail on this page dated May 19, 2021. That is
23 where Stuart received the DFAX study from the
24 Applicants, correct?

25 A. Correct.

1 Q. And it says "Please see attached DFAX
2 study that I received from PJM this morning"; is that
3 correct?

4 A. Yes.

5 Q. And now if we turn to the bottom of the
6 previous page, it's an e-mail from you dated May 3,
7 2021, to Avangrid, and this e-mail is requesting the
8 power flow study or DFAX study for Elm Creek II and
9 Buffalo Ridge II facilities, is it not?

10 A. May 3?

11 Q. Yes.

12 A. Correct.

13 Q. And I see, if you continue up the page a
14 little bit, on May 10, 2021, you sent an e-mail to
15 Zena Parks of Avangrid. Do you see that? It says
16 "Just following up on Elm Creek II"?

17 A. Yes.

18 Q. You said "In addition to the power flow
19 study, we will need basic information on the revenue
20 grade meter, meter name, manufacturer, and serial
21 number." Did I read that correctly?

22 A. Yes.

23 Q. And why does Staff need that information?

24 A. Under our rules we need to verify that
25 the facility -- for every facility over 6 kilowatts

1 is using a utility grade or revenue grade meter.

2 Q. And then if you can go directly above
3 that e-mail, this is an e-mail from Zena Parks. Do
4 you know who Zena Parks is?

5 A. Yes.

6 Q. Who is she?

7 A. She worked for Avangrid.

8 Q. Okay.

9 A. The Applicant.

10 Q. And this is an e-mail from Ms. Parks to
11 you on May 19, 2021, and it's attaching the DFAX
12 study that she received from PJM that morning. Do
13 you see that?

14 A. Yes.

15 MR. WHITT: Your Honors, at this point I
16 would interject that I -- I don't know that a
17 cross-examination has actually started yet. And
18 there was an admonition before the witness took the
19 stand there would not be friendly cross and that's
20 all that has occurred so far.

21 MS. WHITFIELD: Your Honor, our questions
22 of the Staff's witness here will -- do not constitute
23 friendly cross. The purpose of this cross is not to
24 bolster or support Staff's case. It's -- the purpose
25 is to elicit facts from this witness to support the

1 application -- Applicants' case, and it's necessary
2 to do so. We can't depose Staff pursuant to this or
3 issue a subpoena for these e-mails, and so I am
4 running through what's -- the evidence that Staff put
5 in the record to understand what Staff did with
6 respect to these communications.

7 MR. WHITT: They are communications with
8 her client. What's the cross? You are doing this in
9 an attempt -- I think you think you are bolstering
10 your case somehow, which you aren't, but even if you
11 were, that's exactly why it's improper. That's all I
12 have to say.

13 EXAMINER ST. JOHN: These additions,
14 Staff exhibits that have been marked 2A, 2B, and 2C,
15 have just come into the -- have not been posted on
16 the docket in advance, so I think it -- it's fair
17 that the Applicants have an opportunity to ask the
18 witness about these documents.

19 MS. WHITFIELD: Can I have you read back
20 the last question I asked?

21 (Record read.)

22 EXAMINER ST. JOHN: Ms. Whitfield, before
23 you continue I have just a quick question. I don't
24 mean to interrupt the flow, but do you have a sense
25 of how much longer your questions might take? I am

1 just asking for the purposes of potentially taking a
2 break here before your questions are...

3 MS. BOJKO: Please.

4 MS. WHITFIELD: We can go ahead and take
5 a break. I am maybe like 15 more minutes 15 or 20
6 more minutes.

7 EXAMINER ST. JOHN: Let's go ahead and
8 take just a short break so that folks have the
9 opportunity to use the restroom if they need to. We
10 will be back on the record around 11:38.

11 (Recess taken.)

12 EXAMINER ST. JOHN: Let's go back on.

13 Q. (By Ms. Whitfield) All right.

14 Ms. Clingan, if you could look at Exhibit 2A real
15 quick again, the one we were just looking at.

16 A. Yep.

17 Q. Does the DFAX report that's attached to
18 this compilation of e-mails appear to be a true and
19 accurate copy of the results and cover letter that
20 Staff analyzed and reviewed in preparing its Staff
21 Reports for the Buffalo Ridge II, Elk Creek II, and
22 Moraine and Rugby facilities?

23 A. It does.

24 Q. Do you have any reason to doubt that the
25 DFAXs results and cover letter were actually prepared

1 by PJM?

2 A. I do not.

3 Q. And this attached DFAX study is what
4 Staff based their recommendation on?

5 A. It's what Staff uses to run its
6 deliverability analysis, yes.

7 Q. And base its recommendation with respect
8 to whether the facility is deliverable into the
9 State?

10 A. Yes.

11 Q. Okay. Now if I could have you pull up
12 what Staff has marked as Staff Exhibit 2B.

13 A. Yes.

14 Q. First, do you know who Shawn White is?

15 A. Yes.

16 Q. Who is that?

17 A. The Applicant in this case works for the
18 Northern Indiana Public Service Company.

19 Q. Okay. And was he listed as the
20 regulatory contact person for the Applicant if you
21 look at Applicants' Exhibit 5? I tried to pull it
22 out for you in the pile to make it a little bit
23 easier.

24 MS. BAIR: What is it?

25 MS. WHITFIELD: I'm sorry. For the

1 record Applicants' Exhibit 5 is the application for
2 Barton Wind.

3 A. I see that, yes.

4 Q. In Section C he's listed as the contact
5 person, regulatory contact person?

6 A. Yes.

7 Q. But it lists the Applicant as -- the
8 facility and Applicant has Barton Windpower up in A,
9 correct?

10 A. The name of the facility, yes.

11 Q. And the facility owner in B is listed as
12 Avangrid Renewables?

13 A. Yes.

14 Q. And did you come to understand, if you
15 turn back to 2B, that NIPSCO had a PPA with Avangrid
16 for the Barton -- for a portion of the Barton 1
17 facility?

18 A. It appears so, yes.

19 Q. And what's attached to Exhibit 2B, the
20 e-mail 2B, does this appear to be a true and accurate
21 copy of the results and cover letter that Staff
22 analyzed and reviewed in preparing its Staff Reports
23 for the Barton 1 facility?

24 A. It appears to be.

25 Q. And do you have any reason to doubt that

1 this -- the DFAX results and cover letter for Barton
2 1 were actually prepared by PJM?

3 A. I do not.

4 Q. And the e-mails attached to 2B show that
5 the regulatory contact, Mr. White, sent this DFAX
6 study to you?

7 A. That's correct.

8 Q. And again, this attached DFAX study
9 marked as 2B is what Staff used to form its basis of
10 its recommendation with respect to whether Barton 1
11 was deliverable into the State?

12 A. Yes, meeting the deliverability
13 thresholds established under Koda.

14 Q. Thank you. And now if I could have you
15 turn to Exhibit 2C, and rather than run through these
16 e-mails in detail, is it fair for me to say that the
17 e-mails that you've attached reflect Staff's
18 communications with the Applicant requesting the DFAX
19 study and receiving the DFAX study and then some
20 follow-up issues in between then and after?

21 A. That's fair.

22 Q. And with respect to the DFAX report
23 attached at the end of those e-mails, does this
24 appear to be a true and accurate copy of the results
25 and cover letter that Staff analyzed and reviewed in

1 preparing its Staff Report for the Barton 2 facility?

2 A. It appears to be.

3 Q. And do you have any reason to doubt the
4 DFAX results and cover letter attached as 2C were
5 prepared by PJM?

6 A. I do not.

7 Q. And again, do you agree that Staff used
8 the DFAX study attached here to form its
9 recommendation with respect to the deliverability
10 requirement under the Koda test?

11 A. Yes.

12 Q. With respect to Barton 2, did Staff have
13 an issue with the original DFAX report that it had
14 received from Avangrid?

15 A. We had a question about it, yes.

16 Q. And what was that question?

17 A. The application came in with a facility
18 capacity of 78 megawatts, and the DFAX that we
19 received, the cover sheet specified the facility
20 capacity is 80 megawatts, so we sought clarification
21 on that point.

22 Q. Did you -- who did you seek the
23 clarification from?

24 A. We initially requested of the Applicant
25 to have the power flow study rerun at 78 megawatts,

1 and then we received clarification from PJM that that
2 was not necessary because changing the capacity would
3 not change the power flows -- power flow. So instead
4 they amended the cover sheet to make that
5 clarification.

6 MS. WHITFIELD: Your Honor, at this time
7 I would like to mark for identification purposes as
8 Applicants Exhibit 11 an e-mail string with the top
9 one dated August 1, 2022, between PJM and Ms. Clingan
10 and others from Staff and Avangrid.

11 EXAMINER HICKS: Is the numbering right?

12 MS. WHITFIELD: Your Honor, yes. I have
13 other things premarked --

14 EXAMINER HICKS: Okay.

15 MS. WHITFIELD: -- we may address.

16 EXAMINER HICKS: I have multiple sheets
17 too.

18 MR. WHITT: For clarity are these
19 exhibits -- are these e-mails in addition to the ones
20 attached to the Staff Reports?

21 MS. WHITFIELD: I think so. In this
22 pile -- why don't you give me one second to make sure
23 it's not already in here. I flipped through this
24 quickly, and I didn't see it.

25 So can we go back on the record?

1 EXAMINER HICKS: We're on.

2 MS. WHITFIELD: Your Honors, it is
3 included in the packet of e-mails that Staff
4 attached, but it -- but it doesn't include the
5 attachment which she just testified that they made a
6 correction to the cover sheet or summary report to
7 the DFAX study to address the issue that Staff had
8 noted regarding the 78 versus 80 megawatts.

9 And so I was just going to -- for clarity
10 and for completeness, I wanted to include that e-mail
11 with the corrected cover sheet because I think we are
12 probably going to hear from or have questions from
13 counsel that this report is dated August 1. There
14 was an initial one that -- and this includes the
15 corrected statement that Staff had inquired about
16 with PJM about and relied upon. And the report was
17 initially issued July 27, 2022, and then Staff asked
18 about this issue and then there was a new report. So
19 I am just trying to put in for the record the
20 attachment that is then -- referenced in this e-mail.

21 MR. WHITT: If I may, your Honor, the
22 docket for Barton 2, it already includes the updated
23 and revised cover page for the DFAX. I think the
24 docket itself is clear right now apart from any
25 discovery or evidentiary issues. I think additional

1 commentary on that would confuse what already seems
2 to be clear already from the actual docket.

3 MS. WHITFIELD: Your Honor, first, I
4 think I can do the scope of cross that I want but
5 also what's in the docket is not actually in the
6 evidence here on the record, so I am just trying to
7 avoid any issues later that somehow there was some --
8 two different reports when, in fact, it was just a
9 statement added to the summary sheet for the DFAX
10 report for Barton 2.

11 EXAMINER ST. JOHN: At this point you
12 haven't moved for the admission of this. I think all
13 that's up for discussion at this point is marking the
14 document and passing it out so let's go ahead and do
15 that. We will mark the document as Applicants'
16 Exhibit 8.

17 MS. WHITFIELD: Could I mark it as 11?
18 Your Honor, that's what I requested just because I
19 have other things remarked.

20 EXAMINER ST. JOHN: I'm sorry. I
21 misheard the number. Yes, we will mark it as
22 Applicants' Exhibit 11.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MS. WHITFIELD: May I approach, your
25 Honor?

1 EXAMINER ST. JOHN: Yes.

2 MS. BAIR: May I speak?

3 EXAMINER ST. JOHN: Yes.

4 MS. BAIR: I believe this is contained in
5 Staff Exhibit 2C, this exact same thing. Yeah, it
6 is. On page 1 of 2C where the does was -- does not
7 is bolded. There's a discussion about 80 and 78. I
8 don't care if we duplicate, but I do think it's -- we
9 are trying to get it in the record through Staff's
10 exhibits.

11 EXAMINER ST. JOHN: Where did you say
12 that you saw that in Staff Exhibit 2C?

13 MS. BAIR: Sorry. We didn't paginate.
14 It's 2C. You go to the cover letter and then go
15 blank page and then the next page, page 1, the bottom
16 paragraph.

17 EXAMINER ST. JOHN: So the cover letter
18 that I am talking about, this is PJM, so keep going
19 past that?

20 MS. BAIR: Keep going. Go past that and
21 then it will say "Study of Renewable Resource Impact
22 on Ohio Transmission Facilities." That's the title.
23 Go down to that bottom paragraph. I just want to
24 make sure we are talking about the same thing.

25 EXAMINER HICKS: I think it is.

1 MS. WHITFIELD: Your Honor, but the
2 reason I wanted to address this e-mail and I can --
3 is to show that there was a correction made. The
4 e-mail indicates that PJM added a few lines to the
5 attached which you guys went ahead and incorporated
6 into the PJM report, but I wanted the acknowledgment
7 on the record there was this attempt, and they sent
8 just what's attached to Exhibit 11, just the summary
9 sheet they added. That's all that they changed when
10 they addressed Staff's question about this. It was
11 just the summary sheet and that's why there is a new
12 date from what may --

13 EXAMINER HICKS: So why do you need a new
14 exhibit though? That's all in here.

15 MS. WHITFIELD: Because it makes it -- so
16 in this -- one of these e-mails earlier here it was
17 its own attachment. Like this looks like this was
18 the attachment, okay?

19 EXAMINER ST. JOHN: With the Excel
20 spreadsheet.

21 MS. WHITFIELD: With the correction but
22 what PJM sent in response to Staff's questions was
23 just the corrected -- a new cover page and a new
24 corrected with that last sentence added statement.

25 MR. WHITT: I would just renew my

1 objection to discussion of this document based on the
2 fact that it was requested in discovery and not
3 produced. I was hoping we could avoid that debate
4 over acknowledgment that this really is duplicative
5 anyway and need not be entered, but if counsel is
6 going to insist on duplicating that record, I just
7 need to make that record to reserve our position.

8 MS. WHITFIELD: Maybe I can try to short
9 circuit this and --

10 EXAMINER HICKS: Maybe just ask the
11 question you said you were going to ask.

12 MS. WHITFIELD: Yes, yes. Okay.

13 Q. (By Ms. Whitfield) So, Ms. Clingan, was
14 the cover -- the cover page and the summary sheet for
15 Barton 2 updated and changed on August 1, 2022?

16 A. Yes, it appears so.

17 Q. And that update was the result of your
18 inquiry regarding the generator's megawatts, correct?

19 A. Correct.

20 Q. And you included that update in the
21 report that Staff analyzed and considered in reaching
22 its recommendations for Barton 2, correct?

23 A. The most recent version, correct.

24 Q. And that's attached to 2C, correct?

25 A. Correct.

1 Q. I don't know if I asked this earlier so
2 let me be clear, with that updated update to the DFAX
3 study for Barton 2, is that a true and accurate copy
4 of the results and cover letter that Staff reviewed
5 in preparing its Staff Report for this facility?

6 A. The updated copy, yes.

7 Q. And you have no reason to doubt that this
8 updated copy, DFAX study for Barton 2, actually was
9 prepared by PJM, do you?

10 A. I do not.

11 Q. And that DFAX study for Barton 2 that's
12 attached as 2C is what Staff based its
13 recommendations regarding whether the deliverability
14 component of the Koda test had been satisfied by this
15 facility?

16 A. Yes.

17 MS. WHITFIELD: No further questions,
18 your Honor.

19 EXAMINER ST. JOHN: Thank you.

20 - - -

21 EXAMINATION

22 By Examiner St. John:

23 Q. Ms. Clingan, I have just a few very brief
24 questions for you. And if the better person to ask
25 this -- these questions to would be Mr. Cross, feel

1 free to just let me know that too.

2 A. Sure.

3 Q. So the DFAX studies that are attached to
4 Staff Exhibits 2A, 2B, and 2C have a couple different
5 pieces to them. What I am seeing when I look at them
6 is I am seeing a cover sheet that has PJM on it and
7 it says "DFAX Analysis" and then there is a next page
8 that says it's left intentionally blank and then
9 there's one to two pages depending on the DFAX report
10 that says it's -- it's kind of a narrative.

11 A. Yes.

12 Q. And then there is another part that looks
13 like an Excel spreadsheet with a lot of data on it.

14 A. Yes.

15 Q. My question to you just because I don't
16 know Staff's process, just out of curiosity, and I
17 want to make sure I get a good understanding of what
18 Staff's process was, what portion of the DFAX report
19 does Staff actually look at when it's making its
20 analysis on deliverability? Does Staff focus on this
21 first page of the narrative, or does Staff look at
22 the data in the Excel spreadsheets to run its
23 analysis?

24 A. That would be a better question for
25 Witness Cross.

1 EXAMINER ST. JOHN: Okay. Thank you. I
2 appreciate that. I didn't have any other questions.

3 So, Ms. Bair, I will go ahead and turn
4 things back over to you for any redirect.

5 MS. BAIR: Yes, thank you. I have a
6 couple of questions.

7 EXAMINER ST. JOHN: Go ahead.

8 - - -

9 REDIRECT EXAMINATION

10 By Ms. Bair:

11 Q. Do you recall being asked about how many
12 cases have been approved, REN cases, in 2022? Do you
13 recall that line of questioning? Sorry.

14 A. Yes.

15 Q. Do you know how many cases or about how
16 many cases have been approved in 2022?

17 A. We've certified over 500 facilities in
18 2022.

19 Q. And what dictates which ones are
20 docketed?

21 A. Since 2020, the only applications that
22 are filed in the DIS docketing system are the ones
23 that are suspended from our auto approval process.

24 Q. And what happens to the others? Where
25 are they? Can they be found?

1 A. The application process in 2020 moved to
2 a Salesforce platform that is accessible through the
3 Commission's website. By rule we have a 30-day auto
4 approval process, so any application that is not
5 suspended within the 30 days is auto issued by the
6 Salesforce system.

7 Q. What would qualify for a case -- what
8 makes a case be suspended?

9 A. Since 2020 when we moved to the
10 Salesforce platform, we would automatically suspend
11 an application from a noncontiguous state where there
12 is a component, an extra component such as
13 deliverability that needs to be examined by Staff
14 because there is no other way for Staff to file a
15 Staff Report other than through the docket, through
16 the DIS system.

17 There are other reasons other than
18 deliverability for which -- for an application being
19 suspended. If we don't have complete information
20 within 30 days, if it's an unusual or technology that
21 Staff hasn't seen before or any other question that
22 might rise to the level of further review and
23 consideration by Staff or the Commission.

24 MS. BAIR: Thank you. I have nothing
25 further.

1 EXAMINER ST. JOHN: Mr. Whitt, do you
2 have any recross for the witness?

3 MR. WHITT: I guess just very briefly.

4 - - -

5 RECROSS-EXAMINATION

6 By Mr. Whitt:

7 Q. Ma'am, would you consider -- well, if we
8 go to the docket of the Barton 2 application, Case
9 22-380, would you agree, subject to check, that the
10 docket in that case shows the actual DFAX that Staff
11 received from PJM and actually with two different
12 cover letters and two different explanations
13 indicating why the analysis was changed from 80
14 megawatts to 78 megawatts? All of that is available
15 in the docket, correct?

16 MS. BOJKO: Objection.

17 MS. BAIR: Objection. Oh, did you
18 object?

19 MS. BOJKO: I did.

20 MS. BAIR: Far beyond the scope of
21 redirect.

22 MS. BOJKO: That was my objection as
23 well.

24 EXAMINER ST. JOHN: Mr. Whitt?

25 MR. WHITT: The only point I am trying to

1 make is in the Barton proceeding, Barton 2
2 proceeding, everything Staff reviewed that's been
3 talked about today is available in the docket by
4 anyone who wants to look at it for the Barton 2 case.

5 Q. (By Mr. Whitt) That is not the case for
6 any of the other applications, correct?

7 MS. BOJKO: Objection, your Honor.
8 Counsel is testifying. It's not answering the beyond
9 the scope of redirect objection.

10 MR. WHITT: It's confirmable by reference
11 to the Commission's own records.

12 EXAMINER ST. JOHN: Right. But the
13 objection isn't that. The objection is that it goes
14 beyond the scope of redirect questions. Do you have
15 any response to that?

16 MR. WHITT: Well, I thought I heard
17 questions going through each of these DFAX reports to
18 confirm what Staff looked at. I am just trying to
19 wrap it up, make sure it's clear that in the actual
20 docket accessible by the public, the docket for
21 Barton 2 has all of the DFAXs that we talked about
22 today, and the same DFAXs are in the actual docket of
23 that proceeding. That's not the case with the other
24 applications.

25 EXAMINER ST. JOHN: I am going to go

1 ahead and sustain the objection. I think that's
2 something you could have asked on your initial cross
3 and goes beyond the scope of the redirect.

4 MR. WHITT: Very well.

5 MS. WHITFIELD: No questions, your Honor.

6 EXAMINER ST. JOHN: Okay. All right.
7 With that before I ask Ms. Clingan to step down, we
8 have a number of exhibits that have been marked while
9 Ms. Clingan has been on the stand. I would first
10 like to address Staff Exhibits 2, 2A, 2B, and 2C. I
11 can't recall if, Ms. Bair, if you had moved to have
12 those admitted into evidence?

13 MS. BAIR: Yes. I move to have those
14 admitted into evidence.

15 EXAMINER ST. JOHN: And are there any
16 objections to the admission of those four exhibits?

17 MS. WHITFIELD: No objection from
18 Applicants.

19 MS. BOJKO: No objection from Blue Delta.

20 MR. WHITT: No objection from the
21 Applicants -- from CSG. Sorry. I have not
22 switched -- I have not switched sides.

23 EXAMINER HICKS: That would be the
24 ultimate plot twist.

25 EXAMINER ST. JOHN: Hearing no objection,

1 those four exhibits will hereby be admitted into the
2 record.

3 (EXHIBITS ADMITTED INTO EVIDENCE.)

4 EXAMINER ST. JOHN: Next, I will go ahead
5 and take up Staff's Exhibits 3, 4, 5, 6, 7, and 8.
6 Again, Ms. Bair, I apologize, but I don't recall if
7 you had moved to have those admitted into evidence.

8 MS. BAIR: I move Staff Exhibits 3
9 through 8 into evidence.

10 EXAMINER ST. JOHN: Are there any
11 objections to the admission of those exhibits, Staff
12 Exhibits 3 through 8?

13 MS. WHITFIELD: No objection.

14 MR. WHITT: None.

15 MS. BOJKO: None, your Honor.

16 MR. WHITT: None from CSG.

17 EXAMINER ST. JOHN: All right. Hearing
18 no objections, those exhibits are admitted as well.

19 (EXHIBITS ADMITTED INTO EVIDENCE.)

20 EXAMINER ST. JOHN: There was one
21 additional document that was marked and that was
22 Applicants' Exhibit 11. Would you like to move that
23 into evidence?

24 MS. WHITFIELD: Not at this time, your
25 Honor. I think we covered it with her testimony.

1 EXAMINER ST. JOHN: Excellent. Thank
2 you.

3 And with that, Ms. Clingan, thank you for
4 your testimony.

5 THE WITNESS: Thank you.

6 EXAMINER HICKS: Ms. Bair, you may go
7 ahead and call your next witness.

8 MS. BAIR: Thank you, your Honor. Staff
9 calls Jason Cross as its next witness, please.

10 EXAMINER HICKS: Good I guess it's
11 afternoon.

12 (Witness sworn.)

13 EXAMINER HICKS: Thank you.

14 Go ahead whenever you are ready,
15 Ms. Bair.

16 MS. BAIR: Thank you.

17 - - -

18 JASON CROSS

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

21 DIRECT EXAMINATION

22 By Ms. Bair:

23 Q. Could you please state your name for the
24 record.

25 A. Jason Cross.

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

3 A. Public Utilities Commission, I work in
4 the Power Siting Department.

5 MS. BAIR: Your Honor, may I approach the
6 witness?

7 EXAMINER HICKS: Yes.

8 MS. BAIR: Your Honor, I would like to
9 have Jason Cross's testimony filed on August 26,
10 2022, marked as Staff Exhibit 1.

11 EXAMINER HICKS: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 Q. (By Ms. Bair) Mr. Cross, could you please
14 identify Staff Exhibit 1.

15 A. Yes. It is my testimony, prefiled
16 testimony.

17 Q. Was that prepared by you or under your
18 direction?

19 A. Yes.

20 Q. Do you have any changes or additions to
21 make to this testimony?

22 A. No.

23 Q. If you were to ask you the questions
24 contained in Staff Exhibit 1 today, would your
25 answers be the same?

1 A. Yes.

2 MS. BAIR: Your Honor, I move Staff
3 Exhibit 1 into evidence, subject to
4 cross-examination.

5 EXAMINER HICKS: Thank you.

6 I will turn it over to Mr. Whitt for any
7 cross-examination.

8 MR. WHITT: Thank you, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Whitt:

12 Q. Very briefly, Mr. Cross, did you have
13 involvement in or make a contribution to the Staff
14 Reports that are filed in these cases?

15 A. I -- I receive -- the project lead
16 requests that I do the DFAX study, and I send my
17 analysis of the DFAX study to them. I do not write
18 the Staff Report.

19 Q. Understood. So are you the individual
20 that for each of these applications who would review
21 the PJM we'll call it the cover letter and
22 spreadsheet and determine the appropriate values that
23 Staff will consider in determining whether the
24 deliverability standard is met?

25 A. Yes.

1 Q. Okay. And did you do that for each of
2 these six applications?

3 A. I did.

4 Q. Okay. I noticed in the spreadsheets that
5 there are various values that are highlighted,
6 correct?

7 A. Yes.

8 Q. And are those highlights something that
9 PJM does before they turn the report over to Staff or
10 the Applicants or the requesting party?

11 A. That would be my assumption. When I
12 receive them from the Applicant and the case lead,
13 yes, they are highlighted.

14 Q. And the information that's highlighted
15 are values of 5 percent or greater; is that correct?

16 A. Correct.

17 Q. And if we look at -- let's use Staff
18 Exhibit 2C as our example.

19 A. 2C.

20 Q. That's Barton 2.

21 A. I have it.

22 MR. WHITT: And I am not sure, Ms. Bair,
23 the highlights would actually show up on this copy or
24 not. I think that they do.

25 MS. WHITFIELD: They do.

1 Q. Sort of, I would say, somewhat
2 sporadically through the document you can see where
3 there has been some highlighting of the greater than
4 5 percent values, correct?

5 A. Yeah. Very lightly, yes.

6 Q. And if we look just without even reading
7 the values but just seeing what's highlighted, the
8 spreadsheet would indicate that these 5 percent
9 values apply to very few of this list of facilities
10 here; is that fair to say?

11 A. Yes.

12 Q. Okay. And I noticed in some instances
13 there are negative values that are highlighted.

14 A. Yes.

15 Q. And what does a negative DFAX value
16 indicate?

17 A. The negative means the energy is flowing
18 the opposite direction. So if it's a positive, it's
19 flowing one direction. If it's negative, it's
20 flowing the other direction.

21 Q. When you say flowing the other direction,
22 what -- what do you mean by that?

23 A. Still -- it's still -- it's still
24 reaching Ohio. It's just reaching -- it's coming at
25 a neglect value to Ohio.

1 Q. So with --

2 A. When -- sorry.

3 Q. I'm sorry. Go ahead.

4 A. When we do our analyses, we take the
5 absolute value of that field. We -- sorry. That's
6 it. We take the absolute value of that field.

7 Q. Well, I'm about to stray into an area
8 that I am even less knowledgeable of than electrical
9 engineering, that is mathematics, but I seem to
10 recall that in math an absolute value disregards
11 integers, positive or negative. That an absolute
12 value is just a number; is that correct?

13 A. Yes.

14 Q. And are you saying that if there's a
15 positive DFAX value, that means that the -- there is
16 a certain megawatt impact or certain megawatts from a
17 facility impacting a transmission line by adding load
18 to that line?

19 A. Can you repeat that?

20 Q. Yeah. And I guess maybe to help us out,
21 let's look at footnote -- the footnote that's on page
22 3 of your testimony.

23 A. Testimony. Yes, I have it.

24 Q. In the example that you provide in your
25 footnote, "100 megawatt facility with a DFAX value of

1 6 percent means modeling indicates that 6 megawatts
2 is deliverable to a sink point in Ohio, meeting the
3 first criterion."

4 A. Correct.

5 Q. So if there was -- if the DFAX value was
6 minus 6 percent, would that mean that the facility is
7 drawing 6 megawatts out of Ohio somewhere else or
8 that 6 megawatts of additional capacity is now
9 available on the facility?

10 A. So as I said, we would be taking the
11 absolute value of that so that -- that 6 megawatts
12 would still reach Ohio under -- under our criteria.

13 Q. Okay. For Barton -- Barton 2, we are
14 still in Staff Exhibit 2C --

15 A. Yes.

16 Q. -- there seemed to be a negative value of
17 minus 20.02 -- I'm sorry. I am looking at the wrong
18 spreadsheet. The Staff Report for Barton 2 indicates
19 the greatest impact occurred on a certain line and
20 that the value was 17 percent. Is that consistent
21 with your recollection?

22 A. Yes.

23 Q. Okay. The spreadsheet seems to indicate
24 that there was also a facility for which the Barton 2
25 facility had a minus 21.08 percent impact. And

1 regrettably I don't have page or line numbers to
2 refer you to on these spreadsheets.

3 MR. WHITT: I can come show the witness
4 and the Bench kind of what I am looking at.

5 EXAMINER ST. JOHN: Is this one of the
6 highlighted fields on the very right-hand side?

7 MR. WHITT: It actually is, and I would
8 say it's about at least three-fourths of the way
9 through the document.

10 EXAMINER HICKS: Is there something he
11 needs other than the value?

12 MR. WHITT: No.

13 EXAMINER HICKS: Is anyone --

14 THE WITNESS: What was it again?

15 EXAMINER HICKS: -- concerned that value
16 is not there?

17 MS. WHITFIELD: I think it's on the
18 fourth page from the back of what --

19 THE WITNESS: Fourth page from the back?

20 MS. WHITFIELD: Yes, 2C.

21 A. I see that. It's the 21.08, correct?

22 Q. Yes.

23 A. Yes, I have that.

24 Q. Wouldn't that be the greatest absolute
25 value?

1 A. Yes.

2 Q. Is there a reason why 17 percent is
3 reported as the greatest absolute value?

4 A. If you look -- if you look to the left
5 over there and on that page in that 21.08, it would
6 be line names.

7 Q. Okay.

8 A. The to and from line names, those lines
9 are not in Ohio.

10 Q. I see. And how did you make that
11 determination?

12 A. I took -- I took the name of the line
13 that PJM provided, the bus number and line name, and
14 I cross referenced that with their system map to
15 verify that that line was not in Ohio.

16 Q. Okay. So when you review the spreadsheet
17 for PJM, you are looking initially at the cells that
18 are highlighted, fair to say?

19 A. Yes.

20 Q. And then even when you identify those
21 highlighted cells, you then have to determine whether
22 the line has some connection to Ohio, fair to say?

23 A. Fair.

24 Q. Okay. Since we are still in Exhibit 2C,
25 if you go to the PJM cover letter --

1 MS. WHITFIELD: Are we still on
2 Exhibit 2C?

3 MR. WHITT: Yes.

4 A. Yes, I have it.

5 Q. And the cover letter for Exhibit 2C, if
6 you look just above where the Barton Wind 2 reference
7 is in the list of facilities, I want to draw your
8 attention to the second to the last sentence before
9 we -- that facility is listed. And the sentence
10 begins with the word "Finally."

11 A. Yes, I'm there.

12 Q. And it says "Finally, it was confirmed
13 that there were a number of EHV transmission
14 facilities on which at least 5 percent of the maximum
15 facility output from the wind resource would be
16 expected to flow if they were to deliver their
17 maximum facility output into PJM." Did I read that
18 correctly?

19 A. Yes.

20 Q. And would you understand the term
21 "Maximum Facility Output" is capitalized here,
22 correct?

23 A. Yes.

24 Q. Would you understand that to mean that
25 this is a defined term within the meaning of PJM's

1 tariff?

2 A. Subject to check their tariff, but yes.

3 Q. And have you had discussions with anyone
4 at PJM about what the phrase "if they were to deliver
5 their Maximum Facility Output into PJM," what that
6 means?

7 A. No, we have not had those conversations.

8 Q. If you go to the same place in Staff
9 Exhibit 2A.

10 A. PJM cover page?

11 Q. Yes. The same sentence, it says
12 "Finally, there were EHV transmission facilities on
13 which at least 5 percent of the energy from these
14 wind resources would be expected to flow if they were
15 to deliver their energy into PJM," correct?

16 A. Yes.

17 Q. That sentence says something different
18 than the sentence we just read in Exhibit 2C,
19 correct?

20 A. It says "energy" versus -- I can't
21 remember what the other one.

22 Q. "Maximum Facility Output."

23 A. Output, yes.

24 Q. Likewise if you look in Staff Exhibit 2B,
25 the PJM cover letter in Exhibit 2B, the sentence we

1 just read in 2A is worded the same in Exhibit 2B
2 where the term "energy" is used rather than the term
3 "Maximum Facility Output," correct?

4 A. Yes.

5 Q. And Exhibit 2C is the information that
6 Staff received directly from PJM, correct?

7 A. Correct.

8 MR. WHITT: No further questions.

9 EXAMINER HICKS: Thank you, Mr. Whitt.
10 Turn it over to Applicant, do they have
11 any cross?

12 MS. WHITFIELD: Yes, just a few, your
13 Honor.

14 - - -

15 CROSS-EXAMINATION

16 By Ms. Whitfield:

17 Q. Good afternoon, Mr. Cross. You have been
18 in the hearing room all week, have you not?

19 A. I have.

20 Q. And you are aware that there were some
21 discussions about incorrect copies of the DFAX
22 spreadsheets attached to comments filed in this case,
23 correct?

24 A. Yes.

25 Q. And in your review, which reports did you

1 actually review to do your analysis? The ones
2 attached to the filings in the docket or the ones
3 that the DFAX studies forwarded and e-mails to Staff
4 that have been marked as Staff Exhibits 2A, 2B, and
5 2C?

6 A. The ones that have been marked Staff's
7 Exhibits 2A, 2B, and 2C.

8 Q. So do you believe that you reviewed the
9 correct spreadsheets that correlated with the PJM
10 cover sheets and the summary report?

11 A. I do.

12 Q. And so your analysis was of the correct
13 spreadsheets attached to marked 2A, 2B, and 2C,
14 correct?

15 A. Correct.

16 Q. And I take it from questions -- or
17 answers that you just gave to Mr. Whitt, you would
18 review in doing your analysis both the narrative
19 summary report from PJM as well as the detailed table
20 attached to that in doing your own analysis?

21 A. Yes. I look at that cover page and then
22 I pull up the DFAX that was provided by the Applicant
23 and then I do my own analysis to make sure it meets
24 our standards.

25 MS. WHITFIELD: No further questions,

1 your Honor.

2 EXAMINER HICKS: Thank you.

3 I believe 3Degrees indicated no cross.

4 MR. MILLER: Correct.

5 MS. WOODS: Correct.

6 EXAMINER HICKS: Ms. Bair, any redirect?

7 - - -

8 EXAMINATION

9 By Examiner St. John:

10 Q. I have just one quick question first. I
11 apologize if this is duplicative of some of the
12 questions you were just asked, but could you walk me
13 through step by step the process of what you review
14 when you receive this DFAX report?

15 A. Yes. So I receive the DFAX from the REN
16 team that was filed by the Applicant. I pull up that
17 DFAX. I filter out values that are greater than
18 5 percent of the DFAX value and then I come back and
19 I look at the lines that those DFAX values are
20 associated with. I look for ones that are in Ohio,
21 at least one point is in Ohio. I do my analysis on
22 one point and two points. I make sure that those are
23 above 5 percent. Once they are above 5 percent, I
24 take the output of the facility, the energy, and I do
25 a calculation multiplying with that DFAX. And if

1 it's above 1 megawatt, then it meets our second test,
 2 and it's deliverable to Ohio.

3 Q. That information you were just talking
 4 about comes from the spreadsheet itself rather than
 5 the one- to two-page narrative?

6 A. Yeah. Like I said, I review the PJM,
 7 what they sent, but we do our analysis based on the
 8 Excel sheet of the full DFAX study they provide, the
 9 Applicant provides.

10 EXAMINER ST. JOHN: Okay. Thank you.
 11 Appreciate it.

12 EXAMINER HICKS: Thank you.

13 Ms. Bair, any redirect or do you need a
 14 moment or?

15 MS. BAIR: I have no redirect, and I move
 16 Staff Exhibit 1 into evidence.

17 EXAMINER HICKS: Okay. Is there any
 18 objection to the admission of Staff Exhibit 1?

19 MS. WHITFIELD: No objection from
 20 Applicants.

21 MR. WHITT: No objection.

22 MS. BOJKO: No objection.

23 EXAMINER HICKS: Staff Exhibit 1 is
 24 admitted.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 EXAMINER HICKS: I believe that's it from
2 Staff.

3 Mr. Cross, thank you for your testimony
4 today.

5 Let's go off the record.

6 (Recess taken.)

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

9 While we were off the record, we took a
10 brief recess and also had discussed the possibility
11 of presenting recall witnesses. Also the order of
12 recall witnesses was discussed. And at this time,
13 Ms. Bojko, I will go ahead and turn things over to
14 you.

15 MS. BOJKO: Thank you, your Honor. I'm
16 not sure I need this because I do speak loudly as you
17 all know and that's Kim's personality, but I will
18 turn it on just in case.

19 Your Honors, at this time the Applicants
20 and Blue Delta would like to call -- recall their
21 joint witness Mr. John Chiles to the stand.

22 EXAMINER HICKS: Thank you. Would you
23 say please raise your right hand.

24 (Witness sworn.)

25 EXAMINER HICKS: Go ahead, Ms. Bojko.

1 MS. BOJKO: Thank you, your Honor.

2 - - -

3 JOHN CHILES

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

6 DIRECT EXAMINATION

7 By Ms. Bojko:

8 Q. Mr. Chiles, please state your name for
9 the record.

10 A. My name is John Chiles.

11 Q. And, sir, on whose behalf are you
12 testifying today?

13 A. I am testifying on behalf of the
14 Applicants --

15 MS. WHITFIELD: Excuse me. Can the
16 witness turn on his microphone? Thank you.

17 A. I am testifying on behalf of the
18 Applicants, Avangrid Renewables, and Blue Delta
19 Energy.

20 Q. Sir, do you recall testifying earlier in
21 the week in this case, I believe on Monday,
22 December 5?

23 A. Unfortunately, I do.

24 Q. And, sir, were you in the hearing room on
25 Tuesday, December 6, 2022, when it was discovered

1 that a document compilation error occurred and the
2 incorrect spreadsheets were attached to your direct
3 testimony that was dated August 12, 2022?

4 A. Yes, I was in the room for that.

5 Q. So, sir, what is the purpose of your
6 testimony today?

7 A. The purpose of my testimony today is to
8 confirm that the document compilation error did not
9 affect my prefiled testimony and to sponsor the
10 corrected attachments attaching the DFAX studies that
11 are in question.

12 Q. And, sir --

13 MS. BOJKO: Your Honors, at this time I
14 think it would be helpful if I just go ahead and mark
15 as Joint Exhibit 1A the corrected Attachment A to
16 Joint Exhibit 1 which was the direct testimony of
17 Mr. Chiles. May I approach, your Honor?

18 EXAMINER HICKS: So marked and, yes, you
19 may.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. (By Ms. Bojko) Mr. Chiles, do you have in
22 front of you what's been marked as Joint Exhibit 1A?

23 A. The corrected attachment, yes, I do.

24 Q. Do you recognize this document as the
25 corrected Attachment A which includes corrected

1 appendices to your expert report that was attached to
2 your direct testimony?

3 A. Yes. These are the corrected
4 attachments.

5 Q. And you said on Monday that the direct
6 testimony was prepared by you or under your
7 direction; is that correct?

8 A. That is correct.

9 Q. Could you explain the changes to the
10 corrected Attachment A that you are providing today?

11 A. Yes. The changes to the corrected
12 Attachment A are the DFAX spreadsheets for the four
13 Avangrid facilities, and then the second attachment
14 is the corrected DFAX report for the Barton Wind
15 facility.

16 Q. Okay. And those corrected spreadsheets
17 are in Joint Exhibit 1A; is that right?

18 A. Yes, they are.

19 Q. And did you previously receive the
20 corrected spreadsheets?

21 A. I did. I received those -- I received
22 those spreadsheets as part of correspondence with my
23 clients.

24 Q. And your clients meaning Avangrid and
25 Blue Delta?

1 A. That is correct.

2 Q. And how did you receive the three DFAX
3 summary reports, cover sheets, and Excel spreadsheet
4 files regarding the facilities?

5 A. I received three e-mails from the
6 clients. Within those e-mails there were two
7 attachments. The first is a PDF which is the PJM
8 cover sheet and summary report. Then the second is
9 the voluminous spreadsheet of the Excel file which is
10 the DFAX analysis in native format.

11 Q. Okay. So let me understand, when you
12 received a PJM DFAX report summary cover sheet and
13 spreadsheet, the e-mail contained two distinct and
14 separate documents, attachments?

15 A. That is correct. As I said, there's a
16 PDF of the PJM cover sheet and DFAX summary and then
17 the second is a completely separate Excel spreadsheet
18 in native format which is the DFAX information which
19 I used for my assessment.

20 Q. Okay. So which spreadsheets did you
21 review for purposes of your analysis, the ones
22 attached to Joint Exhibit 1A or the ones that were
23 attached mistakenly to Joint Exhibit 1?

24 A. I reviewed the DFAX files from the
25 corrected Joint Exhibit 1A. Those are the files I

1 had received.

2 Q. And how did you review those files, sir?

3 A. I reviewed those files similar to what
4 Staff Witness Cross indicated. I went through them
5 and reviewed line by line the DFAX data, No. 1, to
6 make sure that there was consistency with line
7 information and ratings, flows, et cetera.

8 I also then went and performed a similar
9 analysis to what Mr. Cross did which is filtering of
10 the DFAX information looking at elements which were
11 greater than or -- greater than plus 5 percent DFAX
12 or less than a minus 5 percent DFAX. And then upon
13 completing that review, I then looked at the
14 identified facilities that were considered, and I
15 made sure we included those and only those that were
16 either sourced completely within Ohio or that were
17 touched at a single point in Ohio.

18 Q. Okay. But what format? Did you print
19 them out? Did you look electronically? What format
20 did you review?

21 A. No. That -- that format I reviewed the
22 electronic version because the printed format, as I
23 think we have all seen, is over 3,300 lines of data,
24 and I don't think any of us would really enjoy going
25 through 3,300 lines of data on paper to do that

1 analysis, so I did use the electronic version that I
2 had been given.

3 Q. Okay. And in preparing your expert
4 report, which spreadsheets did you review and
5 analyze?

6 A. I reviewed the spreadsheets for the four
7 Avangrid facilities that were provided by my client
8 from PJM. I reviewed the DFAX report for the Barton
9 facility, and I reviewed the DFAX report for the
10 Barton 2 facility in addition to the DFAX reports
11 from PJM, the PDF files.

12 Q. Okay. Specifically to the spreadsheets,
13 did you review the spreadsheets for purposes of
14 analyzing and drafting your expert report from Joint
15 Exhibit 1 or Joint Exhibit 1A?

16 A. I used the information from Exhibit 1A
17 because those were the only files I had received.

18 Q. And for purposes of drafting your
19 testimony, did you use the electronic spreadsheets
20 from -- that were printed in Joint Exhibit 1 or that
21 have now been printed in Joint Exhibit 1A?

22 A. I used the exhibits in Joint Exhibit 1A,
23 the electronic versions.

24 Q. And why didn't you forward the
25 spreadsheets that you reviewed and analyzed with your

1 expert report for filing with the comments?

2 A. Because counsel had also received copies
3 of that information so there was no need in my mind
4 to attach a PDF of a 3,300 line spreadsheet for my
5 expert report, and my report was a document based
6 upon filed DFAX spreadsheets I had received. Counsel
7 had a copy of those and so that's what I submitted.

8 Q. But when you filed -- when you sent your
9 expert report for filing, did you create appendices?

10 A. I created no appendices. I created three
11 title pages in the report which we've read are listed
12 as Appendix A, Appendix B, and Appendix C which
13 detailed what I was referencing in my expert report
14 which was the DFAX reports and the DFAX information
15 for the associated facilities.

16 Q. And then you -- it was your understanding
17 that counsel would then insert in between -- or after
18 your cover sheets the correct PJM DFAX cover sheets
19 and spreadsheets?

20 A. That is correct. I am not familiar with
21 the filing procedures here in the State of Ohio, so I
22 deferred to counsel to put that together.

23 Q. And is it your understanding that the
24 corrected spreadsheets that are in Joint Exhibit 1A
25 were the -- were the spreadsheets that Staff

1 reviewed?

2 A. They are. Actually going back to how all
3 this started on Tuesday, once we received those
4 reports from Staff, the hard copies, I spent most of
5 the day yesterday and part of the evening on Tuesday
6 going line by line comparing the files I had received
7 to the files that Staff produced. And in that
8 comparison of almost 10,000 lines of data, I
9 confirmed that the data was exactly the same as what
10 I had reviewed between their file and my file.

11 Q. And now looking back, sir, at what was
12 actually filed in the Commission's docket, is it your
13 understanding that that document compilation error
14 was created in the original expert report that was
15 filed with Blue Delta's initial comments and
16 Avangrid's initial comments?

17 A. That is my understanding, yes.

18 Q. And then it's your understanding that the
19 document compilation error was carried forward when
20 filing your testimony with the Commission?

21 A. That is correct.

22 Q. Did -- when you sent your expert report
23 to counsel, was it your understanding that counsel
24 already had both the DFAX cover sheet, summary
25 report, and Excel spreadsheets?

1 A. Yes, because I believe counsel received
2 the same e-mail that I received from the -- from Blue
3 Delta and Avangrid.

4 Q. And were the DFAX report cover sheets and
5 summary reports attached to your expert testimony,
6 correct, Joint Exhibit 1?

7 A. Let me confirm. I just want to make sure
8 I have the correct one for 1C. Just a minute. For
9 1A and 1B I can confirm that. Actually the Appendix
10 C for Barton 2 had the 80 megawatt reference to the
11 facility output, and as we have discussed, there was
12 a second one which was a revision which was a 78
13 megawatt facility output. It should be noted that
14 the DFAX percentages don't change based upon the
15 output of the units, so the DFAX reports, the
16 spreadsheet would not have needed to be created.

17 Q. Okay. And in Joint Exhibit 1A, the
18 correct DFAX report cover sheet, summary report, and
19 now spreadsheets for all six facilities are in Joint
20 Exhibit 1A; is that correct?

21 A. Subject to just a second to check, I will
22 confirm that for you.

23 Counselor, it appears in Appendix 1C that
24 the PJM file, the PDF file actually still refers to
25 the 80 megawatt facility. It does not refer to the

1 78 megawatt facility, but as I stated, the DFAX
2 results on the percentages are unchanged.

3 Q. Okay. And does your analysis in your
4 expert report or your testimony change with the
5 corrected attachments?

6 A. It does not. The results of my analysis
7 are consistent with the reports and files that I was
8 given.

9 Q. And does your testimony change with the
10 corrected attachments?

11 A. It does not because, once again, the DFAX
12 information is consistent with what I reviewed. As I
13 mentioned, also consistent with what Staff reviewed
14 in their analysis.

15 Q. Mr. Chiles, your expert report was
16 originally created prior to the submission of
17 comments because your expert report was attached to
18 the comments; is that correct?

19 A. That is correct. I believe the comments
20 were due on November 18, and I had produced my expert
21 report and had given it to counsel and my clients
22 prior to that date.

23 Q. And after forwarding your expert report
24 with the appendices' cover sheets, you did not go to
25 the Commission's docket and assure that counsel

1 correctly attached the right spreadsheets, did you?

2 A. I focused on my testimony. I focused on
3 my expert report to confirm that the statements I
4 made in that were consistent and correct and that was
5 what my focus was.

6 Q. So you had no reason to go and check what
7 was actually filed on the docket?

8 A. I would have had no reason to check what
9 was filed in the docket because, once again, I had
10 three reports that I reviewed and those were the
11 three reports I assumed would be attached.

12 Q. And when I handed you Joint Exhibit 1 on
13 Monday, did you sit here on the stand and look
14 through the spreadsheets to confirm that the right
15 ones were attached to the exhibit that I handed you?

16 A. For the benefit of everybody, I did not.
17 Otherwise we would be sitting here until next Tuesday
18 having the same discussion.

19 Q. Thank you for that. If I were to ask you
20 the same questions today as they appear in your
21 direct testimony now with the corrected attachment,
22 would your answers be the same?

23 A. They would.

24 Q. And, sir, Mr. Chiles, did you know of
25 this document compilation clerical error when you

1 testified on Monday?

2 A. I had no idea. I found out about it at
3 1:40 p.m.

4 Q. On which day?

5 A. It would have been on Monday after -- I
6 am trying to think. It was either Monday or Tuesday,
7 whenever it was raised. Because I had been through
8 Monday, thought we were in good shape. And then
9 Tuesday this was raised, and I found out about it at
10 that point which is why on Tuesday and Wednesday I
11 went back and looked at what I had received, looked
12 at what Staff had filed, and compared line by line to
13 make sure that I had actually had the correct
14 information.

15 Q. And, sir, did you knowingly make any
16 false statements on the record on Monday when you
17 testified?

18 A. No, I did not.

19 MS. BOJKO: Thank you.

20 No further questions, your Honor.

21 EXAMINER HICKS: Thank you. I think
22 Mr. DeMonte. Okay. I will turn it over to you for
23 any cross-examination questions you may have.

24 MR. DeMONTE: Thank you, Judges.

25 - - -

CROSS-EXAMINATION

1
2 By Mr. DeMonte:

3 Q. Good afternoon, Mr. Chiles.

4 A. Good afternoon, Mr. DeMonte.

5 Q. You testified that you reviewed the DFAX
6 reports electronically in preparation for your expert
7 report, correct?

8 A. That is correct.

9 Q. And you also, I think, said that's
10 because it's very hard or challenging, I don't recall
11 exactly the word but that's the intent, of having to
12 review this if it was just printed out in a hard copy
13 format.

14 A. Yeah. I am not saying it's impossible to
15 review a hard copy but if you are trying to filter
16 through --

17 Q. Close, right?

18 A. -- all this and get an answer, consistent
19 with the analysis that was required, definitely the
20 preferred optimal method would be to use the
21 electronic method.

22 Q. And with respect to the -- your preferred
23 method, but I just want to confirm that's what you
24 did, you looked at things electronically, correct?

25 A. Actually I looked at both, sir. As I

1 mentioned, I looked at the electronic version to
2 develop my expert report, and then after things kind
3 of unfolded on Tuesday, I went back and I looked at
4 that. I also printed out the version to make sure
5 there was no issues. I looked at the printed
6 versions of that versus the Staff Report, and I
7 confirmed all that information line by line.

8 Q. And you printed everything out and
9 reviewed the hard copy. Just want to confirm on
10 Tuesday night, that was the first time you did that?

11 A. Well, my -- what I did on Tuesday, I was
12 printing out the hard copy of this information along
13 with the Staff information, the DFAX reports which we
14 had all received that day, and I began going line by
15 line through Staff exhibits and my printer versions
16 of what I had received to confirm that what I had
17 received was consistent with what Staff had reviewed.
18 And that was my day on Tuesday evening and all day
19 yesterday so I hope you had a good time because I
20 certainly was not.

21 Q. Yeah. I am not suggesting anything that
22 we have done here has been particularly easy.
23 What -- I am just trying to confirm timing, and I
24 thank you for confirming the timing of what you did
25 and when you did it. With respect to the 1C cover

1 page that's in corrected Attachment A, I believe you
2 just testified that's -- just confirming I believe
3 you just testified the 1C cover page is still
4 different than the Staff Exhibit 1C cover page; is
5 that right?

6 A. I would have to see Staff's cover page to
7 confirm. I believe it refers to the 78 megawatt
8 amount for -- for the unit if I can find that here
9 somewhere.

10 EXAMINER ST. JOHN: Does anyone know if
11 that's in Staff Exhibit 2A, 2B, or 2C?

12 MR. DeMONTE: Oh, 2C, thank you, your
13 Honor.

14 A. 2C?

15 Q. 2C.

16 A. I just want to confirm the language, sir.
17 Just a moment.

18 That is correct, sir. In the Staff
19 exhibit there is -- there are two sentences added and
20 they read as follows: "Please note that the Barton
21 Wind 2 branch solar is modeled as an 80 megawatt
22 generator in PSSC. However, according to the
23 customer, one wind turbine has been decommissioned
24 and the total MFO of the plant is 78 megawatts." I
25 assume that's maximum facility output. "This change

1 does not," highlighted does not, "change the DFAX
2 analysis results."

3 So in terms of the DFAX analysis results
4 of the spreadsheet, that report is consistent with
5 what I reviewed and what Staff reviewed. In terms of
6 the megawatt calculation which would be the 1
7 megawatt criteria, if you use that result, the
8 different -- only because you would be using a 78
9 megawatt base versus an 80 megawatt base for the
10 megawatt calculation.

11 Q. Thank you, Mr. Chiles.

12 MR. DeMONTE: So, your Honor, I would ask
13 just to strike everything other than, "Yes, it's
14 different" because my question was the Attachment A
15 cover letter, that's different than what's in Staff
16 2C.

17 EXAMINER HICKS: Denied. Continue.

18 MR. DeMONTE: Thank you.

19 Q. (By Mr. DeMonte) Sir, you've reviewed, as
20 you indicated, the spreadsheets that were attached to
21 the comments of both the Applicants and Blue Delta as
22 part of Appendix A and Appendix B, correct?

23 A. Is that the corrected Appendix A and B,
24 sir?

25 Q. No, the originally filed. You have now

1 since looked at the information that had been
2 originally filed as what has now been determined to
3 be incorrect information in Attachment A and
4 Attachment B.

5 A. It would only be in corrected Attachments
6 2A and 2B. The Barton 2 file, DFAX file, is the same
7 as our 2C.

8 Q. Yes. I am asking about Appendix A and
9 Appendix B and the comments, okay?

10 A. That would be correct, sir.

11 Q. Okay. You have reviewed that information
12 today as you sit here on the stand, correct?

13 MS. BOJKO: Objection as to the timing.
14 I don't think it's ever been that he reviewed it
15 today. Could you rephrase? I am not sure I
16 understand the question.

17 MR. DeMONTE: Sure.

18 Q. (By Mr. DeMonte) I am asking if you have
19 reviewed the information that was attached as
20 Appendix A and Appendix B because I would like to ask
21 you some questions about that, if you know.

22 MS. BOJKO: I'm sorry. Appendix A and
23 B --

24 EXAMINER HICKS: To the comments.

25 MR. DeMONTE: -- to the comments of Blue

1 Delta and the Appellant -- the Applicants.

2 MS. BOJKO: There are no Appendices A and
3 B to the comments. There is appendices to an expert
4 report that is attached to the comments. I'm
5 assuming that's what we are talking about because
6 there are other attachments to the comments, your
7 Honor, so I just want to make sure we are clear.

8 Q. (By Mr. DeMonte) Mr. Chiles, did you
9 review the Appendix A and Appendix B that was
10 attached to your expert report that was filed with
11 the Applicants and Blue Delta's comments in this
12 case?

13 A. I did. I cannot recall when, but I did
14 review those, and I noted they were not relevant to
15 the six facilities in this case, so I did not rely on
16 that for anything nor did I include them in my expert
17 witness testimony or my expert report.

18 Q. So this information didn't come from your
19 office.

20 A. I received an e-mail with that
21 information which I believe was received on the 18th
22 of November, the same day the comments were due. I
23 am not sure why I received it or why it was sent to
24 me, but when I developed my expert report prior to
25 that date, I had received three e-mails, sir. And

1 those three e-mails included the corrected
2 appendices, Joint Exhibits 1A, 1B, and 1C as we've
3 referenced today.

4 Q. And so the first time you -- you would
5 have received the incorrect appendix A and incorrect
6 appendix B to your expert report that was filed with
7 the comments, you received that from counsel's
8 office?

9 A. I received that from Blue Delta Energy,
10 and I believe that counsel was copied on that e-mail.

11 Q. Did you open it when you received it?

12 A. I make a habit to open my e-mails when I
13 receive things, yes.

14 Q. And did you open the Excel spreadsheets
15 for that -- that was filed as Appendix A and Appendix
16 B?

17 A. I did open the spreadsheet, and as I
18 noted on the title, if you reference all the way to
19 the last four columns of that, referenced none of the
20 facilities that were included in this filing;
21 therefore, I decided it was not relevant on my
22 analysis on the six facilities and that's what I
23 based my expert witness report on.

24 Q. Did you ever ask Blue Delta why they sent
25 this information to you?

1 A. No, sir, I did not.

2 Q. So sitting here today, you have no idea
3 where these -- or why Appendix A and Appendix B that
4 reflect the incorrect information that was attached
5 to your expert report that was ultimately attached to
6 the comments, why that was sent to you or why that
7 was sent by Blue Delta, correct?

8 A. I can't speak to Blue Delta's reason why
9 they sent it to me, sir.

10 MR. DeMONTE: One minute, your Honor, or
11 one second.

12 EXAMINER HICKS: Go ahead. Sorry.

13 MR. DeMONTE: No further questions.
14 Thank you, Judge.

15 EXAMINER HICKS: Okay. Thank you.

16 Just double-checking, I don't believe any
17 other parties had cross for Mr. Chiles.

18 Thank you, Mr. Chiles. We are going to
19 go ahead and cut it off. You are good to go. Thank
20 you for sticking around all week.

21 MS. BOJKO: Your Honor, may I move the
22 admission of Joint Exhibit 1A, please?

23 EXAMINER HICKS: Okay. So housekeeping,
24 we had deferred Joint Exhibit 1. I believe if you
25 could just put on the record, Mr. Whitt, I don't know

1 what got said on and off the record yesterday. I
2 believe you had indicated you were withdrawing your
3 objection to that -- to its admission, correct?

4 MR. WHITT: In light of the testimony we
5 just heard and for a clear record on the need for
6 clarification from witnesses and so that everyone
7 understands the chronology, we will withdraw previous
8 objections understanding 1 and 1A will both be in the
9 record, subject to your Honor's ruling.

10 EXAMINER HICKS: So based upon that, I
11 assume you have no objection to Joint Exhibit 1A?

12 MR. WHITT: Correct.

13 EXAMINER HICKS: Any objections from
14 anyone else as to Joint Exhibit 1 or Joint
15 Exhibit 1A?

16 Then they are both admitted.

17 MS. BOJKO: Thank you, your Honor.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 EXAMINER HICKS: I believe, Ms. Bojko,
20 you had said the intent was to call Mr. Nelson next?

21 MS. BOJKO: Yes, your Honor. Yes, your
22 Honor. At this time Blue Delta would like to recall
23 Mr. Ken Nelson to the stand.

24 EXAMINER ST. JOHN: Mr. Nelson, please
25 step forward.

1 (Witness sworn.)

2 EXAMINER ST. JOHN: Please proceed.

3 MS. BOJKO: Thank you, your Honor.

4 - - -

5 KENNETH NELSON

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

8 DIRECT EXAMINATION

9 By Ms. Bojko:

10 Q. Mr. Nelson, can you just state your name
11 for the record.

12 A. Sure. It's Kenneth Nelson.

13 Q. And on whose behalf are you testifying
14 today?

15 A. On behalf of Blue Delta Energy, LLC.

16 Q. Sir, were you the same -- are you the
17 same Mr. Nelson that testified on Monday, December 5?

18 A. I -- yes.

19 Q. Sir, what is -- what is the purpose of
20 your testimony today?

21 A. It's to discuss and to submit the correct
22 attachment to my testimony that was incorrectly filed
23 I think due to a document compilation error.

24 Q. Okay. So, sir, just to back up a step,
25 you were in the hearing room on Tuesday, December 6,

1 when it was discovered there was a document
2 compilation clerical error in attaching the wrong
3 spreadsheets to your direct testimony?

4 A. That is correct.

5 Q. And your previous testimony was filed on
6 August 12, 2022, as Joint -- and has been identified
7 as Joint Exhibit -- I'm sorry, and has been
8 identified as Blue Delta Exhibit 1?

9 A. Let me make sure. Yes, August 12, 2022.

10 Q. Thank you.

11 MS. BOJKO: Your Honor, at this time I
12 would like to mark as Blue Delta Exhibit 1A the
13 corrected Attachment A to the direct testimony of
14 Mr. Ken Nelson filed on August 12, 2022.

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

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MS. BOJKO: May I approach, your Honor?

19 EXAMINER ST. JOHN: Yes.

20 Q. (By Ms. Bojko) Sir, do you have in front
21 of you a document that has been marked as Blue Delta
22 Exhibit 1A?

23 A. I do.

24 Q. Do you recognize this document as
25 corrected Attachment A of your direct testimony?

1 A. I do.

2 Q. And, sir, I believe you testified on
3 Monday that the direct testimony was prepared by you
4 or under your direction, the testimony itself; is
5 that correct?

6 A. That is correct.

7 Q. Could you explain the changes to this
8 document, Blue Delta Exhibit 1A, compared to your
9 previously filed testimony?

10 A. Yes. The DFAXs that had been attached as
11 part of the joint-sponsored expert report have been
12 replaced with the correct DFAX reports.

13 Q. And so are the spreadsheets that are
14 attached to Exhibit 1A the correct spreadsheets?

15 A. Yes, they are.

16 Q. Okay. And did you previously receive the
17 spreadsheets electronically?

18 A. Yes, I previously received an e-mail from
19 PJM with the Barton 1 information that basically had
20 consisted of two attachments, one the cover page and
21 summary report in a PDF format and one is an Excel
22 spreadsheet with all of this information.

23 Q. Okay. And did you receive the other
24 correct spreadsheets electronically from counsel?

25 A. Yes.

1 Q. When you received the e-mail either from
2 PJM and counsel, were the cover sheets and Excel
3 spreadsheets all in one document, or did you just say
4 they were two documents?

5 A. There were two separate attachments and
6 two separate formats, one PDF format which was the
7 report and one as an Excel spreadsheet which was the
8 actual data.

9 Q. Sir, if you recall, were the spreadsheets
10 specifically marked for a particular facility, or how
11 were they labeled when you received these e-mails?

12 A. Do you mean the file names?

13 Q. Yes, yes.

14 A. I am not sure of the PJM naming
15 nomenclature for the file names. I believe they
16 probably were just DFAX summaries for wind farms.

17 Q. Is it your understanding that Exhibit 1A
18 contains the correct spreadsheets that Staff also
19 reviewed?

20 A. It is.

21 Q. And, sir, why weren't these correct
22 spreadsheets attached to Blue Delta's initial
23 comments?

24 A. It is our understanding that when the --
25 our legal counsel was compiling the submission under

1 the PUCO DIS docketing system to submit our
2 testimony, that the -- while the correct PJM summary
3 report and cover sheet were attached, the very large
4 and very small fine print spreadsheets that were then
5 created I guess as PDFs and then compiled into a
6 larger PDF were compiled with another incorrect
7 spreadsheet.

8 Q. Okay. And that description was what was
9 attached to your direct testimony, correct?

10 A. That is correct.

11 Q. And did you rely on counsel to file the
12 correct spreadsheets and attachments to your
13 testimony, sir?

14 A. Yes, I relied on counsel to do the
15 compilation and the actual submission of the
16 testimony.

17 Q. And unfortunately, sir, you did not check
18 counsel's printout of the exhibit or the filing; is
19 that fair?

20 A. Unfortunately.

21 Q. Did you recognize the incorrect
22 spreadsheet that was attached to the comments?

23 A. I did not until it was raised by I
24 believe the Applicants' counsel.

25 Q. So now, sir, do you recognize what that

1 document is?

2 A. Meaning the incorrect document?

3 Q. Yes.

4 A. Yes; yes, I did.

5 Q. And when did you forward the incorrect
6 spreadsheet, the unrelated facilities, to counsel and
7 Mr. Chiles?

8 A. On November 18 of, I guess, 2021. The
9 years go by.

10 Q. And that happened to be the same date
11 that comments were filed that you sent that unrelated
12 spreadsheet that looked like a DFAX spreadsheet to
13 counsel?

14 A. It is a DFAX spreadsheet but just for an
15 unrelated facility and, yes, that is correct.

16 Q. Was your analysis in preparation of your
17 direct testimony based off the correct DFAX reports
18 for the facilities that are at issue in this case?

19 A. Yes.

20 Q. Does your analysis change with the
21 corrected Attachment A?

22 A. No, it does not.

23 Q. Does your testimony change with the
24 corrected Attachment A?

25 A. Other than the correction, no, it does

1 not.

2 Q. And, sir, did you know of this document
3 compilation clerical error prior to the Tuesday
4 hearing when it was discovered?

5 A. I did not.

6 Q. So, sir, when you testified on Monday,
7 did you knowingly make any false statements on the
8 record?

9 A. I did not.

10 Q. So, sir, with the corrected Attachment A,
11 if I were to ask you the same questions today as they
12 appear in your direct testimony previously marked as
13 Blue Delta Exhibit 1, would your answers be the same?

14 A. They would.

15 MS. BOJKO: Thank you.

16 Your Honor, at this time I have no
17 further questions.

18 EXAMINER ST. JOHN: Thank you.

19 Mr. Whitt?

20 MR. WHITT: Thank you.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Whitt:

24 Q. Sir, could you turn to Appendix B of your
25 corrected Attachment A.

1 MR. WHITT: What have we called that,
2 Blue Delta Exhibit?

3 MS. BOJKO: 1A.

4 A. Appendix B, yes.

5 Q. Could you also look in your pile there
6 for Staff Exhibit 2B.

7 A. Found it.

8 Q. Okay. I am going to be comparing Staff
9 Exhibit 2B to your corrected Appendix B, okay?

10 A. Yes.

11 Q. And if we look at the two documents, we
12 look at the cover pages, those appear to be the same
13 although color copying; is that fair to say?

14 A. Yes.

15 Q. And the page that says "This page
16 intentionally left blank" appears to be the same in
17 both documents, correct?

18 A. Yes.

19 Q. When we go to the third page, these pages
20 are different, are they not?

21 A. They are.

22 Q. And there is a page 2 in your Appendix B
23 that is not included in the Staff Exhibit 2B,
24 correct?

25 A. That is correct.

1 Q. Let's go to the first page of the actual
2 spreadsheet for both exhibits. Those documents are
3 just -- they're visibly different, are they not?

4 A. Yes, they are.

5 Q. And if you go to the second page of Staff
6 Exhibit 2C and look at the second page of your
7 corrected Appendix 2B, there is some highlighting in
8 one that's not in the other, correct?

9 MS. BOJKO: Objection. I think you said
10 2C. Sorry.

11 Q. I'm sorry. 2B.

12 A. Yes. 2C --

13 MS. BOJKO: We are on Staff Report 2B.

14 A. Staff Report 2B.

15 Q. Your corrected Appendix B is different
16 than the spreadsheet attached to Staff Exhibit 2B,
17 correct?

18 A. Yes.

19 THE WITNESS: Would it help to explain
20 the differences?

21 EXAMINER HICKS: No. Just listen to his
22 questions.

23 MR. WHITT: No further questions.

24 MS. BOJKO: Your Honor, can I ask a brief
25 redirect?

1 EXAMINER ST. JOHN: At this point this is
2 a recall witness, already had the opportunity to give
3 his testimony in the first place, do an initial
4 redirect and now recall the witness, so for that
5 reason we are not going to allow any redirect of the
6 recall.

7 MS. BOJKO: Okay. Thank you, your Honor.

8 EXAMINER ST. JOHN: Thank you.

9 With that being said I can't remember if
10 you had moved to admit Blue Delta Exhibit 1A?

11 MS. BOJKO: I have not yet -- yes, I did
12 earlier, I'm sorry. If not, I will move to admit
13 Blue Delta Exhibit 1A right now. Thank you, your
14 Honor.

15 EXAMINER ST. JOHN: Thank you. And I do
16 recall that you had moved to admit either Monday or
17 Tuesday of this week Blue Delta Exhibit 1 and there
18 was some objections to the admission of that exhibit.
19 So I would like to take both of those exhibits up at
20 this time, Blue Delta Exhibit 1 and Blue Delta
21 Exhibit 1A. Are there any objections to the
22 admission of either of these two exhibits?

23 MR. DeMONTE: Your Honor, with respect
24 to -- 1 is what we marked earlier in the proceeding
25 and 1A is what we are doing on corrected? We've

1 heard testimony about the Excel files and these
2 electronic files that were transmitted by the witness
3 and relied upon by others. We've inquired as to
4 whether those have actually been produced and there
5 is an indication that they may have been. We would
6 just like the opportunity, your Honor, to check to
7 see what the status of that is. But subject to that
8 issue, we have no objections to 1 and 1A going in at
9 this time.

10 EXAMINER ST. JOHN: Just to make sure I
11 am understanding correctly, so your potential
12 objection would be if the documents had not been
13 produced to you?

14 MR. DeMONTE: That's what -- that's my
15 understanding of what we are trying to confirm.
16 That's right. And what flows from that, the
17 prejudice that would flow from that, things along
18 those lines.

19 MS. BOJKO: For clarity Blue Delta was
20 never served with any discovery so that issue cannot
21 be an issue in this case with regard to Mr. Nelson.

22 MR. DeMONTE: Your Honor, this is the
23 witness who transmitted -- we just heard for the
24 first time that this was the witness who actually
25 transmitted the incorrect files. We just found that

1 out. The other witnesses did not know that. We are
2 simply noting for the record that this is -- and we
3 asked the question and no one right now -- because we
4 don't have our files, either counsel has their files,
5 we just wanted to raise so there wasn't any surprise
6 we need to just confirm if that -- if they were
7 produced, then that's -- that's the end of it.

8 EXAMINER ST. JOHN: But --

9 MS. BOJKO: It would never have been
10 produced, your Honor, because we didn't know that it
11 was the wrong file, and Mr. Nelson -- Blue Delta
12 never was served any discovery, so we would never
13 have had the opportunity to produce any documents or
14 e-mails from Mr. Nelson.

15 It was again the wrong document went to
16 counsel on the day comments were due which is why
17 this error occurred. It has nothing to do with this
18 case. It's irrelevant. And they have actually had
19 that document for two years now twice. They have had
20 it double, so it's been produced because it was what
21 was filed on the docket so there can't be any
22 argument that it wasn't produced. It wasn't
23 produced.

24 MR. DeMONTE: Your Honor, and I don't --
25 it's not -- what I am trying to identify without

1 arguing is we literally just heard for the first time
2 the importance of the electronic documents that were
3 being relied on by Applicants to establish a prong of
4 their showing, their burden, their case that was --
5 we asked expressly to identify those documents. No
6 Excel files were ever identified. We did not know
7 the -- where these -- where the Excel files that had
8 just been identified recently today, in the last
9 couple of days, we just found out where they came
10 from.

11 Assessing the body of how the evidence
12 has come in, your Honor, we are just noting for the
13 record that that issue is still outstanding because
14 if we go back and check in these documents -- because
15 Applicants' counsel were on these e-mails, we've
16 heard that testimony, and we just want to assess that
17 situation without waiver of anything or any of those
18 issues. It may be it is not an issue when we go back
19 and check the files.

20 MS. WHITFIELD: I want to clarify
21 something, Applicants' counsel was not -- I am
22 Applicants' counsel. We were not on these e-mails.

23 MR. DeMONTE: Applicants. I said I had
24 spoken to counsel about who was on this, and we heard
25 testimony about who received it. This isn't -- this

1 isn't -- this isn't -- we were just wanting to look
2 at what happened and if what happened in this case is
3 that documents were asked for, they were not
4 provided, but yet we heard testimony today in recall
5 they were relied upon, that would be an issue, but it
6 may not be an issue if they were produced.

7 MS. BOJKO: They weren't relied upon,
8 your Honor. They were never produced because it was
9 the wrong documents that got attached in error. It
10 was never --

11 MR. DeMONTE: We don't object to this
12 coming in, Judge. We don't object. That was the
13 question. I just --

14 EXAMINER ST. JOHN: Okay. So you do not
15 object to these documents coming in?

16 MR. DeMONTE: Just wanted to raise -- no
17 objections. Just wanted to highlight --

18 MS. BOJKO: And, your Honor, and I am
19 going to object again for double teaming for the same
20 witness. The witness counsel was Mr. Whitt, and now
21 non-witness counsel is speaking to issues about this
22 witness. Maybe that's why there is confusion about
23 what he is objecting to or not but Blue Delta was
24 never served any discovery so that can't be an issue.

25 EXAMINER ST. JOHN: All right.

1 Everything is noted. These two exhibits, Blue Delta
2 Exhibit 1 and Blue Delta Exhibit 1A, are hereby
3 admitted.

4 (EXHIBITS ADMITTED INTO EVIDENCE.)

5 EXAMINER ST. JOHN: Thank you,
6 Mr. Nelson.

7 Let's go off the record for just a
8 moment.

9 (Discussion off the record.)

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

12 And I will go ahead turn things over to
13 the Applicant.

14 MS. WHITFIELD: Thank you, your Honor.
15 At this time Applicants recall Pete Landoni.

16 EXAMINER ST. JOHN: Please step forward,
17 Mr. Landoni.

18 (Witness sworn.)

19 EXAMINER ST. JOHN: Please proceed.

20 - - -

21

22

23

24

25

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

PETE LANDONI

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

DIRECT EXAMINATION

By Ms. Whitfield:

Q. Can you please state your name and address again for the record, please.

A. It's Pete Landoni, 2701 Northwest Vaughn Street, Suite 300, Portland, Oregon.

Q. And you recall previously testifying on Monday in this hearing?

A. I do.

Q. And whose -- on whose behalf did you testify on Monday?

A. Avangrid and the Applicants, Avangrid Renewables and the Applicants.

Q. And is that whose testimony -- whose behalf you are testifying today?

A. Yes.

Q. And were you in the room -- the hearing room here on Tuesday when a document compilation error with respect to the attachments to your direct testimony dated August 12, 2022, was discovered by me?

A. Yes.

1 Q. And so what is the purpose of your
2 testimony today?

3 A. I'm here to talk about the chain of
4 custody for the DFAX reports and also make sure we
5 get the correct attachments into the record.

6 EXAMINER ST. JOHN: Mr. Landoni, I don't
7 believe your microphone is on. Would you mind
8 turning that on? Thank you.

9 THE WITNESS: Sorry.

10 MS. WHITFIELD: Your Honors, I would like
11 to mark for identification purposes as Applicants
12 Exhibit 7A, the corrected Attachment A to Avangrid
13 Exhibit 7, direct testimony of Pete Landoni, and as
14 Applicants 7B, the corrected Attachment B to Avangrid
15 Exhibit 7, direct testimony of Pete Landoni. May I
16 approach?

17 EXAMINER ST. JOHN: Yes. And those will
18 be so marked.

19 (EXHIBITS MARKED FOR IDENTIFICATION.)

20 Q. (By Ms. Whitfield) Mr. Landoni, do you
21 have in front of you what has been marked as
22 Applicants Exhibits 7A and 7B?

23 A. Yes.

24 Q. Do you recognize these documents as
25 corrected attachments to your direct testimony?

1 A. Yes, I do.

2 Q. Could you explain the corrections to the
3 attachments as compared to your previously filed
4 attachments?

5 A. Yes. There was a document compilation
6 error and the wrong spreadsheet or paper spreadsheet
7 was included in those attachments and these are
8 corrected.

9 Q. And this contains corrected DFAX
10 spreadsheets for the Barton 1, Buffalo Ridge II, Elm
11 Creek II, Rugby, and Moraine facilities?

12 A. If you are talking about Attachment A,
13 yes, that's correct.

14 Q. Are the spreadsheets attached to
15 Exhibits 7A and 7B --

16 A. And I'm sorry. Can you tell me -- there
17 is no numbers on these. So is A's attach --

18 Q. The one that says corrected Attachment A
19 is 7A, and the one that says corrected Attachment B
20 is 7B.

21 A. Okay. Thank you.

22 Q. Sure. So are the spreadsheets attached
23 to Exhibit 7A and 7B the correct spreadsheets?

24 A. They appear to be, yes. Yep, they are.

25 Q. Did Avangrid previously receive these

1 spreadsheets?

2 A. Yes.

3 Q. And were these spreadsheets forwarded to
4 counsel -- to Staff?

5 A. Yes, they were.

6 Q. And are the corrected attachments --
7 Exhibit 7A and 7B contain the same data as the
8 spreadsheets that Staff reviewed? Do you know?

9 A. I believe that that is true, yes.

10 Q. Did you previously review the corrected
11 spreadsheets that are attached as Exhibit 7A and 7B?

12 A. I did.

13 Q. Do you know why those spreadsheets
14 weren't attached to Avangrid's initial comments?

15 A. My understanding there was a document --
16 a document compilation error that when the document
17 got put together, they just pulled the wrong
18 spreadsheet.

19 Q. And was that document compilation error
20 carried forward to the attachments to your testimony?

21 A. Yes, it was.

22 Q. And did you rely upon counsel to file the
23 attachments to your testimony?

24 A. I did.

25 Q. And to compile those attachments?

1 A. I did.

2 Q. Were the DFAX report cover sheets and the
3 actual report attached to your testimony correct?

4 A. Corrected Attachment A, yes. Is that all
5 we are talking about is A, or are we talking about B
6 also?

7 Q. A is fine as long as you can tell me
8 that.

9 A. Yeah, yes.

10 Q. They are correct, so the PJM cover sheets
11 and the summary report were the same.

12 A. I'm sorry. Let me look at this one.
13 Yes.

14 Q. Thank you. Did Avangrid base its review
15 and analysis of whether to seek certification off of
16 the correct DFAX cover sheets, summary reports, and
17 spreadsheets?

18 A. Off of the correct ones, yes.

19 Q. Does Avangrid's position change with the
20 corrected attachments now?

21 A. No.

22 Q. Does your testimony change with the
23 corrected attachments?

24 A. No.

25 Q. Did you knowingly make a false statement

1 when you testified on Monday regarding the
2 attachments to your testimony?

3 A. Absolutely not.

4 Q. Did you know of this document compilation
5 clerical error prior to Tuesday's hearing?

6 A. I did not.

7 Q. Now, do you recall on Monday questions
8 about the process by which Avangrid receives a
9 request from PUCO Staff for a DFAX study for the
10 facilities and then Avangrid's request for the DFAX
11 studies from PJM?

12 A. I do.

13 Q. Do you recall not being able to remember
14 some names of employees at Avangrid who worked with
15 your team to respond to the requests from Staff for
16 the DFAX study?

17 MR. WHITT: Objection. This was already
18 gone through with the Staff witness with the actual
19 e-mails. It's cumulative. It's unnecessary. I
20 object to them.

21 EXAMINER ST. JOHN: I will go ahead and
22 allow the question.

23 MS. WHITFIELD: Thank you, your Honor.

24 A. Could you repeat, please?

25 Q. Sure. Do you recall not being able to

1 remember some names of employees at Avangrid who
2 worked with your team to respond to the requests from
3 Staff for a DFAX study?

4 A. I do. The applications, you know, the
5 process was started almost two years ago, and some of
6 those staff have since left.

7 MS. WHITFIELD: Your Honor, at this time
8 I would like to mark three e-mails, the e-mails I
9 gave counsel on Tuesday. I would like to mark for
10 identification purposes as Applicants Exhibit 8, and
11 I am going to bring them all around at one time just
12 to save some time, an e-mail string and attachment
13 with the most recent e-mail dated May 19, 2021, from
14 Avangrid; as Exhibit -- Applicants Exhibit 9, an
15 e-mail string attachment with the most recent e-mail
16 dated May 19, 2021, from PJM to Staff; and
17 Exhibit 10, which is an e-mail string and attachments
18 with the most recent e-mail dated July 27, 2022, from
19 Avangrid to Staff.

20 EXAMINER ST. JOHN: Those three exhibits
21 will be so marked.

22 (EXHIBITS MARKED FOR IDENTIFICATION.)

23 MS. WHITFIELD: Your Honor, if I could
24 just have a minute to go grab mine out of my brief
25 case?

1 EXAMINER ST. JOHN: Yeah. Go ahead.

2 MS. WHITFIELD: I'm ready, your Honor.

3 EXAMINER ST. JOHN: Go ahead.

4 Q. (By Ms. Whitfield) Okay. Mr. Landoni,
5 could you please turn to what I have marked as
6 Applicants Exhibit 9. And for purposes of the
7 record, this is an e-mail string with an attachment
8 with the most recent e-mail dated May 19, 2021, from
9 PJM to Staff. Do you see that?

10 A. I do.

11 Q. Or actually, I'm sorry, from PJM to
12 Avangrid.

13 A. Correct, yes.

14 Q. My apologies. So just so I am clear on
15 the record, Exhibit 9, the most recent e-mail is from
16 PJM to Avangrid. Do you see that?

17 A. Yes, Zena Parks, yes.

18 Q. Now, if you turn to the last page -- or
19 to the first page -- the first e-mail on this chain
20 which is on page 6, do you see an e-mail --

21 A. From Stuart?

22 Q. -- dated April 28, 2021, from Stuart
23 Siegfried of PUCO to Zena Parks of Avangrid?

24 A. I do.

25 Q. Who is Zena Parks?

1 A. Zena Parks was an Avangrid employee
2 working on the Ohio REC certification team of which I
3 am the manager.

4 Q. And what was her role in assisting the
5 Company in their REN certification processes?

6 A. I believe Zena helped file applications
7 and, you know, looking to get the DFAX reports.

8 Q. And does this e-mail refresh your
9 recollection of the name of the Avangrid employee who
10 would have received a request from Staff for the
11 Applicants to obtain a DFAX study of the facilities?

12 A. Yes.

13 Q. I'm sorry if you already said this, but
14 did Mrs. Park work on the Company's REN certification
15 efforts with you?

16 A. Yes, I'm sorry, she did.

17 Q. And as that, did she work under your
18 supervision or your direction on those REN
19 certification efforts?

20 A. Yes.

21 Q. Is Staff's April 28, 2021, e-mail
22 requesting DFAX studies for some of the facilities at
23 issue in this case?

24 A. Yes. That's my understanding.

25 Q. Do you know which ones?

1 A. Moraine I, Rugby, Buffalo Ridge II, and
2 Elm Creek II.

3 Q. So after this company's employee,
4 Ms. Parks, on your team received the request, does
5 this refresh your recollection?

6 A. Yes.

7 Q. Sorry. Go ahead. Or let me -- does --
8 what would the Company do once they received the
9 request from Staff for a DFAX study?

10 A. I believe that this was the first request
11 that we got, so Ms. Parks did not exactly know where
12 to get a DFAX report. So she tried to send an e-mail
13 to GATS Administrator which is not really the right
14 place. And when we heard nothing from them, I
15 suggested that we reach out to our PJM representative
16 Anthony DiDonato.

17 Q. And you testified about Mr. DiDonato
18 being your client representative on Monday when you
19 testified, right?

20 A. I believe so, yes.

21 Q. Now, I notice that you're not copied on
22 this e-mail from Ms. -- Ms. Zena --

23 A. Yeah.

24 Q. -- to Mr. DiDonato --

25 A. Yep.

1 Q. -- and with PJM, do you see that?

2 A. Yes.

3 Q. Okay.

4 A. The May 3?

5 Q. Yes.

6 A. Yep.

7 Q. Is it unusual for you not to be copied on
8 these e-mail communications between Ms. Parks and PJM
9 on behalf of Avangrid?

10 A. No, it is not unusual.

11 Q. Why?

12 A. I'm a manager. I trust people to do
13 their work the way they are supposed to do their
14 work. We probably had conversations about it so.

15 Q. Now, with respect to -- in this e-mail if
16 you look at pages 1 -- starting at the bottom of page
17 1 of Exhibit 9 through page 3, there seems to be some
18 charts of data about the specific facilities. Do you
19 see that?

20 A. I do.

21 Q. Would you or someone on the asset
22 management team have been involved with providing
23 Ms. Parks with the information requested by PJM
24 that's reflected in these charts?

25 A. Yes. I -- I was directly in charge of

1 two of the assets, and my team, the other asset
2 managers that report to me, had the others.

3 Q. And did Avangrid receive the DFAX studies
4 from PJM for the Moraine, Rugby, Buffalo Ridge, and
5 Elm Creek facilities?

6 A. Yes.

7 Q. And that's reflected in the top e-mail of
8 Exhibit 9 dated May 19, 2021?

9 A. That's correct.

10 Q. And are the DFAX studies and cover
11 summary sheet attachments to this e-mail?

12 A. Yes. Sorry.

13 Q. Now, if I could have you turn to
14 Exhibit 8, I apologize for taking these out of order.

15 A. That's fine.

16 Q. Does Applicants Exhibit 8 --

17 A. Hold on.

18 Q. Sorry, sorry, sorry.

19 A. Okay.

20 Q. Okay. Does Applicants Exhibit 8 refresh
21 your recollection whether the DFAX studies for the
22 four facilities, Moraine, Rugby, Buffalo Ridge II,
23 and Elm Creek II were sent to PUCO?

24 A. Yes.

25 Q. Is that reflected in that e-mail at the

1 bottom on page 1?

2 A. Yes.

3 Q. Were you copied on this submission to
4 Staff?

5 A. I was.

6 Q. Do Applicants Exhibits 8 and 9 refresh
7 your recollection as to how the Company received a
8 request from Staff for the DFAX studies, made the
9 request to PJM, received the studies from PJM, and
10 sent them to Staff for these four facilities?

11 A. Yes, it does.

12 Q. Okay. Now if I could have you look at
13 what has been marked as Applicants Exhibit 10.

14 A. Okay.

15 Q. Okay. And what is this e-mail chain
16 about?

17 A. So we applied for -- we had the
18 application for Barton 2; and Staff, Ms. Clingan, had
19 went back to Zena Parks. And what did she ask for?
20 Oh, she needed the DFAX study. By that time Zena had
21 left, so the e-mail went to the ether. And then
22 Ms. Clingan sent an e-mail to Kristin Sare who is on
23 my team, works for me, saying she hadn't received a
24 response from Zena about the pending application and
25 the DFAX report. And then, you know, it got

1 forwarded to the correct people in Avangrid, and we
2 got the DFAX report.

3 Q. Okay. Let me ask who I see -- you said
4 Zena left.

5 A. She did.

6 Q. She left the company.

7 A. Uh-huh, yes.

8 Q. And then I see two names related to
9 Avangrid, James Reyes and Jose Suarez.

10 A. Suarez, yep.

11 Q. Is it fair to say that they were filling
12 the role that Zena was doing with respect to Barton
13 2?

14 A. Yes.

15 Q. And were they -- did Mr. Reyes and
16 Mr. Suarez work on this company's REN certification
17 processes that you were a manager of?

18 A. Yes.

19 Q. And you reference that Kristin Sare --
20 well, do you see that Kristin Sare is -- well, strike
21 that.

22 First of all, do you see that Exhibit 10
23 reflects that the DFAX study -- the DFAX report was
24 submitted to Staff?

25 A. Yes.

1 Q. And I see Ms. Kristin Sare was copied on
2 those communications, right?

3 A. That's correct.

4 Q. And I believe you referenced Ms. Sare in
5 your testimony on Monday in response to some
6 cross-examination?

7 A. I did.

8 Q. I think she was actually listed as the
9 contact for some of the -- on some of the
10 applications for the facilities; does that -- do you
11 recall that?

12 A. I do and that makes sense. She's the
13 asset manager for that -- for that asset.

14 Q. And does she report to you?

15 A. Directly to me.

16 Q. And when you're out, does she act on your
17 behalf and in your stead?

18 A. Yes. She's the fill in for the East
19 Regional Lead when I am gone.

20 Q. And you are the East Regional Lead?

21 A. I am.

22 MS. WHITFIELD: No further questions,
23 your Honor. I would move for the admissibility of
24 Applicants Exhibits 7A, 7B, 8, 9, and 10.

25 EXAMINER ST. JOHN: Thank you.

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

Mr. Whitt.

- - -

CROSS-EXAMINATION

By Mr. Whitt:

Q. Sir, could you pull Applicants Exhibit 9.

EXAMINER ST. JOHN: Would you mind turning your microphone on as well.

MR. WHITT: Sorry.

Q. (By Mr. Whitt) Applicants Exhibit 9, please, page 6 in particular.

A. Page 6 of the e-mails?

Q. Yes, sir.

A. Okay. Yes.

Q. The April 28 e-mail from PUCO Staff to Ms. Parks, do you see that?

A. I do.

Q. By the way, April 28, that's about 18 months ago, whatever the calendar says, right?

A. I don't -- I don't have a calendar. I don't have a calculator in front of me, so I'll take your word for it.

Q. I want to understand, there repeatedly has been said this is a process that's been going on for two years and are you aware of any series of communications that preceded the e-mails that we're

1 talking about here by six or more months?

2 A. No.

3 Q. Okay. On page 6, your company is being
4 instructed by Staff or informed by Staff about the
5 deliverability requirement and in bold there is
6 reference to demonstration of physical deliverability
7 to the State of Ohio. Do you see that?

8 A. I do.

9 Q. And there is no Staff -- there is no
10 mention to some Koda case or Koda standard or the
11 word Koda doesn't appear in this e-mail, does it?

12 A. It does.

13 Q. And Staff is advising you such
14 demonstration has typically taken the form of a power
15 flow study, correct?

16 A. Yes.

17 Q. Staff is not instructing you that the
18 Applicants are required to obtain a DFAX -- a power
19 flow study, correct?

20 A. Could you say that one more time?

21 Q. Well, when you are being -- when you are
22 told that such demonstration has typically taken the
23 form of a power flow study, you don't interpret that
24 to mean that you are being instructed here to obtain
25 a power flow study, that that's the only way

1 deliverability could be shown?

2 A. That's what I am -- that's what I am
3 inferring from this. That is the way to do it.

4 Q. You are inferring because you weren't
5 part of this communication, were you?

6 A. I was not.

7 Q. You were trusting other people to handle
8 the process, correct?

9 A. I was.

10 Q. And the knowledge of the matters you've
11 spoken about with regard to Applicants Exhibits 8, 9,
12 and 10 are based on your review of e-mails you went
13 over with your counsel, correct?

14 A. Restate that, please.

15 Q. Exhibits 8 and 9 and 10 are collections
16 of e-mails. You just had a discussion with your
17 counsel about what -- about the contents of those
18 e-mails, correct?

19 A. Yes.

20 Q. And the discussion was to attempt to
21 explain what was happening during a period of time in
22 which you were not being copied on communications you
23 just testified about, right?

24 MS. WHITFIELD: Objection. That calls
25 for privileged communications and he has already

1 testified that he's copied on some of them. And the
2 people that are on them were either his stand in when
3 he was not available or all of them reported to him.

4 EXAMINER ST. JOHN: Mr. Whitt.

5 MR. WHITT: That doesn't sound like any
6 objection. It sounds like why she doesn't like the
7 question. What's the objection?

8 MS. WHITFIELD: Well, he is asking what
9 counsel and he talked about.

10 MR. WHITT: I didn't ask a thing about
11 counsel.

12 MS. WHITFIELD: You said the purpose of
13 your communication with counsel was, and then you
14 went on to assume what we talked about which --

15 MR. WHITT: I was referring to the
16 exchange that occurred in here on the record.

17 EXAMINER ST. JOHN: I think it would be
18 helpful for me at least to have the question reread.
19 Karen, would you mind doing that?

20 (Record read.)

21 MS. WHITFIELD: So, first, I
22 misunderstood the timing of where he was asking. I
23 thought he was talking about in preparation, so I
24 will withdraw the privileged objection, but I will
25 add that it is -- you know, we are -- it's an

1 objection because he is a company representative. He
2 is asking him just because he wasn't copied on them
3 that somehow means he doesn't have personal
4 knowledge, whenever he testified on direct that he
5 does and those people reported to him.

6 EXAMINER ST. JOHN: I will let the
7 question stand and let the witness answer to the full
8 extent that he can.

9 A. Okay. I'm a manager of the team, and I
10 don't know every single thing that people do or I am
11 not maybe copied on every single e-mail, but it's
12 still their responsibility of my team to get this
13 stuff done.

14 MR. WHITT: No further questions.

15 EXAMINER ST. JOHN: So before I ask
16 Mr. Landoni to sit down or to take a seat, step down
17 from the witness stand, I should say, we have a
18 current motion to admit Applicants Exhibits 7A, 7B,
19 8, 9, and 10. We also have from I believe Monday a
20 motion to admit Applicants 7 and at that time there
21 were objections to the admission of that exhibit. So
22 I will go ahead and ask at this point in time if
23 there are any objections to the admission of those
24 exhibits that I had just mentioned.

25 MR. WHITT: Your Honor, we would have the

1 same objections. I don't think we need to go through
2 them again, just generally in regard to the timing of
3 the disclosure of the information in the documents
4 which I think we can take up separately after we
5 release the witness. Subject to those objections,
6 otherwise, we have no problem -- no objection to
7 admission into the record.

8 EXAMINER ST. JOHN: Just want to make
9 sure I understand your comments, so when you are
10 saying timing of the disclosures, are you talking
11 about your -- your --

12 MR. WHITT: Just the Excel spreadsheets
13 that Mr. DeMonte was referring to earlier and just
14 the fact that the e-mails that are included in these
15 exhibits having not been previously produced, we
16 would just want the record to reflect we have not
17 previously produced them.

18 EXAMINER ST. JOHN: With that note on the
19 record, are you objecting to the admission of these
20 exhibits?

21 MR. WHITT: No.

22 EXAMINER ST. JOHN: Okay. Thank you.
23 Any other objections?

24 All right. Hearing none, those exhibits,
25 Applicants 7, 7A, 7B, 8, 9, and 10, are hereby

1 admitted.

2 (EXHIBITS ADMITTED INTO EVIDENCE.)

3 EXAMINER ST. JOHN: Thank you,
4 Mr. Landoni. You can step down.

5 THE WITNESS: Thank you very much, your
6 Honors.

7 EXAMINER ST. JOHN: Let's go ahead and go
8 off the record for a moment.

9 (Discussion off the record.)

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

12 While we were off the record, I
13 introduced the topic of post-hearing briefing
14 schedule and asked the parties to talk amongst
15 themselves and see if they could come up with a
16 mutually agreed upon briefing schedule.

17 I am not sure if that's happened yet, but
18 also while we were off the record, I asked if there
19 were any other issues that parties wanted to bring
20 up, and Mr. Whitt had raised an issue. Now that we
21 are back on the record, I would like to open the
22 floor to you, Mr. Whitt, and ask you again to make
23 any arguments that you would like to on the record.

24 MR. WHITT: Thank you, your Honor. The
25 off the record discussion, if I may approach, we

1 talked about the possibility of a late-filed exhibit
2 with CSG's original discovery requests,
3 interrogatories, requests for production of
4 documents.

5 During the break we were able to get
6 sufficient copies. I have marked for identification
7 CSG Exhibit 4, the first set of interrogatories,
8 request for production that was served on the
9 Applicants. The discovery requests and Applicants'
10 initial responses are already in the record as part
11 of the testimony of Mr. Stewart. I'm offering for
12 admission CSG Exhibit 4 because it contains the
13 definitions as well as instructions for answering
14 that accompanied those requests and that information
15 is pertinent to the discussion that has been had at
16 various points on the record about whether certain
17 e-mails and other documents had been requested in
18 discovery and whether material had been timely
19 disclosed.

20 I don't believe there is any need to
21 rehash those arguments at this time. I simply offer
22 the exhibit for aid and a clear record to the extent
23 any of these discovery or disclosure or timing issues
24 become pertinent to issues that may be raised in
25 post-hearing briefing.

1 EXAMINER ST. JOHN: Thank you. I know
2 that you handed two copies to me and Judge Hicks.
3 Thank you for that. Have you also circulated copies
4 to the other parties to the proceeding?

5 MR. WHITT: I have, your Honor.

6 EXAMINER ST. JOHN: Before I turn things
7 over to other parties to respond, I will say let's go
8 ahead and mark this as CSG Exhibit 4 just for clarity
9 of reference.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 EXAMINER ST. JOHN: And with that, do any
12 parties have any objection to proceeding in this way?

13 MS. WHITFIELD: Yes.

14 MS. BOJKO: Yes, your Honor.

15 MS. WHITFIELD: Yes, your Honor. I'll go
16 first on behalf of the Applicants. First of all, you
17 can't just submit an exhibit in an evidentiary
18 hearing without a witness unless it's been stipulated
19 to. Applicants are not stipulating to this. No
20 other party has stipulated to it. It is moot to the
21 extent that he is claiming that things were not
22 produced timely to him or that they were requested
23 and not produced because he did not object to the
24 admissibility of that evidence that he is complaining
25 about the timeliness.

1 Third, he filed a motion to compel with
2 respect to our discovery and actually sought
3 interlocutory appeal of your Honor's order. Now,
4 interestingly that motion to compel had nothing to do
5 about e-mails or communications. Didn't seek that.
6 He never requested those documents, particularly not
7 any communications with Staff.

8 And so he's trying to say that we need
9 this for a clear record, but it's unnecessary. The
10 record -- these exhibits he is complaining about, he
11 withdrew his objection, and they were admitted, so we
12 don't need this in the record any more.

13 And I could again rehash everything I
14 have said about not being requested and all that, but
15 I will just stand by what I have already argued
16 earlier today on that.

17 EXAMINER ST. JOHN: Thank you.

18 MS. WHITFIELD: So we object to the
19 admissibility of this attorney document. I mean,
20 this is not even any evidence in this case. It's
21 nothing to do with it. It is something he prepared,
22 so it has no relevance to the issues before this, and
23 nobody has laid a foundation for it. Attorneys can't
24 be witnesses here, or at least the attorney of one of
25 the Intervenors.

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

3 Anyone else?

4 MS. BOJKO: Yes, your Honor. On behalf
5 of Blue Delta, we also object to the admission of
6 this document. There's been no proper foundation for
7 this document. There's been no witness sponsoring
8 this document. We have not had an opportunity to
9 cross a witness on this document.

10 What Mr. Whitt is referring to are not
11 evidentiary issues. He is referring to legal issues
12 that he himself or his co-counsel have made on the
13 record. Attorney arguments are not part of the
14 record. We may not rely on attorney arguments as
15 part of our briefing. You can only rely on what's
16 been admitted into the record as testimony and
17 exhibits.

18 So this is not currently part of the
19 record, and CSG has no current witnesses on the
20 stand. They closed their case. There's no
21 opportunity to now bring in an extra record exhibit
22 and have it admitted without laying the proper
23 foundation, the proper -- to authenticate it, and
24 then to give parties an opportunity to cross on this
25 document for the purpose that he is trying to admit

1 it. We can't cross a witness on it. And we
2 certainly can't cross Mr. Whitt, an attorney, on it,
3 and any attorney arguments would not be part of the
4 record anyway. Thank you.

5 EXAMINER ST. JOHN: Thank you.

6 Are there any other parties that would
7 like to make any comments on this?

8 MR. RYAN: Your Honor, NIPSCO would join
9 the objections raised for the same reasons raised by
10 the Applicants and Blue Delta.

11 EXAMINER ST. JOHN: Thank you.

12 Response, Mr. Whitt?

13 MR. WHITT: Well, we just endured an
14 additional two days of hearing to allow duplication
15 of literally thousands of pages of additional
16 documents.

17 EXAMINER ST. JOHN: Would you mind
18 speaking into the microphone?

19 MR. WHITT: No one is prejudiced by
20 admission of this document which would aid in
21 clarifying the record. The Commission is entitled to
22 know what was asked for when, when the information
23 was produced, the extent to which CSG may have been
24 prejudiced by its non-production. That's all.

25 EXAMINER ST. JOHN: All right. Thank

1 you. I'll go ahead and at this point in time echo a
2 refrain that I have been stating for a few days here,
3 the interest of the Commission is to create a
4 complete record. That's something that, you know,
5 we've been lenient in other ways in allowing recalled
6 witnesses and this is -- this discovery issue has
7 been raised at least once or twice in the discussion
8 of certain documents that were produced and handed to
9 witnesses and then ultimately admitted.

10 For that reason at this time I will take
11 administrative notice of this document and will,
12 therefore, admit it as CSG Exhibit 4.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 MR. WHITT: Thank you, your Honor.

15 EXAMINER ST. JOHN: A second minor issue
16 I wanted to address. This is specifically for --
17 specifically for certain documents that were offered
18 today by the recalled witnesses, corrected
19 Exhibits 7A, 7B -- excuse me, Applicants Exhibits 7A,
20 7B, Blue Delta Exhibit 1A, and Joint Exhibit 1A.
21 There were certain spreadsheets in the documents that
22 I personally had trouble reading. My request at this
23 point in time is if counsel for those parties would
24 mind filing in the docket these documents which would
25 allow some magnification and hopefully additional

1 legibility of those spreadsheets. Would you all mind
2 doing that?

3 MS. WHITFIELD: Not at all, your Honor.

4 MS. BOJKO: No. We will double-check
5 them this time, your Honor.

6 EXAMINER ST. JOHN: Thank you.

7 EXAMINER HICKS: Let's not backtrack
8 here.

9 EXAMINER ST. JOHN: Before we went on our
10 break, we had asked the parties if they could
11 mutually agree to a post-hearing briefing schedule.
12 At this time I will go ahead and ask have the parties
13 agreed to a schedule?

14 MS. WHITFIELD: I think so, your Honor,
15 yeah.

16 MS. BOJKO: Fortunately, yes.

17 MS. WHITFIELD: We had originally thought
18 four weeks for the initial briefs and three weeks for
19 reply, but Staff and I believe CSG's counsel wanted
20 some more time for the initial brief, so we are -- I
21 think we have all agreed January 17 for the initial
22 briefing and February 7 for the reply brief.

23 MR. WHITT: That is consistent with our
24 understanding as well.

25 EXAMINER ST. JOHN: That's January 17 for

1 the initial brief and February 7 for the reply brief?

2 MS. WHITFIELD: Yes, your Honor.

3 EXAMINER ST. JOHN: Excellent. Those
4 will be the deadlines for the post-hearing briefs.

5 Is there anything else that any parties
6 would like to add before we close the record of this
7 case?

8 MS. WHITFIELD: Nothing from the
9 Applicants, your Honor. Thank you.

10 MS. BOJKO: No, thank you.

11 MR. WHITT: Nothing from CSG. Thank you.

12 EXAMINER ST. JOHN: All right. Thank you
13 all.

14 This case will be submitted to the
15 record, and we are hereby off the record.

16 (Thereupon, at 3:12 p.m., the hearing was
17 adjourned.)

18 - - -

19

20

21

22

23

24

25

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

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, December 8, 2022, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7383)

- - -

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on
12/26/2022 9:20:01 AM**

in

Case No(s). 21-0516-EL-REN, 21-0517-EL-REN, 21-0531-EL-REN, 21-0532-EL-REN, 21-0544-EL-REN, 22-0380-EL-REN

Summary: Transcript December 8th 2022 Volume 3 In the Matter of the Application of Moraine Wind, LLC, for Certification as an Eligible Ohio Renewable Energy Source Generating Facility. In the Matter of the Application of Rugby Wind, LLC, for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility. In the Matter of the Application of Elm Creek II for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility. In the Matter of the Application of Buffalo Ridge II for Certification as an Eligible Ohio Renewable Energy Resource Generation Facility. In the Matter of the Application of Barton Windpower 1 for Certification as an Eligible Ohio Renewable Energy Resource Generation Facility. 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.