

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the OVEC :  
Generation Rider Audits :  
Required by R.C. 4928.148 :  
For Duke Energy Ohio, Inc., : Case No. 21-0477-EL-RDR  
The Dayton Power and Light :  
Company, and AEP Ohio. :

- - -

PROCEEDINGS

before Megan Addison and Jesse Davis, Attorney  
Examiners, at the Public Utilities Commission of  
Ohio, 180 East Broad Street, Room 11-A, Columbus,  
Ohio, called at 9:00 a.m. on Friday, November 3,  
2023.

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VOLUME IV

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Friday Morning Session,  
November 3, 2023.

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EXAMINER ADDISON: Let's go back on the  
record. Good morning, everyone. Today is our fourth  
day of hearing in Case No. 21-477-EL-RDR.

We will not be taking appearances this  
morning. We will be resuming the testimony of  
Mr. Swez, so if you'd like to take the stand,  
Mr. Swez. And turn on your microphone, and I will  
just remind you that you're still under oath.

THE WITNESS: I understand.

EXAMINER ADDISON: Thank you. You can  
be seated.

EXAMINER DAVIS: Mr. Finnigan.

MR. FINNIGAN: Thank you, your Honor.  
Your Honors, I just wanted to let you know that I  
will have some questions of Mr. Swez involving  
confidential information, like Ms. Bojko, so I will  
do the public questions first, and then I assume  
we'll have a confidential session after all the  
public is completed like we did with Dr. Fagan.

EXAMINER DAVIS: Thank you,  
Mr. Finnigan.

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JOHN D. SWEZ,  
being first duly sworn, as prescribed by law, was  
examined and testified as follows:

CROSS-EXAMINATION (Continued.)

By Mr. Finnigan:

Q. Mr. Swez, nice to see you again, sir.

A. Nice to see you.

(Confidential transcript.)

MS. AKHBARI: Sorry, I would just note I  
don't think that figure is public information in the  
audit report. Mr. Swez probably doesn't realize  
that.

EXAMINER ADDISON: Let's go ahead and  
move that question and answer into the confidential  
transcript, please.

MR. FINNIGAN: And I'm sorry, Mr. Swez,  
I should have notified you that what I'd like to do  
now is just ask you a series of questions that would  
involve public information, and then later on I'll

1 have some questions that involve confidential  
2 information like this.

3 So if I do happen to ask you a question  
4 that would require you to disclose confidential  
5 information, don't disclose it, but instead just say  
6 I would need to provide confidential information to  
7 give you the answer, and then we'll do that at the  
8 later session.

9 EXAMINER ADDISON: Or at the very least,  
10 allow your counsel to object, to let us know that.

11 THE WITNESS: Understood.

12 EXAMINER ADDISON: Thank you.

13 By Mr. Finnigan:

14 Q. I want to follow up on some of Ms.  
15 Bojko's questioning from yesterday.

16 One of the things you talked about with  
17 her is that you talked about the OVEC units and how  
18 those are committed into the energy market, and then  
19 you talked about some other Duke units.

20 And you said that in some cases Duke has  
21 other units that are offered as economic in the PJM  
22 energy market, is that right?

23 A. That is correct.

24 Q. And would that also be true of the MISO  
25 wholesale market?

1           A. That is correct.

2           Q. And which -- what are the names of the  
3 other units that Duke offers in the PJM and in the  
4 MISO on an economic basis?

5           A. So typically the units that are offered  
6 as committed -- excuse me, offered with a commitment  
7 status of economic would be combustion turbines.  
8 Those would be the most frequent ones offered with an  
9 economic status. I can list the names if that's  
10 appropriate.

11          Q. No, that's okay. I wanted to ask about  
12 coal plants.

13                 Are there any coal plants that Duke owns  
14 anywhere that are ever offered with an economic  
15 commitment status into a wholesale energy market?

16          A. Yes, there are.

17          Q. And what plants would those be?

18          A. So in Duke Energy Kentucky's case, for  
19 East Bend, that's typically offered as must run, but  
20 there are times and situations where we may offer  
21 economic.

22                 And in Duke Energy Indiana's case, in  
23 the cases of Cayuga 1 and 2, Gibson 1 through 5,  
24 those seven coal-fired generators typically offered  
25 as must run, but not necessarily always, there are

1 times when they'll offer them as economic.

2 Q. And all of those plants are owned by  
3 Duke's regulated utility electric distribution  
4 companies, is that right?

5 A. That is correct.

6 Q. So none of those would be plants that  
7 are operated by a competitive generator seeking to  
8 maximize profits, are they?

9 A. I had this discussion a little bit  
10 yesterday. The word competitive generator, I don't  
11 know what that means, but to me I am trying to  
12 maximize the value of power plants in a competitive  
13 market.

14 So I don't know what that means, but to  
15 me, my behavior is trying to maximize the value of  
16 the units wherever they are at and whatever case it  
17 may be.

18 Q. Well, let me explain to you the meaning  
19 of competitive versus regulated in my line of  
20 questioning.

21 So do you understand that a regulated  
22 utility is subject to having its rates and charges  
23 approved by a Public Utilities Commission like the  
24 one here in Ohio?

25 A. Yes, I understand that.

1           Q.   So the Duke Kentucky units that you  
2 mentioned -- or the East Bend unit is subject to  
3 having its rates approved by the Kentucky Public  
4 Service Commission?

5           A.   That is correct.

6           Q.   And the Indiana units are subject to  
7 having their rates approved by the Indiana Utility  
8 Regulatory Commission?

9           A.   Again, correct.

10          Q.   And a competitive operator, though --  
11 for example, let's look at the Duke Zimmer plant.  
12 Duke sold Zimmer?

13          A.   I understand, yes.

14          Q.   And what year was that sold?

15               MS. AKHBARI: Your Honor, I would just  
16 object to the relevance of this line of questioning  
17 as it relates to -- in this case we're here to talk  
18 about the OVEC plants, not the sale of Duke  
19 subsidiary plants in other states.

20               MR. FINNIGAN: Your Honor, I do agree  
21 we're here to talk about the OVEC plants, but one  
22 thing we're here to talk about the OVEC plants about  
23 is about whether they operated as a -- the same way  
24 in which a competitive operator seeking to maximize  
25 profits would have run the plants.

1           And there's been some prefiled testimony  
2 submitted on that point indicating that there is a  
3 distinction between how competitive merchant  
4 operators will bid their plants into the wholesale  
5 market versus how regulated utilities will bid their  
6 plants in a wholesale market.

7           So I do agree we're here to talk about  
8 the OVEC plants, but that's one of the very important  
9 factors we're here to talk about regarding the OVEC  
10 plants.

11           MS. AKHBARI: In response, your Honor,  
12 the plant that Mr. Finnigan is attempting to talk  
13 about hasn't been owned by a Duke corporation  
14 subsidiary since probably 2015, and certainly not  
15 Duke Energy Ohio who has not had an interest in  
16 generation in the matter that Mr. Finnigan is  
17 addressing since 1999.

18           EXAMINER DAVIS: I'm going to sustain  
19 the objection. Move on.

20           MR. FINNIGAN: Thank you, your Honor.  
21 By Mr. Finnigan:

22           Q. So going back to the plants we were  
23 discussing, those are all owned by regulated  
24 utilities, is that right?

25           A. That is correct.

1           Q. Now, so these regulated utilities that  
2           you just mentioned, and the plants that you just  
3           identified, those plants have the flexibility to  
4           offer into the wholesale market as either economic or  
5           must-run commitment status?

6           MR. MCKENZIE: Objection, "those plants"  
7           is vague.

8           EXAMINER DAVIS: Can you clarify?

9           MR. FINNIGAN: I said the ones we just  
10          identified.

11          MR. MCKENZIE: He's identified a number  
12          of plants, both combustion and coal.

13          EXAMINER DAVIS: I agree. Can you be  
14          more specific?

15          By Mr. Finnigan:

16          Q. We can go back. So can you please  
17          repeat the names of the plants you identified two  
18          minutes ago?

19          A. And by "plants," do you mean only coal  
20          plants.

21          Q. Yes.

22          A. So the coal plants that I operate that  
23          we have talked about so far would be East Bend,  
24          Cayuga 1 and 2, Gibson 1 through 5.

25          Q. Okay. And I know you just mentioned

1 those, so -- but anyway, let's focus on those plants  
2 for a moment.

3 So you mentioned with those plants they  
4 are all owned by regulated utilities?

5 A. That is correct.

6 Q. And they all have flexibility to commit  
7 as either economic commitment status or must-run  
8 commitment status in the wholesale market?

9 A. They actually all don't. There are some  
10 plants that have restrictions that would prevent them  
11 from being available, that would prevent them from  
12 being offered as -- excuse me, economic.

13 And by that I mean some plants -- the  
14 one plant in particular, Cayuga has a steam supply to  
15 an external customer, whereas the cogeneration  
16 facility is taking steam, so that requires that unit  
17 to be must run.

18 At Gibson station there is one co-owned  
19 unit with three joint owners that if Duke would  
20 decide to offer their share as economic, the other  
21 owners must agree, so there's got to be a  
22 coordination amongst joint owners for that station.

23 Q. Okay. But we started out this line of  
24 questioning by me asking you does Duke own other  
25 plants that are offered as economic commitment status

1 at times, and then you named these plants.

2 Are you saying now that they can't be  
3 offered as economic commitment status?

4 A. Well, I believe you asked the names of  
5 the stations in which plants could be offered, and I  
6 named Cayuga, Gibson, and East Bend.

7 In the case of Cayuga, there are two  
8 units, so one unit must be offered as must run, the  
9 other one can be offered, if it makes sense, as  
10 economic. And those go back and forth.

11 So one day, you know, Unit 1 has to be  
12 on, the next day Unit 2 has to be on. In the case of  
13 Gibson, and it's always Gibson 5 that the joint  
14 ownership doesn't change on that station.

15 Q. Okay. So Cayuga has one unit that can  
16 be offered as economic commitment status?

17 A. That is correct.

18 Q. Was this also true in 2020?

19 A. Yes, it was.

20 Q. Then how many units at Gibson can be  
21 offered as economic commitment status?

22 MS. AKHBARI: I'm just going to object.  
23 I fail to see the relevance of this line of  
24 questioning and discussion about plants outside of  
25 the plants that we're here to talk about today.

1 MR. FINNIGAN: Your Honor, this is an  
2 issue that has been discussed in great detail in the  
3 prefiled testimony by Mr. Swez, along with a lot of  
4 other witnesses.

5 He explains how must-run commitment is  
6 appropriate at times, how economic commitment is  
7 appropriate at times, and then the Commission has  
8 said that one of the standards for determining  
9 whether these charges are prudent is whether the  
10 plants are committed consistently with the way that a  
11 competitive merchant operator would do who is seeking  
12 to maximize profits. So I'm simply trying to do  
13 cross-examination based on the direct examination  
14 that he filed.

15 MS. BOJKO: Your Honor, may I be heard  
16 on this topic? The audit report specifically states  
17 that the auditor reviewed unit scheduling --

18 EXAMINER DAVIS: The objection is  
19 overruled.

20 MS. BOJKO: -- of offering --

21 EXAMINER DAVIS: We are going to  
22 overrule the objection. Thank you, please proceed,  
23 Mr. Finnigan.

24 THE WITNESS: Do I answer the question  
25 now?

1           So I believe you were asking about  
2 Gibson Station's commitment, and I mentioned Gibson 5  
3 is a must -- a joint owned unit with three different  
4 owners.

5           Unit commitment is not always cut and  
6 dry, so in the case of Gibson Station there are more  
7 constraints that you must consider.

8           I didn't mention them in my direct  
9 testimony because I don't believe they apply to OVEC.  
10 But in the case of Gibson Station there's something  
11 called leachate that requires either one of the units  
12 1 and 2 to be on at times depending on how much it's  
13 actually rainwater related.

14           And then one unit on the back end of the  
15 station of 3, 4, and 5, so it depends. I mean,  
16 sometimes we have to have at least two units on.  
17 Sometimes if there's less leachate present you can  
18 get by with one unit on Gibson 5, so it varies in  
19 terms of how many units must be on.

20 By Mr. Finnigan:

21           Q. So how many units at Gibson have the  
22 potential to be committed as economic?

23           MS. AKHBARI: I'm going to just object  
24 again, I'm so sorry, your Honor. I just fail to see  
25 how this is relevant to the underlying case.

1                   We're getting into very detailed  
2                   machinations of power plants not in the state, not  
3                   under audit in this proceeding.

4                   MR. FINNIGAN: Your Honor -- if I may,  
5                   your Honor --

6                   EXAMINER DAVIS: Objection is overruled.  
7                   We'll give Mr. Swez, you know, a degree of latitude  
8                   when it comes to his answers, but we need to proceed.  
9                   So please, Mr. Finnigan.

10                  MR. FINNIGAN: Thank you, your Honor.  
11                  By Mr. Finnigan:

12                  Q. So, Mr. Swez, with regard to the Gibson  
13                  Station, how many units at Gibson have ever been  
14                  committed as economic?

15                  A. So I want to try to explain this  
16                  clearly. Each individual unit could be offered  
17                  economic, so Gibson 1, 2, 3, 4, and 5. But it's  
18                  dependent on the other units as well.

19                  So if Unit 1 is offered economic, and  
20                  Unit 2, you know, if we have a leachate issue which  
21                  requires either 1 or 2 to be online, then Unit 2 must  
22                  be online. So each unit could be offered economic,  
23                  but it's dependent on the other units.

24                  Q. And has each of those five units been  
25                  offered as economic at various times?

1           A. If you go back over the course of a  
2 number of years, yes, each Gibson unit has been  
3 offered with an economic status at different times.

4           Q. Okay. And then you also mentioned East  
5 Bend?

6           A. I did mention East Bend, yes.

7           Q. Is that one unit?

8           A. That is correct.

9           Q. And that's also offered as economic from  
10 time to time?

11          A. East Bend is almost always offered as  
12 must run, but there have been very limited instances  
13 when it's been offered as economic, but they have  
14 been very few.

15          Q. So would the answer to my question be  
16 yes?

17               MS. AKHBARI: Objection, asked and  
18 answered. He can give a full answer to that  
19 question.

20               EXAMINER DAVIS: Objection sustained.  
21 Move on.

22 By Mr. Finnigan:

23          Q. Now, these three different plants that  
24 you identified, how do you determine whether an  
25 economic commitment status offer might be

1 appropriate?

2 A. Like my direct testimony discusses,  
3 there are a number of factors. So we would start  
4 with is the plant available, that's Step I, right?

5 So it has to be available first. So if  
6 the plant is available, we generally have two  
7 choices; economic or must run.

8 Now, you would start with a forecast  
9 just like we do with OVEC. We start with a forecast,  
10 we go three weeks out, look at the projection of the  
11 margin of the unit, so we dispatch a simulated  
12 dispatch into the market, if it was on, how much  
13 revenue would it receive, and what was the variable  
14 cost to run that unit.

15 And then you have to start thinking  
16 about all the other factors. And like I said, I list  
17 them in my direct testimony, but is there required  
18 testing, what is the -- are you coming up on a period  
19 where you might shut down the unit, look at a  
20 potential cycle, do you have -- what is the risk,  
21 right?

22 There can be significant risks with  
23 taking a unit offline. I mean, for instance, winter  
24 storm Elliott, you know, it wouldn't have made sense  
25 to decommit units within, I would argue a month of

1 winter storm Elliott. We want those units on, I  
2 don't want to mess with that.

3 There's just a lot of factors that I  
4 list in my testimony. If you're offline for a long  
5 enough time period you're going to get into, you  
6 know, your coal situation. Do you have coal coming  
7 into the station which you have to find a place for.  
8 So there are a lot of factors that go into unit  
9 commitment.

10 Q. Okay. And in your direct testimony you  
11 describe these factors with respect to the OVEC  
12 plants.

13 Now, are you saying that the same kinds  
14 of factors would apply to whether to make an economic  
15 commitment status offer for any plant?

16 A. The plants are unique, and unit  
17 commitment can be unique with each plant. Some  
18 things are consistent across plants.

19 In the case of OVEC there are other  
20 factors you have to consider, like I've mentioned in  
21 my testimony; the external joint owners outside of  
22 PJM, there are factors of OVEC like the JBR, I think  
23 it's called the jet bubbling reactor, basically the  
24 scrubber.

25 So there are unique situations at each

1 different plant, but at the same time, there are  
2 similar factors at different plants.

3 Q. What are the similar factors that would  
4 apply across all plants in deciding whether to make  
5 an economic commitment status offer into the  
6 wholesale energy market?

7 A. Well, one, I would start with the  
8 projection of the variable cost and the revenue.  
9 Two, the startup cost, three, the risk of cycling a  
10 unit, how fast it can come down, how fast it can come  
11 back up. That's called minimum downtime.

12 Minimum up time, so once you turn it on,  
13 how long does it have to be on. Is there required  
14 testing coming up that you'd need to have the unit  
15 operating for.

16 I'm sure there's more, but that's about  
17 all I can think of off the top of my head.

18 Q. Okay. And you talked about some kind of  
19 analysis that you do on a three week out basis. Is  
20 that for any one of these common factors in deciding  
21 whether to do economic commitment, or is that unique  
22 to one of the plants?

23 A. No, we do that three-week projection for  
24 every unit we have -- excuse me, every coal unit that  
25 we have, and combined cycle including OVEC and the

1 Duke Kentucky and the Duke Energy Indiana plants.

2 Q. And of these different factors that you  
3 just mentioned that are common for any kind of  
4 commitment decision as economic, regardless of what  
5 the plant is, I've got, you know, the six different  
6 elements you just mentioned, which of those elements  
7 would be covered in this three-week forecast  
8 analysis?

9 A. So the analysis is a projection of the  
10 revenue and the variable cost. So you start with the  
11 assumption the plant is online.

12 So you're really not looking at --  
13 you're not considering all those -- none of those  
14 things except for just expected profitability for the  
15 three-week period. The user takes this report and  
16 then has to consider the other factors.

17 Q. And I read your testimony and you talk  
18 in your testimony about this report called a daily  
19 profit and loss report. Do you recall that?

20 A. I do.

21 Q. Now, is that similar to this three-week  
22 forecast of the variable cost and revenue, or is that  
23 the same thing?

24 A. It's the same.

25 Q. Okay. Now, this daily profit and loss

1 report, as the name implies, I would presume you do  
2 that daily?

3 A. Each business day.

4 Q. And not only for the OVEC plants and --  
5 it would be for all the coal plants that Duke owns?

6 A. Coal and combined cycle.

7 Q. And is this sort of an evergreen  
8 analysis, that it's 21 days out and then the next  
9 day, you know, you drop off the prior day and you're  
10 adding a new day on the end of that 21-day period?

11 A. That is correct.

12 Q. And you mentioned that you only do it on  
13 business days. On the 21-day forecast are you only  
14 forecasting for 21 business days, or are you only  
15 running the report on business days?

16 A. Only running the report on business  
17 days. The report goes out 21 days including the  
18 weekends.

19 Q. Now, do startup costs ever get factored  
20 into these daily profit and loss reports?

21 A. Startup costs are shown on the report,  
22 but they are not in the results of the calculations.

23 Q. Why are they shown on the report?

24 A. Because they are an important  
25 consideration to determining whether you should

1 potentially allow a unit to be decommitted.

2 Q. Okay. And then how do you show whether  
3 the plant is expected to make a positive margin or a  
4 negative margin in this 21-day forecast report?

5 A. So you do an hourly -- I mentioned it  
6 was an hourly dispatch, and then you sum all the  
7 revenue for that day and you sum all the variable  
8 costs for that day, and the remainder, or the sum of  
9 all those numbers -- you know, revenues are positive,  
10 the variable costs are negative, you sum that  
11 together and you end up with one number for the day  
12 per unit.

13 Q. Okay. And that one number for the day  
14 will be the total of the hours in that day?

15 A. That is correct.

16 Q. And that total will either be a positive  
17 margin or a negative margin?

18 A. Unless it's zero, but yeah, that is  
19 correct.

20 Q. And you'll have a total number for each  
21 day in that 21-day forecast?

22 A. That is correct.

23 Q. Okay. Now, when you're evaluating that  
24 report, and let's say that, you know, you're looking  
25 at today's report for the 21-day forecast beginning

1 today, how many days in a row of negative margin  
2 would you want to see before you would consider  
3 making an economic commitment offer as opposed to a  
4 must-run commitment offer?

5 A. It's going to vary depending on the  
6 situation. So this report, it's -- for the user it's  
7 to inform, information, right?

8 You get this report and you look at it,  
9 and you ask yourself what makes sense. And there's  
10 no cut and dry to this, right?

11 This is frequently us -- when I say  
12 "us," my teammates sitting around, five or six of us,  
13 and we will debate for sometimes 15 minutes about a  
14 single unit, the pros and cons. So there's not  
15 really a single answer to that question, it depends.

16 Q. Okay. And so you have a -- you say you  
17 have a meeting every morning to evaluate this?

18 A. We have multiple morning meetings, yes.

19 Q. Okay. And is this one of the things  
20 you're discussing at the meeting?

21 A. Depends on the situation. It could be.  
22 But, you know, each month, year, it differs.  
23 Sometimes you're deep in the money and there's really  
24 not much discussion about unit commitment because  
25 it's so far in the money, and in that instance you're

1 talking about should I move outages around.

2 I know my unit is deep in the money, now  
3 the question is how can I match my revenue, so you're  
4 not talking about your must-run offer, you're talking  
5 about when can I schedule an outage.

6 I've got to do maintenance, but I have  
7 to -- I've got to get it done, depending on what the  
8 unit station says, in the next month, the next week,  
9 in the next six weeks, depends whatever the situation  
10 may be at the station, so now the question comes down  
11 to where do I place that outage.

12 Q. Now, would you agree with me that, you  
13 know, coal plants have longer startup times than  
14 other kinds of plants like gas plants?

15 A. They have longer startup times than, in  
16 particular, obviously gas turbines and natural gas  
17 combined cycle plants. So yes, in general, that's  
18 correct.

19 Q. And then you've got -- you mentioned  
20 startup times. Is there such a thing as minimum run  
21 time?

22 A. There is.

23 Q. And what is that?

24 A. It's the minimum amount of time a unit,  
25 if committed, must remain online.

1           Q. And for plants like a coal plant, when  
2           you're -- you've got a plant that's in an off status,  
3           and you're deciding whether to turn it on for  
4           economic commitment, your goal there is to do that  
5           during a time when you're expected to make positive  
6           margin as opposed to negative margin; is that right?

7           A. That's our -- our goal. My goal, my job  
8           is to try to create as much value for my customers,  
9           and so that's -- that's the goal, is turning on  
10          plants when they create positive margin.

11          Q. And one of the considerations you have  
12          to take into account is what the minimum run time is  
13          going to be for that plant?

14          A. That's one of the many factors. I think  
15          I mentioned that one factor, yes.

16          Q. And you typically will not turn on a  
17          plant with a longer run time like a coal plant  
18          unless -- Well, strike that.

19                 Would you agree that for plants with a  
20          longer minimum run time, like coal plants, the  
21          decision to turn on the unit for an economic  
22          commitment is made with a viewpoint of allowing a  
23          positive margin at least over the unit's minimum run  
24          time?

25          A. I think I agree with that statement.

1           Q. And would you agree that a coal unit's  
2 minimum run time is typically at least three days?

3           A. I've seen some as low as two days, but I  
4 think three to five days is a pretty good relatively  
5 short minimum run time for a coal plant.

6           Q. Okay. Now, let's say there's a plant  
7 that's already running. How many days of negative  
8 margin into the future would it take you to see to  
9 start thinking about making a decision to do an  
10 economic commitment for that plant? And we're  
11 talking about coal plants here.

12          A. Again, like I said earlier it's really  
13 situationally dependent, right? So there's so many  
14 different things that get involved in this  
15 discussion.

16                 In that example you just mentioned, what  
17 if that plant was telling me that hey, I have got  
18 maintenance, I have maintenance to do, I've got to  
19 get this plant off for five days over the next month,  
20 and I look out and I see a negative margin, and I see  
21 colder Ohio weather coming in the next week, well,  
22 that makes sense, let's do it right now.

23                 However, if I expect very mild the --  
24 temperatures the next week, and I expect lower market  
25 prices, but this week it's negative but it's close,

1 and the unit is already on line, and I talk to my  
2 metrologist and he says well, I'm not really so sure  
3 about Thursday and Friday, we could see some, you  
4 know, different temperatures here, then in that case  
5 I might leave it online and take it off when I know  
6 it's mild the next week. So it's really very  
7 dependent on the situation.

8 Q. Okay. But what would you consider to be  
9 a long period of negative margin outlook in your  
10 daily profit and loss report with which you would  
11 conclude that, you know, gee, things like the weather  
12 are variable and so forth, market prices are  
13 variable, but if I'm looking at a negative margin  
14 this many days out into the future, I've got to  
15 really start thinking about an economic commitment?

16 MR. MCKENZIE: Objection, asked and  
17 answered. He's already answered this question twice  
18 now. It depends is the answer.

19 EXAMINER DAVIS: The objection is  
20 sustained.

21 MR. FINNIGAN: I'm sorry?

22 EXAMINER DAVIS: The objection is  
23 sustained. Move along.

24 By Mr. Finnigan:

25 Q. With the OVEC plants, what is the

1 longest number of days in a row of negative margin  
2 that you found in your daily profit and loss reports  
3 for 2020?

4 A. 2020 was certainly a unique time period  
5 especially after, you know, mid March when the onset  
6 of COVID was at its peak.

7 I would not be surprised to see, and  
8 this is true of many plants, where 21 days all  
9 forecasted negative margin.

10 Q. So would that be an indicator to start  
11 thinking about taking the plant into an economic  
12 commitment status?

13 A. It will be one of the factors I would  
14 consider, yes. But again, it all depends on  
15 different situations and what's going on and all the  
16 different factors I mentioned.

17 Q. And you mentioned, when you were being  
18 questioned by Ms. Bojko yesterday, that you brought  
19 to OVEC's attention in January of 2020 a  
20 recommendation on your part, or question on your part  
21 as to whether the plant -- the plant should be taken  
22 into an economic commitment status; is that right?

23 A. I don't remember exactly how many plants  
24 I suggested or what my exact suggestion was, but yes,  
25 I contacted OVEC in January of 2020 to discuss the

1 potential to offer some units with an economic status  
2 at that time.

3 Q. And how many days of negative margin in  
4 a row was your daily profit and loss report showing  
5 at that point in time in January when you made that  
6 suggestion or recommendation to OVEC?

7 A. I don't remember. But I did -- like I  
8 mentioned yesterday, January -- excuse me, the winter  
9 of 1920 (sic) was the eighth warmest on record --

10 EXAMINER ADDISON: Mr. Swez, did you  
11 mean 2020?

12 THE WITNESS: What did I say?

13 EXAMINER ADDISON: 1920.

14 THE WITNESS: I meant 2019/2020. Thank  
15 you.

16 So that winter was the warmest on  
17 record, and with gas prices where they were, I don't  
18 know what the P&L said, but I'm expecting if I  
19 reached out to OVEC that it had some negative margin  
20 on it.

21 By Mr. Finnigan:

22 Q. More than ten days? More than 20 days?  
23 Can you give us a rough approximation?

24 A. If it gets warm in the winter and every  
25 unit is back available and all ready to go and

1 waiting for this cold weather and it doesn't show up,  
2 it is not uncommon to have the next three weeks  
3 appear negative.

4 Q. Now, going back to the time period when  
5 OVEC was actually given authority to commit the  
6 plants as economic, that was in April of 2020; is  
7 that right?

8 A. It was April 14th through June 30th of  
9 2020.

10 Q. And going back to April 14th of 2020,  
11 how many days in a row was your daily profit and loss  
12 report showing would expect to see a negative margin?

13 A. I think I already answered, but like I  
14 said, during COVID we had extremely low market  
15 prices. It would not be uncommon -- I would not be  
16 surprised to see the next 21 days with negative  
17 margin.

18 Q. Okay. And so you mentioned the  
19 January time period and the April 14th time period.  
20 Now, after the plants -- Well, strike that.

21 Let me back up a step. So the kind of  
22 chronology of events in 2020, if we were going to  
23 take it from the beginning of the year through the  
24 end, we started out in January and we go up until  
25 April 14th.

1           During that time the plants were under a  
2 must-run commitment status at all times; is that  
3 right?

4           A. It's available plants, and the ones that  
5 were available were offered as must run during that  
6 time period January 1st through April 13th.

7           Q. So the answer would be yes, they were  
8 only committed as must run during that time frame of  
9 January through April 14th, 2020?

10          A. Again, I keep -- I don't want to be --  
11 keep repeating the same things. It's the ones that  
12 were available. I mean, obviously unavailable plants  
13 can't be committed, period.

14          Q. So the available plants were all  
15 committed as must run from January 1st through April  
16 14th of 2020?

17           MR. MCKENZIE: Your Honor, that's the  
18 third time he's asked that question.

19           MR. FINNIGAN: He's never answered --

20           MR. MCKENZIE: He's answered it twice,  
21 your Honor.

22           MR. FINNIGAN: Well, if he did, I am  
23 just not understanding because --

24           MR. MCKENZIE: That may be so, your  
25 Honor, but we need to move on.

1           MR. FINNIGAN: Your Honor, I asked a  
2 question about whether the plants were only committed  
3 as must run, and if his answer is as to the available  
4 plants the answer is yes, I will move on. But if he  
5 doesn't tell me yes, I don't know to move on.

6           EXAMINER DAVIS: Ask him that question.  
7 By Mr. Finnigan:

8           Q. Okay. As to the available units at OVEC  
9 from January 1st through April 14th of 2020, were  
10 those available units only offered as must run during  
11 that time period?

12          A. Yes, except I don't know about the date.  
13 The 14th itself they might have started offering  
14 that, but up until the 13th, I can say yes.

15          Q. Okay. And then let's go look at the end  
16 of that period, after June 30th.

17                 From June 30th of 2020, through the end  
18 of the year in 2020, were all the available units at  
19 OVEC only offered as must run, except possibly for  
20 the unit No. 6 at Clifty Creek?

21          A. The answer to that question is yes. And  
22 the fact that you added with the exception of Clifty  
23 Creek 6, it's during the ozone season, which is May  
24 1st through October 1st, I believe. Yes, it's  
25 through the end of September.

1           Q. Now, we talked about the before April  
2           14th and then after June 30th. Now let's look at  
3           that period in between those dates.

4                     So in between those dates the decision  
5           was made by the OVEC operating committee to grant  
6           OVEC authority to decide whether to use economic  
7           commitment status or must-run commitment status?

8           A. That was one of the things that was  
9           granted. There were other things granted as well  
10          like scheduling additional maintenance, but that is  
11          one of the things that was granted.

12          Q. Okay. So are you saying that all of the  
13          OVEC units ran on economic commitment status from  
14          April 14th through June 30th?

15          A. No.

16          Q. How many did?

17          A. I am aware that units at Clifty Creek  
18          were the ones offered as economic, and I believe it  
19          was Clifty Creek -- I don't know exactly which ones,  
20          but approximately four of the six Clifty Creek units  
21          received an economic status offer during that time.

22          Q. How many at Cayuga?

23          A. I don't remember any at Cayuga that had  
24          an economic status during that time period.

25          Q. Of the -- you mentioned four out of six

1 at Clifty Creek received an economic commitment  
2 status; is that right?

3 A. At various times during that period,  
4 yes.

5 Q. Okay. So -- and that was going to be my  
6 next question.

7 So does that mean that there were  
8 periods of time in between April 14th and June 30th  
9 where those four units that sometimes were committed  
10 as economic, were also sometimes committed as must  
11 run?

12 A. There may have been.

13 Q. Now, let me change topics a little bit,  
14 Mr. Swez. One of the things you talked about -- and  
15 I'm going to refer you to page 35 of your prefiled  
16 direct testimony, the public version. If you could  
17 take a look at that. Let me know when you get to  
18 that page.

19 A. I'm here.

20 Q. Now, do you see, starting around line  
21 12, there's a topic of "PJM Billing Line Items"?

22 A. Yes.

23 Q. Now, as I understand this, there are PJM  
24 credits and charges that apply to OVEC and are part  
25 of OVEC's costs; is that right?

1           A. They apply to OVEC because the OVEC  
2 units are in PJM.

3           Q. So that would be yes?

4           A. Well, part of the OVEC cost -- I didn't  
5 quite understand what you meant, but if a unit is  
6 offered and committed and dispatched in PJM, then  
7 they are going to receive charges and credits from  
8 PJM for the operation of that unit.

9           Q. And then OVEC would flow those PJM  
10 charges and credits to the utility companies in the  
11 monthly bill?

12          A. It starts with PJM doing a calculation  
13 that divides the energy amongst owners, and then that  
14 actually goes directly -- I believe it goes directly  
15 to the owners.

16          Q. Okay. And that's the mechanics that I'm  
17 trying to understand. So there's -- the Legacy  
18 Generation Rider involves two basic factors; one is  
19 OVEC costs, and then the other one is PJM revenues,  
20 right?

21          A. That would make sense, yes.

22          Q. Okay. And then you find out about the  
23 OVEC cost because they send you a monthly bill, and  
24 that's how you become aware of it?

25          A. The OVEC costs, yes, are received from

1 the monthly bill from OVEC.

2 Q. And then the way --

3 EXAMINER ADDISON: Hold on,  
4 Mr. Finnigan. Were you finished with your answer?

5 THE WITNESS: I did forget one thing.  
6 You mentioned -- this is the prior question, is that  
7 okay? It was a prior question.

8 You said revenues come from PJM. Not --  
9 there could be revenues coming from, in some weird  
10 cases, other than PJM.

11 By Mr. Finnigan:

12 Q. Where would those revenues come from?

13 A. In the case of Duke Energy Ohio, you  
14 were on line 12 of page 35. If you go up to line 6  
15 through 11 it talks about those additional revenues.  
16 To answer your question, they came from capacity  
17 sales made to OVEC.

18 Q. Okay. Now -- but going back to the PJM  
19 revenues, the PJM statement comes directly to the  
20 utility company?

21 A. So this -- this gets confusing. There  
22 are -- each individual sponsor gets a statement from  
23 PJM with the activity of that unit, both energy and  
24 capacity.

25 There is also a statement that goes to

1 OVEC that it's not a very big statement, it's not a  
2 lot of charges and credits on it. I've actually  
3 never seen it, but I know it exists, because the  
4 impact of that statement is included on the available  
5 power bill that we receive monthly, and that  
6 statement is for the activity of the OVEC units  
7 that -- it gets very complicated, but how the units  
8 are dispatched when the other parties outside of OVEC  
9 don't take their energy share, the unit is in PJM,  
10 and PJM can take the units at full load, even though  
11 the other parties outside of PJM aren't taking their  
12 energy, and then that is the settlement bill that I  
13 believe OVEC receives. It's a very small bill.

14 But just to be technically correct, I  
15 mean, most of the activity is going to be on the  
16 sponsor bill. There will be a little bit of activity  
17 on the OVEC bill.

18 Q. And the sponsor bill that you receive --  
19 and by "you" I mean Duke -- from PJM, will that be  
20 itemized and will it show the revenues and credits  
21 that are attributable to the OVEC plant, or will it  
22 also include all the revenues and credits  
23 attributable to all of the Duke plants that Duke  
24 operates in PJM?

25 A. No, the bill is specific to only Duke

1 Energy Ohio's OVEC plants in PJM.

2 Q. Okay. So Duke gets different statements  
3 from PJM every month, and each statement from PJM is  
4 unique to a particular plant?

5 A. It depends on how you set up your asset  
6 owners, I think is the correct term. That actually  
7 might be a MISO term.

8 But anyway, you can set up different  
9 ways to have the bill sent. In the case of Duke for  
10 OVEC, only the OVEC activity is included on the OVEC  
11 bill, but you can group assets together, you can do  
12 different things.

13 Q. Okay. And so on this PJM bill  
14 attributable to OVEC, you talk in your direct  
15 testimony about these billing line items. So let's  
16 go back and let's take a look at that.

17 And I think this is on page 35 of your  
18 direct testimony. Do you see the heading that says  
19 "PJM Billing Line Items" that you talk about here?

20 A. I do.

21 Q. Okay. So are these all different types  
22 of charges and credits that might appear on the PJM  
23 monthly statement to Duke for the OVEC plants?

24 A. Yes.

25 Q. And could these billing line items be

1 either credits or charges?

2 A. Yes.

3 Q. Is that true of all of the billing line  
4 items?

5 A. No, certain billing line items could  
6 only be charges and some can only be credits, but  
7 some can be both.

8 Q. Okay. Let's go and identify that for  
9 each one.

10 So just to kind of sum things up, you  
11 give a total of different billing line items that  
12 could apply to the OVEC plants, and I'm looking at  
13 your breakdown of those, and I'm now focusing on the  
14 next page of your testimony, page 36.

15 And you are asked a question, do you see  
16 that, beginning on line 7 where it says, "Please  
17 explain the major billing line items and which are  
18 recovered in the Rider PSR filing." Do you see that  
19 question and answer?

20 A. I do.

21 Q. Take a moment to read over your answer.

22 A. I do see a mistake, actually, if I'm  
23 able to correct it. It does say Rider PSR. I think  
24 that should be Rider LGR. But I've skimmed my  
25 response.

1           Q. Okay. Setting that aside, looking at 9  
2 and 10, lines 9 and 10 on page 36, are these the  
3 major billing items that would apply to the charges  
4 and credits from PJM attributable to the OVEC plants  
5 in 2020?

6           A. Yes.

7           Q. Now, let's go category by category. We  
8 have got a total of seven of them, and that would be  
9 beginning with item -- or billing line item 1200 on  
10 line 9. Do you see that one?

11          A. I do.

12          Q. Please go through all seven and just  
13 indicate at a very high level, is that billing line  
14 item one that could be a credit, could be a charge,  
15 or could be a credit or a charge?

16          A. 1200, under almost every circumstance  
17 I've ever seen, that's going to be a credit. So  
18 that's actually -- so the thousand series are  
19 charges, the 2000 series are credits.

20                 However, the thousand series for 1200 is  
21 going to be a negative charge, so it's going to be a  
22 credit. I know this is very confusing.

23                 But anyway, 1200 will result in a credit  
24 to Duke Energy except under very weird circumstances  
25 when you could have a negative LMP the day-ahead

1 market. I've never seen that. So 1200 has always  
2 been a credit to Duke.

3 Q. Let's go to 1205.

4 A. 1205 could be a charge or a credit. So  
5 this is the impact from the realtime market; could go  
6 either way.

7 Q. How about 1210?

8 A. 1210, 1215, 1220, and 1225, we'll just  
9 take them all together, those could be charges or  
10 credits.

11 Q. And you talked about a general type of  
12 charge or credit for each one for 1205, the impact on  
13 the realtime market. What would be the general  
14 category description for billing line item 1210?

15 A. The "Day-Ahead Transmission Congestion."

16 Q. And what about 1215?

17 A. "Balancing Transmission Congestion."

18 Q. I'm sorry, what was that?

19 A. "Balancing Transmission Congestion."

20 Q. What about 1220?

21 A. "Day-Ahead Transmission Losses."

22 Q. And 1225?

23 A. "Balancing Transmission Losses."

24 Q. And just to recap, 1205 through 1225 can  
25 either be credits or charges?

1           A. That is correct.

2           Q. And why are they charges sometimes?

3           What causes it to be a charge for any one of the  
4           categories? Just pick one.

5           A. So two things. The ones that say  
6           balancing, that's going to be the difference between  
7           your day-ahead award and your realtime metered value.

8                        So you could clear the full load in the  
9           day-ahead market and at realtime, say prices are  
10          coming in lower because it's milder than everybody  
11          expected, and so loads are less and so LMPs are less,  
12          so PJM is dispatching the unit down. So you sell in  
13          the day-ahead market and now you are buying back in  
14          the realtime market.

15                      As far as transmission congestion and  
16          transmission losses, those can actually go either  
17          way. We tend to think of them as costs, as charges,  
18          but they actually can be charges or credits.

19           Q. Now, are these charges or credits  
20          something that can happen in any given hour during  
21          the day?

22           A. Yes.

23           Q. So in the PJM statement is it itemized  
24          to an hourly basis, or do they net out the credits  
25          and charges for a particular day? What kind of

1 billing detail will they give you in those monthly  
2 statements?

3 MS. AKHBARI: I'd just object to the  
4 extent the question is compound. If Mr. Finnigan  
5 could break it out for the witness.

6 By Mr. Finnigan:

7 Q. Do you understand what I'm asking?

8 EXAMINER DAVIS: Can you rephrase the  
9 question?

10 By Mr. Finnigan:

11 Q. What kind of level of detail do they  
12 give you in these statements?

13 A. So there's different views. But the  
14 view I typically get would be a monthly view,  
15 essentially one number for each line item; so 1200,  
16 one number.

17 However, you can run reports where you  
18 can get -- you can dive into the details and see all  
19 the different determinants and you can really dive  
20 into the details. But when I look at it I tend to  
21 focus on the monthly results for one number.

22 Q. Okay. And that monthly result might be  
23 a credit or a charge for these accounts that you were  
24 just talking about, 1205 through 1225?

25 A. That is correct.

1           Q.   Okay.  And what you do for this Legacy  
2   Generation Rider is that you take all the amounts in  
3   the PJM monthly statement for the OVEC plants,  
4   whether they be, you know, revenues or whether they  
5   be credits or charges, and you net those out?

6           MS. AKHBARI:  I would just object to the  
7   extent that I think Mr. Finnigan is seeking the  
8   structure and the rates associated with the Rider.

9           I don't think Mr. Swez has testified to  
10   that fact, he's simply talking about the billing he's  
11   involved with.

12          MR. FINNIGAN:  Your Honor, Mr. Swez  
13   talks about -- beginning on line 35 of his testimony  
14   he presents some detail about these PJM billing line  
15   items.  Mr. Ziolkowski, in his testimony, doesn't say  
16   anything about these billing line items, or if he  
17   does, it might be a sentence or so.

18          So it appears just by the extent of the  
19   testimony, that Mr. Swez is the expert on PJM billing  
20   line items, so that's why I'm asking him these  
21   questions.

22          He brought it up in his direct  
23   testimony, and I'm just trying to better understand  
24   how these billing line items all flow into the Legacy  
25   Generation Rider charge.

1 MS. AKHBARI: Your Honor, I think he can  
2 testify as to the billing line items themselves, but  
3 as far as the population of Rider LGR, that is not in  
4 this witness' purview.

5 MS. WHITFIELD: Your Honor, may I be  
6 heard on that?

7 EXAMINER DAVIS: I'm going to sustain  
8 the objection.

9 MS. WHITFIELD: Well, then I would --  
10 sorry, go ahead.

11 MR. FINNIGAN: Please go ahead.

12 MS. WHITFIELD: Well, then I would move  
13 to strike the question and answer on page 38, "Do you  
14 believe including all the aforementioned PJM billing  
15 line items is appropriate for Rider LGR?"

16 She just testified he can't -- or he  
17 can't offer testimony about populating the Rider LGR,  
18 so he shouldn't be allowed to let that answer stand.

19 MR. FINNIGAN: I join in that motion to  
20 strike.

21 EXAMINER DAVIS: Motion denied. Let's  
22 move on.

23 MR. FINNIGAN: So I may ask him about  
24 this?

25 EXAMINER DAVIS: Please proceed,

1 Mr. Finnigan.

2 By Mr. Finnigan:

3 Q. So do you stand by your answer on page  
4 38, that you believe all of the aforementioned PJM  
5 BLIs is appropriate for Rider LGR?

6 A. I do.

7 Q. And going back to those that I was  
8 asking you about, my question is you received these  
9 billing line items in the monthly statement from PJM,  
10 and do you net them out for applying them to the LGR  
11 Rider charge?

12 A. So what I do is obviously involved in  
13 the operations of the unit. I get the bill, the  
14 settlement statement from PJM, I look at the OVEC  
15 bill, the double power statement.

16 I'm looking for things on how we can  
17 improve operations to maximize value per customer.  
18 Our customers from that point, our settlements group,  
19 enter that information into a program called CXL, and  
20 I'm aware that information flows into the LGR Rider  
21 through some sort an account -- I don't know what  
22 happens after that, so from the point settlements  
23 enters that in CXL, I really don't have anything to  
24 do with what happens after that.

25 Q. Let me direct you to your testimony. So

1 please focus on page 38, beginning at line 9, and let  
2 me know when you're there.

3 A. I'm there.

4 Q. Okay. There's a sentence which begins,  
5 "Crediting the customer with these net revenues is  
6 appropriate since the customer is also paying for the  
7 costs to produce this energy and capacity." Have I  
8 read that correctly?

9 A. Yes, you did.

10 Q. I want to focus on that word net in  
11 there. So what that suggests is that by net revenues  
12 that you're also flowing through PJM costs through  
13 the Legacy Generation Rider charge.

14 A. That's my understanding.

15 Q. Now, if we wanted to go back and  
16 determine for the year 2020 how much in PJM costs or  
17 charges Duke flowed through the Legacy Generation  
18 Rider, how would we figure that out?

19 A. Your question was only about PJM costs  
20 or charges, so you could query PJM settlements and  
21 you could find out how much each billing line item  
22 was for the year 2020.

23 Q. Okay. And how did you determine that it  
24 was appropriate to include PJM charges in the Legacy  
25 Generation Rider?

1           A. Well, to me it makes sense, if you run a  
2 power plant and you receive revenues, you can't get  
3 the revenues without paying for the fuel and other  
4 things to run that power plant, so to me they go hand  
5 in hand.

6           Q. Okay. So this was just something you  
7 decided because it made sense to you?

8           MS. AKHBARI: Objection, your Honor,  
9 misstating the testimony.

10          MR. MCKENZIE: And argumentative.

11          EXAMINER DAVIS: Objection sustained.

12 By Mr. Finnigan:

13          Q. Now, can you point me to anywhere in the  
14 audit report -- and don't tell me the number, but is  
15 there a number in the audit report we can refer to to  
16 determine how much in PJM costs or charges Duke  
17 flowed through the Legacy Generation Rider in 2020?

18          A. So the public version, it's obviously  
19 redacted, so I'm going to look at the confidential  
20 version but not say the amount if that's okay,  
21 because I can't really get a whole lot from that.

22          EXAMINER ADDISON: I think Mr. Finnigan  
23 is just asking for a page number.

24          THE WITNESS: Yeah, without -- I have to  
25 look at the confidential version to -- I can't really

1 tell, if that's okay.

2 EXAMINER ADDISON: Sure.

3 MR. FINNIGAN: And yes, Mr. Swez, I just  
4 want a page number where that information appears, I  
5 don't want you to tell me what the number might be.

6 EXAMINER ADDISON: Take your time.

7 THE WITNESS: I'm trying to find it  
8 first. So, Mr. Finnigan, the answer to your question  
9 I believe is on page 26 of the -- 26.

10 By Mr. Finnigan:

11 Q. Would it be in Figure 9 on page 26?

12 A. That is correct.

13 Q. And so now I'm going to ask you to refer  
14 to the -- Well, strike that.

15 Okay. We'll save this for the  
16 confidential session, but it is your testimony that  
17 this Figure 9 does indicate what the amount of PJM  
18 charges were in 2020 that were flowed through the  
19 Legacy Generation Rider?

20 A. You said PJM charges. I think you meant  
21 to say PJM settlements, because it was a credit for  
22 PJM. And yes, this figure does show that.

23 Q. And if you're able to say this without  
24 disclosing any confidential information -- Well,  
25 strike that.

1 MR. FINNIGAN: Your Honor, just asking a  
2 point of clarification here, it's my understanding  
3 that throughout the hearing there's been testimony by  
4 Company witnesses about section headings in tables,  
5 and there appears to be a consensus that a section  
6 heading isn't confidential, it's the numbers that are  
7 confidential.

8 And I do have a question for Mr. Swez  
9 about which section heading it is in this Figure 9  
10 that has the PJM charges information, so may I ask  
11 that, or should I defer that for the confidential  
12 section?

13 EXAMINER ADDISON: It's our  
14 understanding that the headers to the figures have  
15 been discussed in public session; is that correct?

16 MS. AKHBARI: Yes, your Honor.

17 EXAMINER ADDISON: Thank you. Please  
18 proceed, Mr. Finnigan.

19 MR. FINNIGAN: Thank you, your Honor.  
20 By Mr. Finnigan:

21 Q. So focusing on Figure 9 on -- what page  
22 of the audit report is that?

23 A. 26.

24 Q. So which column is it in this Figure 9  
25 that would contain the PJM charges that were --

1 MS. AKHBARI: Sorry, Mr. Finnigan.

2 By Mr. Finnigan:

3 Q. Which column is it in Figure 9 on page  
4 26 that would show the PJM charges that Duke flowed  
5 through the Legacy Generation Rider in 2020, which  
6 column?

7 MS. AKHBARI: I would just object to the  
8 extent that Mr. Finnigan continues to reference PJM  
9 charges. The witness has clarified he's referring to  
10 PJM settlements.

11 Also, just renew my objection that the  
12 question of amounts flowing through the rider is  
13 something to be covered with Mr. Ziolkowski.

14 EXAMINER DAVIS: He can answer the  
15 question. Mr. Swez, just if you can clarify  
16 settlement.

17 THE WITNESS: Yeah, Column B says PJM  
18 settlements, and it's a credit.

19 By Mr. Finnigan:

20 Q. And of that Column B, does that flow  
21 through the Rider?

22 A. You're getting into more questions for  
23 Mr. Ziolkowski, but it's my understanding that yes,  
24 as my testimony states, the charges and credits of  
25 OVEC flow through the LGR Rider.

1           Q. Does Column B -- is Column B a net  
2 amount, or are the revenues and charges presented  
3 separately?

4           MR. MCKENZIE: Objection, vague as to  
5 what net means here.

6           EXAMINER DAVIS: Can you clarify,  
7 Mr. Finnigan?

8 By Mr. Finnigan:

9           Q. Do you understand what I'm asking you?

10          EXAMINER DAVIS: Exactly what it means?

11          MR. MCKENZIE: I'm sorry, I have an  
12 objection pending.

13          EXAMINER ADDISON: I think the  
14 Attorney-Examiner has asked you to clarify in your  
15 question, so please rephrase your question.

16 By Mr. Finnigan:

17          Q. And so I was asking you where charges  
18 would appear. You directed me to Column B, and is  
19 that the right one, Column B for boy?

20          MS. AKHBARI: And I'm sorry, again,  
21 Mr. Finnigan is referring to charges. The witness  
22 has clarified, and the header states, that Column B  
23 covers settlements in PJM.

24          EXAMINER DAVIS: Mr. Finnigan, can you  
25 rephrase them as settlements, please?

1 MR. FINNIGAN: Yes.

2 By Mr. Finnigan:

3 Q. Well, please turn to page 35 of your  
4 testimony, line 13, and let me know when you're  
5 there.

6 A. I'm there.

7 Q. Okay. Now, on page 35, line 13, you  
8 talk about PJM costs and credits, right?

9 A. I do.

10 Q. And then on line 14 you also talk about  
11 costs and credits, right?

12 A. I do.

13 Q. And then in line 17 and 18 you talk  
14 about cost and credits from PJM, right?

15 A. I do.

16 Q. And then in line 19 -- 20 and 21 you  
17 talk about charges and credits, right?

18 A. I do.

19 Q. And then on the next page, line 1, you  
20 talk about costs?

21 A. I see that.

22 Q. And line 2 you talk about costs.

23 A. I see that.

24 Q. Okay. And that's all I'm trying to get  
25 at. I'm just trying to get at where are those costs,

1     what column are they in?

2             A.   It's my understanding the net of those  
3     PJM costs and credits, which the overall amount is a  
4     credit, is represented by -- like I said earlier, as  
5     PJM settlements in Column B.

6             Q.   Okay.  Now, my original question to you,  
7     though, is that if we wanted to look at not the net  
8     amount, but the total credits and then the total  
9     charges, where would we find that in the audit  
10    report?

11            A.   When you say total charges and credits,  
12    do you mean total PJM charges and credits, or total  
13    charges and credits related to everything related to  
14    OVEC including the power statement, the bill, the  
15    fuel costs, and things like that?

16            Q.   I'm talking about the PJM ones that you  
17    talk about in the context of these PJM billing line  
18    items.

19            MS. AKHBARI:  This is asked and  
20    answered.  This is the sixth time that Mr. Finnigan  
21    has covered this topic.

22            The witness has pointed to the column he  
23    believes contains this information.  I would just  
24    object as asked and answered.

25            MR. FINNIGAN:  May I respond?

1 EXAMINER DAVIS: Yes, please, go ahead.

2 MR. FINNIGAN: The reason I think this  
3 is important is because in 4928.01a42, where it talks  
4 about prudently incurred costs, it says prudently  
5 incurred costs relating to a Legacy Generation  
6 Resource, and then it goes on to define that.

7 And it says less any revenues realized  
8 from offering the contractual commitment for the  
9 power agreement in the wholesale market. It doesn't  
10 say anything about cost or charges, so that's why I'm  
11 trying to find out if there's any information in the  
12 audit report that presents us with what those PJM  
13 costs or charges are, because he said that Column B  
14 in Figure 9 is the net amount of the revenues and  
15 charges together, but the statute only allows the  
16 collection of the revenues.

17 So to determine the proper refund amount  
18 we would have to find somewhere in the audit report  
19 that lists what those charges were so that we can  
20 back those out, because there's nothing in the  
21 statute that says that the companies can collect PJM  
22 charges.

23 MR. MCKENZIE: Your Honor, that argument  
24 is profoundly mistaken in so many ways, but these are  
25 arguments for brief. I'm not going to respond to all

1 of that right now.

2 Mr. Finnigan can make whatever that  
3 point is on his brief. He's established what he  
4 needs to establish with this witness, which is where  
5 the PJM settlements appear in the audit report.  
6 There's nothing further on this topic, and we need to  
7 move on.

8 MS. AKHBARI: And, your Honor, he's  
9 asking the witness to interpret the audit report.  
10 Mr. Finnigan and Ms. Bojko had two-and-a-half days to  
11 ask the auditor these questions.

12 I don't recall these questions arising  
13 with the auditor who is the individual who prepared  
14 this report and would have the best information about  
15 costs that they reviewed.

16 Mr. Swez has given his understanding as  
17 it relates to the audit report. I think it's  
18 inappropriate to continue questioning him in this  
19 manner.

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

22 EXAMINER DAVIS: I've heard enough. The  
23 objection is sustained. Thank you.

24 By Mr. Finnigan:

25 Q. So moving on to the next item, if the

1 Commission were to determine that under the statute  
2 PJM costs are not allowed to be flowed through the  
3 Legacy Generation Rider, and if Figure 9 Column B  
4 only shows net amounts, how would the Commission  
5 calculate the amount of the refund to consumers by  
6 backing out the PJM costs? How would they calculate  
7 that?

8 MS. AKHBARI: Again, your Honor, this  
9 inquiry is asking for a legal conclusion, asking  
10 Mr. Swez to make a calculation, Mr. Finnigan believes  
11 the Commission should make.

12 Moreover, it's a more appropriate  
13 question for the auditor who was here for three days,  
14 not Mr. Swez.

15 MR. MCKENZIE: Your Honor, I'd just add  
16 that also the term PJM costs here is vague. He can't  
17 answer that question, he's -- we're talking about net  
18 revenue. There's no -- there's no PJM costs in that.  
19 So that's not -- the premise of the question is  
20 mistaken.

21 MS. BOJKO: Your Honor, may I respond?  
22 I've been brought into this -- both objections the  
23 last two times and have not been afforded the  
24 opportunity to respond.

25 The auditor was on the stand. We're not

1 talking about the auditor's testimony, we are now  
2 talking about Mr. Swez's testimony.

3 On pages 35 through 38 he specifically  
4 talks about PJM billing line items. If we're not  
5 going to strike the testimony then we are afforded  
6 the opportunity -- or we should be, anyway, to ask  
7 questions on what the PJM billing items that he is  
8 providing testimony about. This is not about the  
9 auditor.

10 We're asking questions about his  
11 testimony and where his testimony fits into the audit  
12 report because he, too, is responding to the audit  
13 report.

14 We should be allowed to ask about his  
15 testimony and how he is either supporting the audit  
16 or he's opposing the audit, and that's the  
17 questioning that we should be allowed to do.

18 We have been sustained and objected  
19 numerous times over the last two days when all of  
20 these items are in his testimony, and we should have  
21 that opportunity.

22 MR. FINNIGAN: And, your Honor, may I  
23 respond?

24 EXAMINER DAVIS: Briefly.

25 MR. FINNIGAN: So if you look at

1 Mr. Swez's testimony on page 5, and I walked through  
2 this with him, starting on line 13 the word costs or  
3 charges appears four or five times, and then  
4 continuing on to the next page as well.

5 So we know that there are various PJM  
6 costs, and he said that they can occur in five of the  
7 different seven billing line items. So we also know  
8 that in Column B on Figure 9, this is a net amount,  
9 so we don't know what the total charges are and the  
10 total credits to get at that net amount.

11 Now, the statute that I just cited,  
12 4928.01a42 on prudently incurred costs only states  
13 that revenues can be included in the rider.

14 So if the Commission were to conclude  
15 that going by the plain wording of the statute, the  
16 companies may only collect revenues, then the  
17 Commission would need to go back and back out the PJM  
18 costs.

19 They can't do that by looking at Figure  
20 9 because that's a net number, so you would need to  
21 get the total costs and the total revenues from PJM,  
22 and you'd have to take those total costs and you'd  
23 have to calculate the refund by backing out all those  
24 costs.

25 Now, I'm trying to find out in my

1 questioning where that cost number is, so that the  
2 Commission is able to do that.

3 MS. AKHBARI: Your Honor, my objection  
4 was to a pending question from Mr. Finnigan asked  
5 Mr. Swez to do a calculation on behalf of the  
6 Commission to issue a refund associated with Rider  
7 LGR.

8 I'd just like to refocus that my  
9 objection was that that was asking for a legal  
10 conclusion, it's not Mr. Swez's purview.

11 MS. WHITFIELD: Your Honor, I want to  
12 respond specifically to that legal conclusion  
13 objection.

14 If you recall, on page 2 of Mr. Swez's  
15 testimony he says he's opining on why those charges  
16 and credits are appropriate for inclusion in the  
17 Rider LGR calculation.

18 Then on the question and answer that I  
19 asked to be struck, but you did not strike it, he's  
20 actually opining on what is appropriate to be  
21 included in the Rider LGR.

22 So Mr. Finnigan is entitled to question  
23 him as to what costs, what charges, and what those  
24 are that he is claiming are included in the Rider  
25 LGR, and not just the net amount.

1           MR. FINNIGAN: And let me make clear,  
2           your Honors, I'm not asking anybody to make  
3           calculations, I'm just asking where are the costs?  
4           Where are the costs?

5           EXAMINER ADDISON: Then ask that  
6           question, Mr. Finnigan.  
7           By Mr. Finnigan:

8           Q. Okay. Referencing Figure 9, Column B,  
9           which you stated was a net amount, where are all the  
10          costs that were used to develop that net amount?

11          MR. MCKENZIE: And I'm sorry, I just  
12          want to object again to the word costs and --

13          EXAMINER ADDISON: And I will allow the  
14          witness plenty of latitude in his answer to answer  
15          any way he wants, Mr. McKenzie. We need to move on.  
16          We need to get going.

17          MR. MCKENZIE: May I just ask to --

18          EXAMINER ADDISON: No, you may not.

19          MR. MCKENZIE: -- include negative  
20          charges?

21          EXAMINER ADDISON: No, you may not. He  
22          will provide the latitude -- I'm going to provide him  
23          plenty much latitude for his answer. We need to move  
24          on, we're very behind.

25          Mr. Swez, please answer Mr. Finnigan's

1 question.

2 THE WITNESS: I do not know if that  
3 number or those figures are available in this audit  
4 report, so they might be, I just -- I don't know.

5 MR. FINNIGAN: That's all the questions  
6 I have. Thank you, Mr. Swez. Your Honors, I may  
7 have some further questions for the confidential  
8 section.

9 EXAMINER DAVIS: We understand. Thank  
10 you. Ms. Whitfield.

11 MS. WHITFIELD: Yes, your Honor, I just  
12 have actually a couple questions.

13 - - -

14 CROSS-EXAMINATION

15 By Ms. Whitfield:

16 Q. And, Mr. Swez, I don't want you to  
17 disclose any numbers here, but I just want to follow  
18 up on what Mr. Finnigan was talking to you about  
19 Figure 9 on page 26.

20 Which column shows the total amount that  
21 flows through the LGR and is charged to the  
22 customers?

23 A. So I believe that is either Column J or  
24 K, but they are the same number, just one is a  
25 negative, one is a positive. That's my

1 understanding, but that's probably a better question  
2 for Mr. Ziolkowski.

3 MS. WHITFIELD: Okay. Thank you.  
4 That's all I had, your Honor.

5 EXAMINER DAVIS: Thank you.  
6 Mr. Doughty.

7 MR. DOUGHERTY: Let me check here.  
8 Thank you. I'll be very brief.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Dougherty:

12 Q. I think yesterday with Ms. Bojko, if I'm  
13 right, you discussed OVEC's renegotiations --  
14 potential renegotiations with its coal suppliers?

15 A. I do remember that, yes.

16 Q. Okay. And you don't know how many -- or  
17 how often these renegotiations occurred?

18 A. I do not.

19 Q. And you don't know how often then they  
20 occurred in 2020, if at all?

21 A. I do not.

22 Q. And you don't know how much money OVEC  
23 saved -- what it could have saved in these  
24 renegotiations?

25 A. I do not.

1           Q. And at any point during 2020, did Duke,  
2 or you as representative for Duke, suggest or discuss  
3 with OVEC to renegotiate its contracts with the coal  
4 suppliers in 2020?

5           A. I did not.

6           Q. Also talking about your role in  
7 discussions with OVEC and recommendations, at any  
8 point during 2020 did you suggest or recommend to  
9 OVEC to retire any units?

10          A. No. That's not something that I would  
11 be responsible for.

12                 MR. DOUGHERTY: No more questions, your  
13 Honor.

14                 EXAMINER DAVIS: Thank you.

15                 Ms. Wilson?

16                 MS. WILSON: Yes, just very briefly.

17                         - - -

18                         CROSS-EXAMINATION

19 By Ms. Wilson:

20           Q. If you would, please turn to page 26,  
21 line 10 of your testimony.

22           A. I'm there.

23           Q. Thank you. Would you agree with me that  
24 it states, "As previously mentioned, it is not  
25 possible to complete a re-commitment study due to the

1 host of limitations and complications and requires  
2 multiple assumptions"?

3 A. I would agree. But I guess in rereading  
4 that I would say you can do anything, I just wouldn't  
5 think it would be worth the time or even worth the  
6 results.

7 Q. Can you please describe your  
8 understanding of a re-commitment study as it relates  
9 to your testimony; what is it?

10 A. So you would have to go back in time and  
11 say what if I would have done something differently,  
12 and then you'd have to make -- this is where you  
13 start making assumptions.

14 Let's say that the question is what if  
15 we would have offered -- or what if it would have  
16 been offered with a commitment status that's of  
17 economic.

18 So now you have to say okay, would it  
19 have received the day-ahead award or not. If it  
20 didn't receive the day-ahead award you would assume  
21 it would ramp offline.

22 You have to assume that the LMPs that  
23 were received at the time, they didn't change in your  
24 analysis, so now you have this unit that's offline  
25 that would have been offline in reality, and when the

1 prices go back up you have to assume that I'm able to  
2 bring it back online and I don't have a problem with  
3 that unit coming back online, that's where you get  
4 into all the assumptions that I don't believe is --  
5 you can make assumptions, I just don't believe the  
6 analysis would be worth anything.

7 Q. So when you refer to limitations and  
8 complications and multiple assumptions, it's a list  
9 you just gave it, or are there more variables?

10 A. There's more.

11 Q. Okay. Are you familiar with the phrase  
12 redispatch study, or redispatch analysis?

13 A. I kind of lumped redispatch and  
14 re-commitment as the same thing, but technically  
15 since dispatch is the process of moving a unit up and  
16 down, it's not -- well, it's not commitment, it's  
17 just dispatch.

18 So an online unit that is moved up and  
19 down, that's the process of dispatch. So I would  
20 think a redispatch study would be somehow related to  
21 looking at how a unit would be dispatched under  
22 different circumstances.

23 Q. And turn if you would to page 22, line  
24 12.

25 A. I'm there.

1           Q. And in your testimony you state,  
2       "Although it is not possible to perform a holistic  
3       re-commitment strategy study post hoc, as only PJM  
4       has access to its extensive modeling and ability to  
5       manage its entire footprint, it is possible to  
6       extrapolate the direct impacts given OVEC's own  
7       operating parameters and capabilities."

8                     What do you mean by extensive modeling?

9           A. Well, in the case of MISO and PJM, I've  
10       been told that like the day-ahead model has --  
11       believe it or not, I've been told it had 700,000  
12       lines of code, so there is a lot of information in  
13       the model.

14                    There's transition constraints, there's  
15       generation capabilities and generation offer prices,  
16       so the model I'm referring to is the model that's  
17       operated by PJM for the day-ahead and realtime energy  
18       markets.

19                   MR. FINNIGAN: Your Honor, I'm going to  
20       object as hearsay and move to strike the part of his  
21       answer where he stated, "I've been told."

22                   EXAMINER DAVIS: I think we have been  
23       through this. The motion to strike is denied.  
24       Objection is overruled. Please continue.

25                   MS. WILSON: Thank you.

1 By Ms. Wilson:

2 Q. Is the modeling at PJM proprietary, or  
3 is there a commercial product used?

4 A. No, that's proprietary, only PJM has  
5 access to that. I'm sorry, I -- my understanding is  
6 it's a PJM created model, it's not something they  
7 just buy off the shelf. That maybe answers your  
8 question better.

9 Q. Yeah. I mean, I'm basically trying to  
10 get to at one part of your testimony you say it's  
11 impossible to do a redispatch analysis, and then  
12 another part you said it's impossible, so I'm trying  
13 to clarify between those two statements.

14 A. Like I mentioned, I mean, you can do  
15 anything, right? I just -- I mean, I could do a  
16 study that it's no good. I mean, I don't have  
17 information.

18 All the other participants in PJM, I  
19 don't know how they are offering their units. I  
20 don't know their costs, I don't know their  
21 availability. I could assume something.

22 So I think impossible is probably the  
23 better word, but again, you can do anything, I just  
24 don't think that what you could do is worth anything.

25 EXAMINER ADDISON: So you're not -- when

1 you say it's not possible, you're really saying it's  
2 not advisable, is that accurate?

3 THE WITNESS: I think that's fair. And  
4 it's just not going to produce results that are any  
5 good.

6 EXAMINER ADDISON: Thank you.

7 MS. WILSON: Thank you, Mr. Swez. I  
8 have no further questions.

9 EXAMINER DAVIS: Thank you. So we're  
10 now going to get ready to proceed into confidential  
11 session. That would mean anyone who is not subject  
12 to the protective agreement may need to leave the  
13 rhyme.

14 MS. AKHBARI: Your Honor, would it be  
15 appropriate to do public redirect at this time?

16 EXAMINER DAVIS: We'll save that. We'll  
17 take it after confidential. I think we need to close  
18 the doors as well. Is there anyone in the room  
19 that's not subject --

20 MS. WHITFIELD: Your Honor, could we  
21 have just like a five-minute break real quick as  
22 we're switching over?

23 EXAMINER DAVIS: We'll take three  
24 minutes.

25 (Recess taken.)

1 EXAMINER DAVIS: Let's go back on the  
2 record. I'll remind everyone we are now in  
3 confidential session.

4 We're going to proceed with this portion  
5 of the hearing. So we will start confidential  
6 session cross with AEP.

7 MR. MCKENZIE: No questions, your Honor.

8 EXAMINER DAVIS: AES.

9 MR. SHARKEY: No questions, your Honor.

10 EXAMINER DAVIS: We'll move on.

11 Ms. Bojko.

12 MS. BOJKO: Thank you, your Honor.

13 - - -

14 (Confidential Transcript.)  
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EXAMINER DAVIS: With that said, we'll  
move back into the public session, and at that point  
do you have any redirect for the public section.

MS. AKHBARI: Can we have a few minutes,  
your Honor?

EXAMINER DAVIS: You may. Let's go off  
the record.

(Discussion off the record.)

EXAMINER DAVIS: Go back on the record.  
Ms. Akhbari, do you have redirect?

MS. AKHBARI: Yes, very briefly, your  
Honor.

- - -

REDIRECT EXAMINATION

1 By Ms. Akhbari:

2 Q. Hi, Mr. Swez. Getting into the home  
3 stretch. Mr. Swez, do you recall questions from  
4 Mr. Finnigan about references to PJM costs and  
5 credits in your testimony?

6 A. I do.

7 Q. And specifically on pages 35 and 36 of  
8 your testimony, do you recall that?

9 A. Yes, I do.

10 Q. Mr. Swez, are the costs and credits you  
11 referred to in your testimony necessary to sell  
12 energy and capacity and receive revenues from PJM?

13 A. Yes, they are. In order to receive  
14 revenue there are some costs that you have to incur  
15 to sell that revenue; for example, administration  
16 fees that pertain to PJM's operation of the day-ahead  
17 market.

18 If you clear in the day-ahead market you  
19 receive revenue, but the only way that you can get  
20 that revenue is if you also pay the administration  
21 costs of PJM running the market, and that is one of  
22 the charges that's listed on -- actually at the top  
23 of page 38. So you have to pay some of those charges  
24 to get those revenues.

25 Q. And, Mr. Swez, directing you to page 36

1 of your testimony, do you recall discussing these  
2 billing line item numbers with Mr. Finnigan?

3 A. Yes, I do.

4 Q. And looking specifically to No. 12, BLI  
5 1200, what does the BLI 1200 represent?

6 A. So 1200 again, the thousand series are  
7 charges, but in this case 1200 is equal to a negative  
8 charge, so it's typically a credit, it's the result  
9 of the energy sale in the day-ahead market.

10 And I say typically a credit because  
11 like I said earlier to Mr. Finnigan, if you did have  
12 a negative LMP, you would actually have a charge  
13 here, not a negative credit.

14 Q. And can any of those BLIs that you were  
15 discussing earlier be a charge or a credit?

16 MS. WHITFIELD: Objection, asked and  
17 answered.

18 EXAMINER DAVIS: Overruled.

19 THE WITNESS: So they can all be a  
20 charge or a credit, with the exception of 2600. I  
21 don't think we talked about that one.

22 That one, I believe the lowest price  
23 capacity can clear is zero, so 2600 should always be  
24 a credit, but with the exception of 2600, the other  
25 ones could be a charge or a credit. And they could

1 change by hour as well.

2 MS. AKHBARI: Thanks, Mr. Swez. That's  
3 all I have.

4 EXAMINER DAVIS: Mr. Sharkey?

5 MR. SHARKEY: No questions, your Honor.

6 EXAMINER DAVIS: Start with Ms. Bojko?

7 MS. BOJKO: No questions, your Honor.

8 EXAMINER DAVIS: Mr. Finnigan?

9 MR. FINNIGAN: No questions.

10 EXAMINER DAVIS: Ms. Whitfield?

11 MS. WHITFIELD: No questions, your  
12 Honor.

13 EXAMINER DAVIS: Mr. Dougherty?

14 MR. DOUGHERTY: No questions.

15 EXAMINER DAVIS: Ms. Wilson?

16 MS. WILSON: None.

17 EXAMINER DAVIS: Mr. Swez, finally, you  
18 are excused. Thank you for sticking it out.

19 THE WITNESS: No problem. Thank you  
20 very much.

21 (Witness excused.)

22 MS. AKHBARI: At this time the Company  
23 would move Company Exhibit 1 and 2C.

24 EXAMINER DAVIS: Is there any objection?

25 MS. BOJKO: Yes, your Honor. In

1 addition to the motions to strike that I provided at  
2 the beginning of Mr. Swez's cross-examination that  
3 you've already ruled upon, I'm not going to reiterate  
4 those, but in addition to that, I do move to not  
5 admit this witness' testimony.

6 This witness' testimony has not been  
7 properly subjected to full and complete  
8 cross-examination on his testimony.

9 The purpose of the audit is to determine  
10 prudence of all costs and sales flowing through the  
11 LGR Rider, and to investigate whether Duke's actions  
12 were in the best interest of retail ratepayers. He  
13 himself recognized and quoted that.

14 The audit report specifically states  
15 that she reviewed unit scheduling and offering of  
16 energy into PJM's wholesale market, offering behavior  
17 in administered capacity markets, and behavior and  
18 participation in other markets. This is exactly what  
19 his testimony was directed to address.

20 However, Intervenor were not allowed to  
21 ask questions regarding Duke's competitive offering  
22 of its specific plants, and although he opined and  
23 cited to the law and whether Component D was  
24 permitted to be recovered as a prudently incurred  
25 cost, Intervenor were not allowed to question

1 Mr. Swez on the law and his assertion regarding the  
2 Component D as it was beyond his expertise, and he  
3 was not stating it for the truth of the matter stated  
4 therein.

5 Additionally, although the witness used  
6 the terms prudence and best interest to customers  
7 throughout his testimony in numerous places, we were  
8 precluded from asking certain questions regarding the  
9 use of those terms in his testimony as he claimed he  
10 didn't know what they meant and that it was a legal  
11 determination.

12 Although on page 2, and again on page 38  
13 of Mr. Swez's testimony, he testified that -- why  
14 certain charges and credits are appropriate for  
15 inclusion in the Rider LGR calculation.

16 Both places he said he was making the  
17 determination and recommendation as the  
18 appropriateness for inclusion in Rider LGR.

19 We were precluded from inquiring into  
20 what charges and why he believed those to be  
21 prudently incurred costs, and the reasonableness of  
22 those costs as that was a legal conclusion.

23 And he also doesn't understand the term  
24 imprudent or prudently incurred, and it was outside  
25 his expertise. We were precluded from asking all of

1 those questions.

2           Additionally, although he testified to  
3 hearsay statements and matters he learned via  
4 hearsay, we were precluded from asking questions  
5 about those statements from a nonparty, or the basis  
6 of his conclusions and testimonies from those  
7 statements.

8           Additionally, although the witness, on  
9 pages 35 through 38, talks about PJM billing items,  
10 costs and charges, and how it relates to the audit  
11 report, we were precluded from asking those questions  
12 on the record.

13           At every turn our questions have been  
14 denied and we have been told that the witness doesn't  
15 have the expertise to address those questions.

16           So we have been not allowed to cross  
17 this witness on the subject matter that he speaks  
18 about in his testimony, and that's why it should not  
19 be admitted into the record.

20           We are being told that we have to move  
21 along because we are behind. We are told that we  
22 have to take quick restroom breaks. We are given  
23 short lunches.

24           We stay until 7:00 p.m. at night and  
25 we're not sure why -- why we are being -- our due

1 process rights are seemingly contingent upon a  
2 schedule that we were never made aware of, and that  
3 we did not know we had X amount of testimony days.

4 EXAMINER ADDISON: Ms. Bojko.

5 MS. BOJKO: If I could finish, your  
6 Honor.

7 EXAMINER ADDISON: Briefly.

8 MS. BOJKO: If the concern is the  
9 FirstEnergy upcoming hearing, it is completely unfair  
10 and prejudicial to the Intervenor as it is the  
11 Intervenor who are sitting here trying to litigate  
12 this case and are being asked to hurry up, move  
13 along, quick restroom breaks.

14 We are the one being prejudiced by the  
15 FirstEnergy hearing because we are not allowed to  
16 prepare, we're not given a chance to prepare, late  
17 nights here, we have no opportunity to prepare for  
18 the FirstEnergy hearing. So we are the ones being  
19 prejudiced, but yet we are the ones being told to  
20 move along.

21 Staff did a surprise exhibit at the  
22 beginning of this hearing that cost a half day of the  
23 hearing, but yet the Intervenor are being accused of  
24 not asking the appropriate questions.

25 The witnesses are not being required to

1 answer our questions, and being allowed to talk and  
2 talk and talk, and it is unfair and inappropriate.

3 And he did not answer any questions on  
4 his testimony that -- we were precluded from  
5 answering questions and asking questions on his  
6 subject matter contained with his testimony.

7 Therefore it has not appropriately been  
8 subject to cross-examination and it should be not  
9 admitted into the record. Thank you.

10 MR. FINNIGAN: Your Honor, we support  
11 that objection.

12 MS. WHITFIELD: As does Kroger.

13 EXAMINER ADDISON: Thank you all.

14 EXAMINER DAVIS: We're going to admit  
15 Mr. Swez's testimony. The exhibit is going to be  
16 admitted, the transcript is going to stand for itself  
17 with respect to your other arguments, Ms. Bojko.  
18 Thank you. So Duke Exhibits 1 and 2C are admitted to  
19 the record.

20 (EXHIBITS ADMITTED INTO EVIDENCE.)

21 EXAMINER DAVIS: Is that all,  
22 Ms. Akhbari?

23 MS. AKHBARI: Yes.

24 EXAMINER ADDISON: Ms. Bojko.

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

1 I have -- appears I just have OMAEG Exhibit 9C, and  
2 your Honors, I request that OMAEG Exhibit 9C be  
3 redacted in an appropriate manner.

4 It is currently a wholesale confidential  
5 document, and that is not appropriate. Of course  
6 some of the OVEC charts and numbers can be redacted,  
7 but Holy mackerel statements and reasons why he  
8 suggested -- I love that phrase -- reasons why he  
9 suggested what he suggested, those are not  
10 confidential statements and they shouldn't be deemed  
11 confidential.

12 There's no attorneys on these emails,  
13 they are not privileged, there's no other reason they  
14 should be redacted -- or they should be wholesale  
15 confidential and redacted in their entirety.

16 MS. AKHBARI: Your Honor, just the only  
17 response I have is that there's a procedure for this  
18 process set forth in protective agreements entered  
19 into in this case, and I'm happy to review  
20 Ms. Bojko's letter and make the appropriate  
21 redactions that she's requesting.

22 MS. BOJKO: Your Honor, that's the  
23 second time that that's been raised.

24 EXAMINER ADDISON: Okay. Thank you. I  
25 believe the parties have already agreed to look at

1 certain exhibits.

2 This one would be one of them that the  
3 Attorney-Examiners would specifically like the  
4 parties to look at, file an appropriately redacted  
5 copy in the docket that does -- that does allow some  
6 of the information that can be included in the public  
7 domain, in the public domain. So we will allow the  
8 parties that opportunity.

9 MS. BOJKO: Thank you.

10 EXAMINER ADDISON: But your suggestion  
11 is noted, Ms. Bojko.

12 MS. BOJKO: Thank you. So now I still  
13 move it.

14 EXAMINER DAVIS: Are there any  
15 objections?

16 MS. AKHBARI: No objections as we sit  
17 here. Those redactions will need to be considered  
18 and applied, so I don't know whether to object or  
19 not, to be honest, as I sit here.

20 You know, I would object to the extent  
21 that certain confidential information needs to be  
22 redacted, but otherwise I do not object.

23 EXAMINER DAVIS: So subject to Judge  
24 Addison's instruction, it's admitted.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 EXAMINER DAVIS: Any other exhibits?

2 MS. BOJKO: That's all I had, your  
3 Honor.

4 EXAMINER DAVIS: Thank you.  
5 Mr. Sharkey?

6 MS. WATT: No problem. AES Ohio calls  
7 Patrick Donlon.

8 MS. WHITFIELD: Could I just ask a quick  
9 question off the record?

10 EXAMINER DAVIS: Let's go off the  
11 record.

12 (Discussion off the record.)

13 EXAMINER DAVIS: Go back on the record.  
14 Raise your right hand. Do you swear or affirm the  
15 testimony you're about to provide is the truth?

16 THE WITNESS: I do.

17 EXAMINER DAVIS: Thank you. Please be  
18 seated.

19 - - -

20 PATRICK DONLON,  
21 being first duly sworn, as prescribed by law, was  
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 By Ms. Watt:

25 Q. Good afternoon, Mr. Donlon.

1           A.    Good afternoon.

2           Q.    Do you have a copy of your prefiled  
3 direct testimony in front of you?

4           A.    I do.

5           MS. WATT:   Your Honor, AES marks  
6 Mr. Donlon's direct testimony, which was filed on  
7 October 3rd, 2023, as AES Exhibit 3.

8           EXAMINER DAVIS:   It shall be so marked.

9           (EXHIBIT MARKED FOR IDENTIFICATION.)

10          By Ms. Watt:

11           Q.    Mr. Donlon, if I -- did you prepare the  
12 testimony in front of you?

13           A.    Yes.

14           Q.    And if I asked you the same questions  
15 would you give me the same answers?

16           A.    Yes.

17           Q.    Do you have any corrections or updates  
18 to your testimony?

19           A.    Not that I know of.

20           Q.    And are the answers to the questions in  
21 your testimony true?

22           A.    Yes.

23           MS. WATT:   Your Honor, I have no further  
24 questions for Mr. Donlon at this time.

25           EXAMINER DAVIS:   Thank you.

1 AEP, is there cross?

2 MR. MCKENZIE: No questions.

3 EXAMINER DAVIS: Duke?

4 MS. AKHBARI: No questions, your Honor.

5 EXAMINER DAVIS: Mr. Finnigan?

6 MR. FINNIGAN: May we go off the record  
7 for a moment?

8 EXAMINER DAVIS: Off the record.

9 (Discussion off the record.)

10 EXAMINER DAVIS: Go back on the record.

11 Mr. Sharkey? Ms. Watt. Sorry.

12 MS. WATT: Yes, your Honor, the OCC and  
13 AES Ohio have agreed that Figure 9 in the AES Ohio  
14 audit can be made public, and AES Ohio will stipulate  
15 that the amounts in that figure in the column titled  
16 "Rider Revenues LGR" are the amounts that AES Ohio  
17 collected through the LGR during the audit period.

18 EXAMINER DAVIS: Thank you. Ms. Bojko?  
19 Mr. Finnigan, based on the stipulation, you don't  
20 have any cross?

21 MR. FINNIGAN: Your Honor, that was the  
22 stipulation as we understood it, too. And with that  
23 stipulation we have no cross-examination of  
24 Mr. Donlon's testimony, and we have no objections to  
25 the admissibility of his testimony.

1 EXAMINER DAVIS: Thank you. Now,  
2 Ms. Bojko.

3 MS. BOJKO: Your Honor, may I just --  
4 Ms. Watt, I can't hear anything you're saying, so if  
5 you could maybe pull the microphone closer or  
6 something.

7 MS. WATT: Is that better?

8 MS. BOJKO: Yes. Are you trying not to  
9 get electrocuted.

10 MR. MCKENZIE: Take mine.

11 MS. WATT: I was more afraid it was  
12 going to have unpleasant noises for everyone.

13 MS. BOJKO: Thank you. Thank you, your  
14 Honor.

15 - - -

16 CROSS-EXAMINATION

17 By Ms. Bojko:

18 Q. Good morning, Mr. Donlon. You know that  
19 my name is Kim Bojko and I represent the Ohio  
20 Manufacturer's Association Energy Group.

21 I actually just have a few clarifying  
22 questions on some of the charts and numbers in your  
23 testimony.

24 I'm going to try to do this in a  
25 nonconfidential session, but of course if you are

1 concerned with the number, then please let me know.

2 Mr. Donlon, you filed direct testimony I  
3 believe on October 3rd, 2023; is that correct?

4 A. Yes.

5 MS. BOJKO: And I'm sorry, I did not  
6 hear the number. That has been marked as Duke  
7 Exhibit 3?

8 MS. WATT: It's AES Exhibit 3.

9 MS. BOJKO: I'm sorry. AES Exhibit 3,  
10 pardon me.

11 By Ms. Bojko:

12 Q. Mr. Donlon, you're here to testify on  
13 behalf of AES; is that correct?

14 A. That is correct.

15 Q. And you are AES's Director of Regulatory  
16 Accounts; is that correct?

17 A. I am.

18 Q. And you prepare accounting journal  
19 entries related to regulatory assets and liabilities;  
20 is that correct?

21 A. Yes.

22 Q. And you're familiar with OVEC and how it  
23 bills the costs to AES, correct?

24 A. I am.

25 Q. And you're familiar with how those costs

1 are then passed through Rider LGR to customers; is  
2 that correct?

3 A. I am.

4 Q. And in your capacity as Director of  
5 Regulatory Accounting, you helped prepare some of  
6 AES's discovery responses in this case; is that  
7 correct?

8 A. Prepare or reviewed on my behalf -- or  
9 prepared on my behalf.

10 Q. Okay. And, sir, have you reviewed the  
11 LEI audit report concerning AES's LGR Rider that was  
12 filed in this proceeding on December 17th, 2021?

13 A. I don't remember if I did when it was --  
14 originally came out, but -- so...

15 Q. Are you familiar with the audit report?

16 A. I know there is one.

17 Q. Okay. Well, could we -- let's see. You  
18 should be familiar with some of the numbers in the  
19 underlying calculations for the LGR Rider; is that  
20 correct?

21 A. I am familiar with the accounting  
22 information spreadsheets that we provide and we  
23 provide to regulatory, yes.

24 Q. Okay. And you provided some of those  
25 accounting journal entries and calculations to -- to

1 the auditor when she was auditing the OVEC rider,  
2 correct?

3 A. If she would have asked for them, I'm  
4 sure we did.

5 Q. Do you have in front of you the AES  
6 audit rider -- audit report? Sorry.

7 A. I don't know what all this extra stuff  
8 that's been left here is. I only brought up my  
9 testimony.

10 Q. Okay. It's Exhibit 2 and 3C, Staff  
11 Exhibit 3C.

12 A. Okay. Here is 3C. Staff Exhibit 3C.

13 Q. Perfect. Is it your understanding that  
14 the purpose of the audit, the reason this proceeding  
15 is going forward today, is to review the prudence of  
16 all costs and sales flowing through the LGR Rider  
17 that you calculate to pass on to your customers?

18 A. Honestly, I did not review what the  
19 purpose of the audit was so I would not want to mince  
20 words or know exactly what it was, so I don't have  
21 the purpose there. I understand that it's a review  
22 of the LGR.

23 Q. It's a review of the costs associated  
24 with the LGR Rider that then are passed on to  
25 customers, correct?

1           A. That seems legitimate, but I did not  
2 review what the purpose of the audit was.

3           Q. Well, are you here as a witness to  
4 sponsor the LGR Rider that AES passes costs on to  
5 customers related to OVEC?

6           A. I am here as a witness for the  
7 accounting of it and the calculation of the Rider.

8           Q. Okay. And you're the witness sponsoring  
9 the costs that are passed on through that Rider to  
10 customers, correct?

11          A. Yes.

12          Q. And, Mr. Donlon, you have previously  
13 worked at the Public Utilities Commission as a Staff  
14 member, correct?

15          A. Yes.

16          Q. And you routinely worked on audits at  
17 the Commission in your capacity as Staff, correct?

18          A. Yes.

19          Q. And you are familiar with the audit such  
20 as the one that LEI produced in this case?

21          A. Yes.

22          Q. You probably actually worked with LEI in  
23 the past, have you not?

24          A. I don't remember.

25          Q. So I want to ask you some questions

1 about your calculations for the LGR Rider, okay?

2 And just so I'm clear, because I didn't  
3 understand a couple of your prior sentences, you  
4 understand that LGR -- the LGR Rider for AES actually  
5 passes on to customers costs related to the OVEC  
6 generating unit?

7 A. Well, it passes on the net difference  
8 between the cost of OVEC and the PJM, yes.

9 Q. Sure. And it's your understanding that  
10 during the 2020 audit period, for the whole entire  
11 year, the net was a charge to customers, correct?

12 A. The -- are you talking about the net  
13 difference between the actual rider charge, which is  
14 not -- or the difference between the OVEC cost and  
15 the PJM revenue.

16 Q. I didn't think I asked you about a  
17 difference, I just am trying to confirm when we talk  
18 about your calculation, that the Rider resulted in a  
19 charge to customers during the audit period?

20 A. Well, that's -- I think you're -- it  
21 seems like there's different pieces of the  
22 calculation.

23 The charge -- the actual rider charge  
24 and mechanism is based off of forecasts of costs and  
25 true-ups, so that's only updated every six months.

1 So once that's set, that will be the same charge to  
2 customers for that six-month period.

3 Q. Sure. In response to my prior question  
4 you noted for me -- you clarified that the LGR Rider  
5 can be a charge or a credit to customers, did you  
6 not?

7 A. That's a true statement.

8 Q. Okay. During year 2022 -- or 2020, the  
9 LGR Rider was an actual charge to customers; is that  
10 correct?

11 A. That is correct.

12 Q. Thank you. And it's that charge and the  
13 numbers and the calculation that I'd like to explore  
14 a little bit with you, okay?

15 MS. BOJKO: Your Honor, at this time I  
16 would like to mark as OMAEG Exhibit 10 -- it's an  
17 excerpt from a data request and responses. It is two  
18 data responses that were submitted to the parties in  
19 response to set 2 by the office of the Ohio  
20 Consumers' Counsel.

21 EXAMINER DAVIS: It shall be so marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MS. BOJKO: It's my understanding that  
24 these -- this is not a confidential document. None  
25 of the exhibits are noted to be confidential. May we

1 approach?

2 EXAMINER DAVIS: You may.

3 By Ms. Bojko:

4 Q. Mr. Donlon, do you have in front of you  
5 what's been marked an OMAEG Exhibit 10?

6 A. I do.

7 Q. And is this two data responses, one is  
8 INT-02-007 with an attachment, and the other one is  
9 INT-02-031?

10 A. That is what they say.

11 Q. And referring just to INT-02-007, you  
12 are the responsible witness for this data response;  
13 is that correct?

14 A. Yes.

15 Q. And this interrogatory is seeking a  
16 monthly breakdown of AES's share of the OVEC's energy  
17 capacity ancillary services; is that correct?

18 A. Let me review this. Yes, that appears  
19 correct.

20 Q. Okay. It's my understanding that --  
21 Strike that. We'll come back to that.

22 Okay. Could you turn to the attachment  
23 now to INT-02-007?

24 A. I'm there.

25 Q. Okay. In this -- does this appear to be

1 OVEC/PJM -- or does it state it's OVEC/PJM charges  
2 for 2020?

3 A. It does.

4 Q. And did you prepare this table, or was  
5 it prepared under your direction?

6 A. It was prepared under my direction.

7 Q. And according to the table, the total  
8 charges to AES from PJM were \$12.9 million, almost  
9 \$13 million; is that correct?

10 A. Yes.

11 Q. And I am correct that the total charge  
12 column means total charge from PJM?

13 A. Yes. Yes, that would be the revenue  
14 received.

15 Q. The revenue received, or the charge that  
16 PJM invoiced you for?

17 A. It's the revenue. It's the -- yeah,  
18 it's the revenue. Because you can see the net energy  
19 revenues, net energy capacity, ancillary revenues,  
20 and that equals the total 12.9.

21 Q. So the column labeled "Total Charge" is  
22 really a revenue number?

23 A. See, I haven't looked at this report  
24 since this -- in a long time, since it was provided,  
25 but yeah, I believe it's the -- it's the revenue.

1 This is not the -- because the OVEC charges come from  
2 OVEC. PJM, you know, we receive the revenues from.

3 Q. So it's your understanding that the  
4 column labeled Total Charge would be a revenue that  
5 AES received from PJM that would then be netted  
6 against the OVEC costs in the LGR Rider?

7 A. Let me just make sure. Yeah, that's  
8 correct. It probably should have been labeled as  
9 revenue instead of charge.

10 Q. Thank you. That was one of my  
11 confusions as well.

12 Let's go on to the next interrogatory.  
13 The next interrogatory is INT-02-3031; is that  
14 correct?

15 A. I'm sorry. INT-02-3031, yes.

16 Q. And you are the responsible witness for  
17 this response to the interrogatory; is that correct?

18 A. Yes.

19 Q. And this interrogatory asks for the  
20 total amount of revenue that AES has collected from  
21 customers during 2020 through the LGR Rider, correct?

22 A. Yes.

23 Q. Okay. And your response was \$7.7  
24 million; is that correct?

25 A. Rounded to that, yes.

1           Q. Okay. Is it also correct to state -- we  
2 talk about how much was collected from customers. Is  
3 it correct to state that the 7 -- rounded \$7.7  
4 million number was charged to customers from -- or  
5 through the OVEC rider, the LGR Rider?

6           A. Yes.

7           Q. Could you now look at page 28 of the  
8 audit report?

9           A. I'm there.

10          Q. Actually, could you turn to 29? Sorry.

11          A. I am now there.

12          Q. Actually, I'm sorry, go back to 28.  
13 Right the first time.

14                 On the bottom of 28 it actually explains  
15 kind of Figure 13 on the next page, on page 29. But  
16 here on the bottom of page 28 the auditor states that  
17 in 2020 AES experienced a loss of about X dollars  
18 that is reflected -- reflected in the Rider LGR; is  
19 that correct?

20          A. Let me read it, please.

21          Q. The last sentence of the paragraph.

22                 MS. WATT: And I'll just caution  
23 Mr. Donlon not to reveal any numbers if he's looking  
24 at the confidential version and it's not blacked out.

25                 THE WITNESS: Okay. And the question

1 was that it says that there was a certain amount that  
2 was a loss to AES?

3 By Ms. Bojko:

4 Q. Correct?

5 A. That is correct.

6 Q. Okay. And then if you look now at the  
7 next page, on page 29, under Figure 13 the auditor --  
8 the last sentence of that paragraph states, "the  
9 difference is billed to AES's customers through the  
10 LGR Rider," do you see that?

11 A. I'm sorry, where are you?

12 Q. The auditor is still discussing from the  
13 last paragraph -- that it's the last sentence of that  
14 paragraph, it says, "the difference is billed to  
15 AES's customers through the LGR Rider."

16 A. That is what the report says.

17 Q. Okay. And then the number that we won't  
18 mention is -- can be found in Figure 13 above that  
19 statement in Column E, which is labeled "Gain/Loss,"  
20 do you see that?

21 A. I do.

22 Q. Now, sir, are you aware that this Figure  
23 13 was modified by the auditor earlier in the  
24 hearing?

25 A. I am not.

1           Q. If you could look up there, it's Staff  
2 Exhibit 8C.

3           THE WITNESS: Thank you. Now I have it.  
4 By Ms. Bojko:

5           Q. If you turn to AES's section, it begins  
6 on page 5.

7           A. I'm there.

8           Q. This is a table that the auditor is  
9 replacing the Figure 13 on page 29 with this figure.  
10 I'll explain to you that's what happened earlier in  
11 the hearing since you weren't here, okay?

12          A. Okay.

13          Q. So I just want to make sure we're  
14 talking about the right data.

15                 So if you look at the new Figure 13,  
16 there's a new number under Column C that's called  
17 Gain/Loss, it's looks like this chart is smaller but  
18 it's the same gain/loss I believe. Is that your  
19 understanding?

20          A. I see that.

21          Q. And there's now a new number, the old  
22 number has been replaced. Do you see that?

23          A. I see that.

24          Q. So when she was referring to a gain and  
25 loss in the audit, she is now saying that that number

1 has changed and is the gain/loss in the new Figure  
2 13?

3 A. I assume that the number hasn't changed.  
4 I assume there was a problem with the calculation in  
5 her chart.

6 Q. Sure. Fair point.

7 A. But the number has been updated.

8 Q. So there's a new number.

9 Now, from reading the audit report she  
10 says that there's a gain and loss and that difference  
11 is billed to AES's customers through the LGR Rider,  
12 and then provided a number that is different than  
13 this number that appears here.

14 I'm just trying to understand the  
15 difference. Is there another step that needs to be  
16 taken to get to your number?

17 A. I'm sorry, when you say my number --

18 Q. From the interrogatory, the 7.7,  
19 approximately, number.

20 It's significantly different from this  
21 number, so how do we get from the auditor this amount  
22 is billed through the LGR Rider, to your data request  
23 response that says that's the amount that was  
24 collected from customers?

25 A. Well, INT-02-007 is -- okay. So you're

1 talking about the 7 million that was collected from  
2 customers?

3 Q. Yes. Her words seemed to say that this  
4 number in the chart was collected from customers, and  
5 that's different from your number.

6 I'm assuming there's another step. Is  
7 it what I think you were going at, that the PJM  
8 revenues then need to be subtracted from her  
9 gain/loss?

10 A. Okay. And I haven't read the words  
11 around this. I can do this, but looking at this  
12 figure -- or this chart, what the chart looks like it  
13 is calculating is OVEC charges, so the cost of OVEC  
14 less PJM revenues, and then that creates a gain or  
15 loss.

16 Q. Okay.

17 A. So that is the gain or loss. Then you  
18 have the second component, which is the actual rider  
19 revenues which are collected, and those are going to  
20 be on a time lag, regulatory lag, so those are going  
21 to be collected differently.

22 So you need to take OVEC costs, your PJM  
23 revenues, you get a net difference. Then you apply  
24 the collections that AES gets from customers, which  
25 is the figure we were talking about, plus you need to

1 add in the -- AES's portion of the collections from  
2 FirstEnergy that they collect from their customers.

3 You offset that to get the net  
4 difference between what you actually collected for  
5 what was credited to customers, and you create a  
6 regulatory deferral or regulatory liability, and then  
7 at the next filing for the LGR, that will be updated  
8 along with, I believe, the projections of the LGR --  
9 of OVEC costs or that net difference, and that's what  
10 customers will be charged.

11 Q. Okay.

12 A. I don't think this is apples to apples.

13 Q. That's why I'm asking the question.

14 Thank you.

15 So Figure 13 has OVEC charges in it, it  
16 has the PJM settlement, and it has a gain/loss. Is  
17 it fair to say that this is the loss to AES, or the  
18 charge to customers during 2020 before the  
19 reconciliation that you just spoke of?

20 A. So I think I need to splice out your  
21 statement, because you made two statements that are  
22 not connected due to timing.

23 Q. Okay.

24 A. So it is the loss of -- that OVEC --  
25 it's the difference between the OVEC charges and the

1 PJM revenues, which was a loss. It is not what was  
2 collected from customers.

3 Q. Okay. It is the loss associated with  
4 AES's share of OVEC during 2020, though?

5 A. That is correct.

6 Q. Okay. And the way we get to your number  
7 is just through the reconciliation process and  
8 collecting amounts from FirstEnergy's customers. Is  
9 there anything else that you would add to that?

10 A. So the 7 million that I assume you mean  
11 by my numbers?

12 Q. Yes.

13 A. That is the -- that 7 million is what we  
14 collect -- what AES Ohio collected from AES Ohio  
15 customers.

16 Q. Okay. It's not the total -- okay. If  
17 you -- let me ask it this way.

18 If you were to add the amount that you  
19 collected from your customers, 7.7 million  
20 approximately, and then if you were to add the amount  
21 that FirstEnergy -- your portion of that that they  
22 collected from their customers, then we should get  
23 the number in the audit report that equals AES's  
24 total loss during 2020?

25 A. No.

1 Q. Okay. What else am I missing in that?

2 A. That is the amount -- the amount --  
3 there's the timing difference. So this is the OVEC  
4 losses for 2020.

5 Q. Okay.

6 A. But the collection, because it's a --  
7 the rider is a -- I believe it's trued up every six  
8 months, so there's a time lag.

9 So you're collecting cost on previous --  
10 the previous six months actuals, plus a projection, I  
11 believe, so there's going to be a timing lag between  
12 what is collected from customers and what actually  
13 happened in that year.

14 Q. Okay. But -- okay. So but for the  
15 timing lag, it's fair to say that the gain/loss  
16 number here is what would ultimately be collected for  
17 customers for OVEC charges during 2020?

18 A. It will be collected from customers  
19 through the LGR Rider, and then you will also have  
20 true-ups -- other true-ups and other items that are  
21 going into that, but yes, it would be collected.

22 Q. Okay. Thank you. I thank you so much  
23 for that clarification. It's perfect, that's exactly  
24 what I needed.

25 MS. BOJKO: No further questions. Thank

1 you.

2 MS. WHITFIELD: Nothing from me, your  
3 Honor.

4 MR. DOUGHERTY: No questions, your  
5 Honor.

6 EXAMINER DAVIS: Ms. Wilson?

7 MS. WILSON: No questions.

8 EXAMINER DAVIS: Ms. Watt, do you have  
9 redirect?

10 MS. WATT: No redirect, your Honor.

11 EXAMINER DAVIS: Thank you, Mr. Donlon.  
12 (Witness excused.)

13 MS. WATT: Your Honor, we move AES  
14 Exhibit 3 into evidence.

15 EXAMINER DAVIS: Is there any objection?

16 MR. FINNIGAN: No objection, your Honor.

17 MS. BOJKO: Still couldn't hear, but no  
18 objection. If Mr. Finnigan doesn't object, I don't  
19 object.

20 MS. WHITFIELD: No objection.

21 MR. DOUGHERTY: I don't object.

22 EXAMINER DAVIS: AES Exhibit 3 is  
23 admitted.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 MS. BOJKO: At this time OMAEG would

1 like to move Exhibit 10, please.

2 EXAMINER DAVIS: Objections?

3 MS. WATT: No objection.

4 EXAMINER DAVIS: Okay. Exhibit 10 for  
5 OMAEG?

6 MS. BOJKO: I believe it was 10.

7 EXAMINER DAVIS: OMAEG Exhibit 10 is  
8 admitted.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 EXAMINER DAVIS: So we're going to take  
11 a lunch break until 1:30, and we're now off the  
12 record.

13 (Lunch recess from 12:35 to 1:30.)

14 EXAMINER ADDISON: Let's go ahead and go  
15 back on the record.

16 Ms. Akhbari.

17 MS. AKHBARI: Thank you, your Honor.  
18 Duke Energy Ohio calls Duke witness Jim Ziolkowski.

19 EXAMINER ADDISON: Welcome. Raise your  
20 right hand. Do you swear the testimony you're about  
21 to provide in this proceeding is the truth?

22 THE WITNESS: I do.

23 EXAMINER ADDISON: Thank you. Please be  
24 seated.

25 - - -

1 JAMES E. ZIOLKOWSKI,  
2 being first duly sworn, as prescribed by law, was  
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 By Ms. Akhbari:

6 Q. Good afternoon, Mr. Ziolkowski.

7 A. Afternoon.

8 Q. Thanks for being with us here this  
9 afternoon. Do you have what has been previously  
10 marked in front of you as Duke Energy Ohio Exhibit 3?

11 A. Yes.

12 Q. And can you identify this exhibit,  
13 please?

14 A. That's my direct testimony in this case.

15 Q. And do you recognize this exhibit as  
16 being a true and accurate copy of your direct  
17 testimony?

18 A. Yes.

19 Q. And do you have any changes to your  
20 testimony before you?

21 A. No.

22 Q. And if I were to ask you the same  
23 questions contained in your written prefiled direct  
24 testimony, would your answers today remain the same?

25 A. Yes.

1 MS. AKHBARI: Your Honor, at this time I  
2 would tender Mr. Ziolkowski for cross-examination and  
3 move Duke Exhibit 3 pending the results of that  
4 cross.

5 EXAMINER ADDISON: Thank you very much,  
6 Ms. Akhbari. And I'll just note for the record  
7 Mr. Ziolkowski's prefiled direct testimony will be  
8 marked as Duke Exhibit No. 3 just for the record.

9 MS. BOJKO: I didn't hear the last part.

10 EXAMINER ADDISON: Just for the record.

11 MS. AKHBARI: I forgot to ask to mark  
12 it.

13 EXAMINER ADDISON: Judge covering our  
14 bases.

15 Mr. Sharkey, any questions?

16 MR. SHARKEY: No questions.

17 EXAMINER ADDISON: Mr. McKenzie?

18 MR. MCKENZIE: No questions.

19 EXAMINER ADDISON: Mr. Finnigan or  
20 Ms. Bojko, do we have an agreement as to who is to go  
21 first?

22 MR. FINNIGAN: I believe Ms. Bojko is  
23 going to go first.

24 MS. BOJKO: I'm sorry, did you mark it  
25 as Duke Exhibit 3?

1 EXAMINER ADDISON: Yes.

2 MS. BOJKO: Thank you, your Honor. Yes,  
3 I have some questions.

4 - - -

5 CROSS-EXAMINATION

6 By Ms. Bojko:

7 Q. Good afternoon, Mr. Ziolkowski.

8 A. Afternoon.

9 Q. I have learned how to say your name over  
10 the years. Unfortunately you were not present during  
11 Mr. Swez's testimony yesterday, were you?

12 A. I was not.

13 Q. Okay. Unfortunately for you, sir, he  
14 punted a couple questions to you, so I am going to  
15 ask you some of those questions now.

16 So you filed testimony in this case on  
17 October 3rd, 2023; is that correct, sir?

18 A. That is correct.

19 Q. And you are Duke's Director of Rates and  
20 Regulatory Planning; is that correct?

21 A. Correct.

22 Q. And is that just for Duke Ohio, or is  
23 that for the Service Corp.?

24 A. Well, I work for Duke Energy Business  
25 Services, so it's the Service Corp., but I just deal

1 with Ohio and Kentucky, electric and gas.

2 Q. And you, sir, are responsible for rider  
3 filings, tariff administration, billing and revenue  
4 reporting issues; is that correct?

5 A. Yes, that is correct. I don't deal with  
6 all riders, but I have my own subset. There's a lot  
7 of riders nowadays.

8 Q. Amen to that, sir. There are too many  
9 riders these days. So you are -- but you are lucky  
10 enough to be familiar with the OVEC LGR Rider,  
11 correct?

12 A. Yes.

13 Q. That is one of the ones that was in your  
14 purview?

15 A. Yes.

16 Q. And you're familiar of how the costs are  
17 passed through to customers via that rider; is that  
18 correct?

19 A. Yes. I access the data from the  
20 accounting system and I work with Commission Staff,  
21 prepare the workpapers, and ultimately get the Rider  
22 LGR tariffs filed.

23 Q. And, sir, are you familiar with the law  
24 authorizing the LGR Rider, 4928.148?

25 A. Yes, I am.

1           Q. And, sir, it's your understanding that  
2 the law authorizing these riders authorizes Duke to  
3 recover prudently incurred costs from customers,  
4 correct?

5           A. I'm aware that that's the language in  
6 there.

7           Q. And is it your understanding that during  
8 the audit period the LGR Rider resulted in a net  
9 charge to customers?

10          A. The question is a little bit difficult  
11 to answer because during 2020, which is the audit  
12 period, Rider LGR was actually populated with just  
13 forecast costs, and not -- there were no actuals.  
14 And that's what gets a little bit confusing, I think,  
15 to various parties, but it -- it was a charge for all  
16 months of 2020.

17          Q. Okay. So you're saying that the word  
18 net is not exactly correct because it was estimated  
19 or forecasted costs?

20          A. Well, the word net is correct, because  
21 the forecast numbers that we put in there were the --  
22 what we considered to be the net cost. That would be  
23 the costs for OVEC offset by revenues, and that's  
24 what we refer to as the net.

25                 However, they were not -- they were

1 forecasts and they were not actuals.

2 Q. Okay. But the -- there was actually a  
3 charge to customers, you collected money from  
4 customers in 2020; is that correct?

5 A. That is correct.

6 Q. And that statement is true for every  
7 month in 2020?

8 A. That is correct.

9 Q. Do you, sir, have a copy of the Duke  
10 audit report in front of you? It's been marked as  
11 Staff Exhibit 7C.

12 A. Yes, I do.

13 Q. And you -- you are aware that this  
14 proceeding is about an audit of the 2020 OVEC costs  
15 that are passed through the LGR Rider?

16 A. Yes, I am.

17 Q. And have you reviewed the London  
18 Economics International audit report concerning  
19 AES -- Duke's LGR Rider?

20 A. I reviewed the audit report for 2020,  
21 and I paid special attention to the rates in the LGR  
22 section, and paid less attention to the OVEC  
23 operations sections. It was quite a long report.

24 Q. Fair enough. Thank you for that  
25 explanation.

1 MS. BOJKO: Your Honor, at this time I  
2 would like to have marked as OMAEG Exhibit 11 Duke's  
3 response to OCC Interrogatory-02-001 dated August  
4 23rd, 2023.

5 EXAMINER ADDISON: It will be so marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MS. BOJKO: May we approach, your Honor?

8 EXAMINER ADDISON: You may.

9 By Ms. Bojko:

10 Q. Sir, do you have in front of you what's  
11 been marked OMAEG Exhibit 11?

12 A. Yes.

13 Q. Does this appear to be a discovery  
14 response from Duke to OCC-INT-02-001?

15 A. Yes.

16 Q. And, sir, you are the responsible person  
17 listed on the bottom of the DR; is that correct?

18 A. That is correct.

19 Q. And the interrogatory asks Duke to state  
20 the amount of revenue that Duke collected through the  
21 LGR Rider in 2020; is that correct?

22 A. That is correct.

23 Q. And in response to this interrogatory  
24 that you prepared, Duke states that it billed  
25 \$25,028,723 through the LGR Rider to customers in

1 2020; is that correct?

2 A. That is correct.

3 Q. And now if we could -- could we look at  
4 page 26 of Duke's audit report, which is 7C, Staff  
5 Exhibit 7C? Are you there?

6 A. Yes, ma'am.

7 Q. Looking at the audit report, without  
8 saying the number out loud because the actual Figure  
9 9 is deemed confidential, without stating that number  
10 out loud, the second to last section on page 26 of  
11 the audit report, see the section called "4.3.1.2  
12 Recommendations" under the Figure 9?

13 A. Yes.

14 Q. Okay. This sentence here states that  
15 the LGR bills -- I'm sorry, strike that.

16 Let me try this again. On page 26, if  
17 you look at Figure 9, without saying the number, is  
18 it your understanding that Column K of Figure 9 is  
19 the amount of charges that were collected from  
20 customers in 2020?

21 A. No, that's not correct.

22 Q. Okay.

23 A. The way you phrased your question is not  
24 correct.

25 Q. Okay. In Column K -- you were here this

1 morning when I asked Mr. Swez about Column K, were  
2 you not?

3 A. Yes.

4 Q. Okay. So Column K is the amount of OVEC  
5 losses associated with OVEC for 2020, correct?

6 A. Correct.

7 Q. And the difference between what is  
8 reflected on Column K to what is reflected in OCC  
9 Interrogatory 02-001, is what?

10 A. Okay. It's actually quite simple.  
11 Column K on Figure 9 on page 26 in the audit report  
12 represents the actuals for OVEC for -- DEO's portion  
13 of OVEC for 2020, calendar year 2020. Those are the  
14 actuals.

15 OCC -- the number in OCC Interrogatory  
16 02-001 represents the -- what was billed through  
17 Rider LGR.

18 The LGR rates for 2020 were all forecast  
19 dollars, it was -- it was forecasts, not actuals.  
20 And in addition, in the 2020 LGR rates for Duke  
21 Energy Ohio was also recovering the previous Rider  
22 PSR, Price Stabilization Rider, balance that existed  
23 at December 31st, 2019, so it's like apples and  
24 oranges.

25 The LGR rates for 2020 were forecasts,

1 OVEC net costs, plus there was a prior PSR -- prior  
2 period true-up trying to eliminate that balance. And  
3 so it's apples and oranges.

4 But I do -- but I do agree with the  
5 actual costs that appear in Figure 9 at the bottom of  
6 Column K, and eventually in years -- in the rider  
7 rates for 2021 and 2022, that is where it all gets  
8 trued up, and that's where these dollars will start  
9 appearing through the true up mechanism, but not in  
10 2020.

11 Q. So in 2021, the difference between these  
12 two numbers will be reflected in the 2021 revenue  
13 requirement for the rates that Duke charges?

14 A. Yes. Yes. This is -- Rider LGR is what  
15 we call a tracker, and so you put in a forecast  
16 piece, but then once the actuals come in then you  
17 true-up the difference between the forecast and the  
18 actuals, and that's what happened in this case.

19 Q. And the amount on OMAEG Exhibit 11 is  
20 what was actually billed and presumably collected  
21 from customers in 2020?

22 A. Those were the revenues that we billed.  
23 Now, just to be precise, you use the term collected,  
24 but to me that means cash collections, and so I don't  
25 want to get into the realm of uncollectible riders.

1 Q. I said presumably.

2 A. Presumably collected, billed -- so  
3 that's why I substituted the word "billed" in my  
4 response.

5 Q. Great. Thanks. So could you look at,  
6 it's probably up on top, Staff Exhibit 8C?

7 A. You said 8C?

8 Q. Yes.

9 A. Is that AEP.

10 Q. No, it's the errata for the audit  
11 report. Let's turn to the Duke section. The Duke  
12 section is on page 8. Are you aware that the audit  
13 report was updated or revised by the auditor in this  
14 case?

15 A. I recall that we had an opportunity to  
16 provide feedback to the auditor.

17 Q. Okay. So I -- Staff Exhibit 8C is that  
18 update. Updated Figure 13 is what I want to look at,  
19 which is on page 9 for Duke.

20 A. I'm there.

21 MS. AKHBARI: I'm so sorry. Could you  
22 clarify, Ms. Bojko, I don't think he's aware of what  
23 update you're referring to, that it was in the course  
24 of this hearing, like right now.

25 MS. BOJKO: I thought he just said he

1 was aware that the auditor provided an update to the  
2 audit report and Duke was able to produce comments on  
3 that update.

4 EXAMINER ADDISON: Let's just take a  
5 step back, make sure that he's aware, and then we'll  
6 move forward.

7 MS. BOJKO: Okay. I'll try again.

8 EXAMINER ADDISON: Thank you, Ms. Bojko.  
9 By Ms. Bojko:

10 Q. Are you aware that -- or can you take a  
11 minute and look at Staff Exhibit 8C? And  
12 specifically the Duke section is on page 8.

13 A. Yes, I'm there.

14 Q. Okay. I'll tell you that during the  
15 course of the hearing the auditor produced this  
16 evidence as updating figures to the audit report, so  
17 these are new figures that replace the figures that  
18 are in the audit report. Were you aware of that  
19 situation?

20 A. Actually I was not aware of this Figure  
21 13 as corrected, no.

22 Q. Okay. I just want to make sure we're  
23 using the correct Figure 13. So are you familiar  
24 with the Figure 13 as it was presented previously?

25 A. No.

1           Q.   Okay.  If you can't answer, let me know,  
2   but I think this is similar to the figures we just  
3   talked about on Figure 9.

4                     In your experience -- I think you might  
5   be able to answer this question, but if you look at C  
6   in this figure, I don't want you to mention any  
7   names, but there's a loss category, do you see that,  
8   Column C?

9           A.   You're still talking about Figure 13?

10          Q.   Yes.

11          A.   Yes.

12          Q.   Okay.  And on Figure 9 we just talked  
13   about the loss category of Column K?

14          A.   Right.

15          Q.   Okay.  I believe that C is meant to be  
16   the same -- that Column C, the loss column, is meant  
17   to be the same as Column K for Duke.  Is that your  
18   understanding, or does it appear to be?

19          A.   It appears to be.

20          Q.   Okay.  And so your comments to me  
21   previously about what is billed versus the loss that  
22   Duke is assessed for OVEC in 2020, would be the same  
23   with regard to this updated number?

24          A.   But what I'd like to mention is I  
25   didn't -- I'm not really familiar with Figure 13, but

1 in the area of the company that Mr. Swez works in, a  
2 lot of the data that they prepare is prepared on a  
3 risk month basis, whereas all the data that's in  
4 Figure 9 that we previously looked at in the audit  
5 report, that's all on an accounting month basis, so  
6 there's going to be a little mismatch between those  
7 numbers.

8 Q. Okay. And that's what you would think  
9 the difference between these numbers could be?

10 A. Yes.

11 MS. BOJKO: Thank you for those  
12 clarification, very helpful. I have no further  
13 questions, your Honor.

14 EXAMINER ADDISON: Thank you, Ms. Bojko.  
15 Mr. Finnigan.

16 MR. FINNIGAN: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Finnigan:

20 Q. Mr. Ziolkowski, it's nice to see you  
21 again, sir.

22 A. It's been a while.

23 Q. It's been a while. I just have a few  
24 questions about the OVEC charges, and I'm wondering  
25 is there somebody at Duke who is designated at the --

1 as the person to receive the OVEC monthly bills, and  
2 then review them to determine the reasonableness of  
3 the charges?

4 A. I don't know definitively who that would  
5 be, but it would have been someone in either  
6 Mr. Swez's organization, or someone in the accounting  
7 group associated with Mr. Swez's organization, but it  
8 was not me.

9 Q. Are you aware of whether Duke ever  
10 rejected any of the OVEC charges as being  
11 unreasonable?

12 A. I have no knowledge of that.

13 Q. Now, when you did the LGR rate  
14 calculation, what information did you receive as to  
15 the OVEC cost data to incorporate into the rate  
16 calculation?

17 A. Well, we received -- we got data from  
18 our accounting system on a monthly basis, and it's on  
19 a calendar month basis, and the data that ties to  
20 what appears in Figure 9 on page 26 of the audit  
21 report, and the data that we have actually appeared  
22 in one of the tabs on the spreadsheet, the LEI 01053  
23 Attachment E spreadsheet, and it's on the account  
24 month tab.

25 And so there is -- there is more data,

1 you know, that builds up to the totals that appear on  
2 Figure 9, so -- but essentially that is the data we  
3 got this, in LEI Data Request 53, Attachment E.

4 Q. Mr. Ziolkowski, is there a document  
5 before you that says OVEC Annual Report 2020 OCC  
6 Exhibit 7?

7 A. You said OCC Exhibit 7?

8 Q. Yes, sir. It's the OVEC Annual Report  
9 for 2020.

10 A. Yes, I have it now.

11 Q. Sir, could you turn to page 17 of that  
12 document and take a moment to review that page?

13 A. The pages on this copy here are numbered  
14 in an odd fashion, so is this the page that refers to  
15 long-term debt?

16 Q. Yes, sir, that's right, long-term debt  
17 at the top. What page number is on your version?

18 A. Excuse me. It's 17, but on the right  
19 next to it is page 30.

20 Q. We'll have to take a look at that.

21 EXAMINER ADDISON: I think it's just the  
22 way you printed it, Mr. Finnigan.

23 By Mr. Finnigan:

24 Q. So I did want to ask about 17, and this  
25 is simply a listing on the -- in the annual report

1 about the Company's long-term debt showing that they  
2 have debt totaling about \$1 billion, and it is of  
3 varying maturity dates through 2040.

4 MS. AKHBARI: I would just object.  
5 Mr. Finnigan really hasn't laid a foundation  
6 regarding Mr. Ziolkowski's knowledge of this document  
7 or if he's ever seen it before and worked with it.

8 EXAMINER ADDISON: Maybe we could take a  
9 step back, Mr. Finnigan.

10 By Mr. Finnigan:

11 Q. Mr. Ziolkowski, as your job at Duke  
12 you're required to prepare a lot of rate filings at  
13 the Commission to collect the Company's costs; is  
14 that correct?

15 A. That is correct.

16 Q. And as one element in a base rate case  
17 filing requires you to know the long-term debt of a  
18 company?

19 A. Well, that is correct, and when a  
20 regulated utility files a base rate case the cost of  
21 capital is a key component to that.

22 Q. Okay. So you're familiar with long-term  
23 debt versus short-term debt and preparing that cost  
24 of capital calculation?

25 A. Generally, yes.

1 Q. So let me ask you about long-term debt  
2 for OVEC.

3 Now, on page 17, my question was just,  
4 first, doesn't it show at the bottom that total  
5 long-term debt, as of 2020, was about \$1 billion?

6 A. Yes, it says that.

7 Q. And then also, if you would just kind of  
8 skim down that page, the debt has varying maturity  
9 dates, some of which are as late as 2040?

10 A. Yes.

11 Q. Now, let me ask you to turn to page 11  
12 of that document.

13 A. I'm there.

14 Q. Okay. Now, is there a paragraph about  
15 three lines down from the top stating, "In  
16 January 2017"?

17 A. Yes.

18 Q. Okay. Let me read this and then I have  
19 a couple questions aboutn it.

20 "In January 2017 the Company started  
21 advanced billing the Sponsoring Companies for debt  
22 service as allowed under the ICPA. As of  
23 December 31st, 2020 and 2019, 120 million and 90  
24 million respectively have been advanced billed to the  
25 Sponsoring Companies. As the Companies have not yet

1 incurred the related cost, a regulatory liability was  
2 recorded which will be credited to customer bills on  
3 a long-term basis." Have I read that correctly?

4 A. Yes.

5 Q. When it says customer bills, OVEC  
6 doesn't issue any customer bills to consumers of Duke  
7 Energy Ohio, does it?

8 A. No.

9 Q. So when it says that this amount will be  
10 credited on a customer bill, who do you understand  
11 that to be if it's not Duke Energy's customers?

12 MS. AKHBARI: I would just object, your  
13 Honor. Mr. Finnigan hasn't established that  
14 Mr. Ziolkowski has ever seen this document, worked  
15 with it before, it's outside the scope of his  
16 testimony, it calls for speculation.

17 EXAMINER ADDISON: Thank you. And I  
18 think you've made a connection to long-term debt, but  
19 I don't think you made a connection to this actual  
20 document yet, Mr. Finnigan, so maybe you could ask  
21 Mr. Ziolkowski his knowledge of this document and his  
22 use of this document, if any.

23 By Mr. Finnigan:

24 Q. So, Mr. Ziolkowski, are you familiar  
25 with the amounts of -- in the OVEC bills that Duke

1 charged through the Legacy Generation Rider?

2 A. Can you restate that?

3 Q. Yes. I'm simply asking, did you review  
4 the OVEC monthly bills?

5 A. No, in preparing the Legacy Generation  
6 Rider I pulled the data from the accounting system,  
7 as I mentioned previously, that appears in that  
8 DR-01-053, and also ties to Figure 9 in the LEI  
9 report, but I did not review bills.

10 Q. Okay. How do you know then whether the  
11 accounting entries corresponded with the bills?

12 A. Duke Energy is a very large corporation  
13 and we all assume that our accounting groups know  
14 what they are doing and they do a good job.

15 Q. So you would assume, as you said, that  
16 the accounting group would accurately record the  
17 amounts listed in the OVEC monthly bills into the  
18 Company's accounting entries that you review?

19 A. I would assume so. But, you know, this  
20 is all an area that I'm not involved with.

21 Q. Okay. So even though you didn't review  
22 the exact monthly bills themselves, you reviewed the  
23 accounting entries that corresponded to the monthly  
24 bills?

25 A. A better way to state that is I pulled

1 up the summary accounting data that we needed to  
2 prepare the LGR filings and to respond to the audit.

3 Q. Okay. Now, the document before you that  
4 I just read stated that, "as the Companies have not  
5 yet incurred the cost."

6 Are you familiar with whether the OVEC  
7 charges that flowed through the LGR Rider included  
8 prepayments or advanced payments of debt?

9 A. I do not know the answer to that  
10 question because the summary data that we used did  
11 not include the granularity that you're asking for.

12 Q. Okay. So is it your understanding that  
13 the LGR Rider is intended to include the current OVEC  
14 costs for 2020?

15 MS. AKHBARI: I would just object. He's  
16 given his understanding of how the rider mechanism  
17 functions.

18 EXAMINER ADDISON: I'll allow him to  
19 answer the question, but we'll provide you a little  
20 latitude in your answer, Mr. Ziolkowski.

21 THE WITNESS: As I mentioned, when we  
22 were preparing the LGR filings every six months we  
23 pull up summary accounting data and we assume our  
24 accountants who work in the field know what they are  
25 doing and they record costs appropriately, so if it's

1 a cost that should not be recovered and should be  
2 deferred for the future, then they handle that  
3 appropriately.

4 But in my department we do not get  
5 involved directly with the accounting of OVEC costs  
6 and revenues, we pull up summary data and prepare the  
7 filings.

8 By Mr. Finnigan:

9 Q. Okay. So you wouldn't be in a position  
10 to tell us whether any of the costs that flowed  
11 through the LGR Rider are proper?

12 A. Well, I would assume that -- my  
13 assumption is that they are all proper, but those  
14 decisions are made by people in our operating groups  
15 that deal with OVEC, and also the associated  
16 accounting groups that work with -- with whom they  
17 work.

18 Q. Now, is it -- your understanding is that  
19 the LGR Rider in this case covers calendar year 2020?

20 A. It's my understanding that the audit in  
21 this case is about OVEC's operations during 2020, and  
22 the LGR Rider for 2020.

23 Q. Okay. And what about costs for future  
24 years after 2020, is it your understanding that  
25 future years are also included within the scope of

1 this audit?

2 A. My understanding is that this audit was  
3 covering 2020, calendar year 2020, and not future  
4 years, and -- and there are -- there will be more  
5 audits held in the future to cover those futures  
6 years.

7 Q. And likewise with the audit, is it your  
8 understanding that what the audit covered was the  
9 OVEC costs attributable to 2020?

10 MS. AKHBARI: Asked and answered, your  
11 Honor. He has given his opinion and knowledge of the  
12 time frame for the audit. This is the fourth time  
13 he's being asked.

14 EXAMINER ADDISON: Thank you. Objection  
15 overruled. You may answer the question.

16 THE WITNESS: My understanding is that  
17 this audit covered the OVEC costs and revenues, net  
18 costs, associated with calendar year 2020, and also  
19 the implementation and calculation of the Rider LGR  
20 rates that were in effect for 2020.

21 MR. FINNIGAN: Okay. Thank you. That's  
22 all the questions I have. Thank you, Mr. Ziolkowski.

23 EXAMINER ADDISON: Thank you very much,  
24 Mr. Finnigan.

25 Ms. Whitfield?

1 MS. WHITFIELD: No questions.

2 EXAMINER ADDISON: Mr. Dougherty?

3 MR. DOUGHERTY: No questions, your  
4 Honor.

5 EXAMINER ADDISON: Ms. Wilson.

6 MS. WILSON: No, thank you.

7 EXAMINER ADDISON: Ms. Akhbari, any  
8 redirect?

9 MS. AKHBARI: No.

10 EXAMINER ADDISON: We have no additional  
11 questions for you at this time, Mr. Ziolkowski, thank  
12 you for your testimony.

13 Ms. Akhbari, you had previously moved  
14 for the admission of Duke Energy Ohio Exhibit 3; is  
15 that correct?

16 MS. AKHBARI: That is correct, your  
17 Honor.

18 EXAMINER ADDISON: Any objection to the  
19 admission of that exhibit at this time?

20 MS. BOJKO: No, your Honor.

21 MR. FINNIGAN: No, your Honor.

22 EXAMINER ADDISON: Thank you. Hearing  
23 none, it will be admitted.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 EXAMINER ADDISON: Ms. Bojko.

1 MS. BOJKO: Yes, your Honor, at this  
2 time I'd like to move OMAEG Exhibit 11 into the  
3 record into evidence.

4 EXAMINER ADDISON: Any objections to the  
5 admission of OMAEG Exhibit 11 into the record at this  
6 time?

7 MS. AKHBARI: No objection, your Honor.

8 EXAMINER ADDISON: Thank you very much.  
9 It will be admitted.

10 (EXHIBIT ADMITTED INTO EVIDENCE.)

11 MR. NOURSE: AEP is ready to call their  
12 next witness.

13 EXAMINER ADDISON: Let's go off the  
14 record just for a second.

15 (Discussion off the record.)

16 EXAMINER ADDISON: Let's go back on the  
17 record. Mr. Nourse.

18 MR. NOURSE: Thank you. AEP calls Jason  
19 Stegall.

20 EXAMINER ADDISON: Welcome, Mr. Stegall.  
21 Raise your right hand. Do you swear the testimony  
22 you're about to provide in this proceeding is the  
23 truth?

24 THE WITNESS: I do.

25 EXAMINER ADDISON: Thank you. Please be

1 seated.

2 - - -

3 JASON M. STEGALL

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

6 DIRECT EXAMINATION

7 By Mr. Nourse:

8 Q. Good afternoon, Mr. Stegall.

9 A. Good afternoon.

10 MR. NOURSE: We're up to number 1. I'd  
11 like to mark, your Honor, the prefiled testimony of  
12 Jason Stegall as AEP Ohio Exhibit 1.

13 EXAMINER ADDISON: It will be so marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 By Mr. Nourse:

16 Q. Mr. Stegall, you have the document we  
17 just marked AEP Ohio Exhibit 1?

18 A. Yes, I do.

19 Q. Is this your direct testimony in this  
20 case filed October 3rd, 2023?

21 A. Yes, it is.

22 Q. And let me back up. Can you state your  
23 name and business address for the record?

24 A. My name is Jason Stegall, and my  
25 business address is 1 Riverside Plaza, Columbus,

1 Ohio.

2 Q. Thank you. And by whom are you employed  
3 and in what capacity?

4 A. I am the Director of Regulatory Services  
5 for American Electric Power Service Corporation.

6 Q. Thank you. And the document we marked  
7 Exhibit 1 is your direct testimony in this case, and  
8 that was prepared by you or under your direction,  
9 correct?

10 A. Correct.

11 Q. Do you have any changes, additions, or  
12 corrections to make to the testimony?

13 A. I do not.

14 Q. If I were to ask you the same questions  
15 today under oath, would your answers be the same?

16 A. Yes, they would.

17 MR. NOURSE: Thank you. Your Honor, I  
18 would move for admission of AEP Ohio Exhibit 1  
19 subject to cross.

20 EXAMINER ADDISON: Thank you very much,  
21 Mr. Nourse.

22 Any cross from AES Ohio?

23 MR. SHARKEY: No, your Honor.

24 EXAMINER ADDISON: Duke?

25 MR. D'ASCENZO: No, your Honor.

1 EXAMINER ADDISON: Ms. Bojko, will you  
2 be going first this time around?

3 MS. BOJKO: Mr. Finnigan.

4 EXAMINER ADDISON: Mr. Finnigan, you're  
5 up.

6 MR. FINNIGAN: Your Honor, at this time  
7 I'd like to mark for identification OCC Exhibit 14  
8 which is an Ohio Power's responses to OCC's second  
9 set of data requests in this case.

10 EXAMINER ADDISON: It will be so marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. FINNIGAN: May I approach the  
13 witness?

14 EXAMINER ADDISON: You may.

15 MR. FINNIGAN: Your Honor, before I get  
16 into this exhibit I'd like to make a motion to strike  
17 a couple of items in Mr. Stegall's testimony.

18 EXAMINER ADDISON: Certainly.

19 MR. FINNIGAN: First I'd like to turn to  
20 page 16. And just give me one moment, your Honor.

21 EXAMINER ADDISON: Certainly.

22 MR. FINNIGAN: On page 16 I would like  
23 to strike the chart at the bottom of the page, with  
24 the exception of the line item for year 2020, because  
25 the other years shown in this chart are either before

1 or after the audit period.

2 MR. NOURSE: Your Honor, I think -- I'm  
3 sorry, Mr. Finnigan, were you done?

4 MR. FINNIGAN: Yes.

5 MR. NOURSE: Just to respond to that, I  
6 think this chart is similar to other testimony and  
7 information that's been let into the record for  
8 context, especially to show, again, the historical  
9 context of the energy market in 2020, but in order to  
10 show that, it necessarily requires context.

11 EXAMINER ADDISON: Thank you. And I  
12 think it does look like a similar chart that we  
13 allowed to stay in tact in Mr. Swez's testimony, so  
14 we'll go ahead and deny the motion to strike at this  
15 time, noting for the record, of course, that it does  
16 reflect years outside the audit period.

17 MR. FINNIGAN: And next, your Honor, I'd  
18 like to turn to page 20, and I'd like to move to  
19 strike Mr. Stegall's answer which begins on line 4 of  
20 that page, and through the end of that sentence.

21 As can be seen from that sentence, it  
22 deals with the EPA's action involving the proposed  
23 denial of the permit in 2022 regarding the Clifty  
24 Creek plant, again, outside the audit period.

25 EXAMINER ADDISON: And, Mr. Finnigan,

1 when you said through the end of the question, you  
2 mean through line 11; is that correct?

3 MR. FINNIGAN: Well, yes.

4 EXAMINER ADDISON: Is that the rest of  
5 the sentence, or the rest of the answer?

6 MR. FINNIGAN: Actually, 10, just the  
7 remainder of that sentence.

8 MR. NOURSE: I believe the sentence ends  
9 on seven, begins with, "Although," and ends with  
10 "demonstration."

11 MR. FINNIGAN: Yes, I stand corrected,  
12 that's right, line 7.

13 EXAMINER ADDISON: So through line 7  
14 with the word "demonstration"; is that correct?

15 MR. FINNIGAN: Correct, Mr. Nourse?

16 MR. NOURSE: Sure. Well, the  
17 Intervenor claim that the status of the OVEC permits  
18 will require closure of the plant, which is  
19 necessarily a going forward issue from today, and  
20 obviously that's not the case, and Mr. Stegall is  
21 addressing -- is responding to the Intervenor in  
22 that context of saying the plant will have to close  
23 by updating that with a factual development.

24 EXAMINER ADDISON: Thank you. I think  
25 consistent with additional prior rulings from the

1 Bench, we will go ahead and grant the motion to  
2 strike at this time beginning on line 4 with the  
3 word, "Although," through line 7 ending with the word  
4 "demonstration."

5 MR. FINNIGAN: Thank you, your Honor.  
6 And then the next one I have --

7 MR. NOURSE: I'm sorry, can you explain  
8 what you mean by consistent with other rulings?

9 EXAMINER ADDISON: I believe we had  
10 similar issues pop up during this hearing, and I'm  
11 making a ruling consistent with those.

12 MR. NOURSE: I don't understand that,  
13 because I just -- okay.

14 EXAMINER ADDISON: Thank you.  
15 Mr. Finnigan.

16 MR. FINNIGAN: Yes, your Honor, the next  
17 one I have is on page 21, beginning at line 3, and  
18 it's a sentence which begins, "The amounts," and it  
19 ends at line 6 after the number "2013."

20 And again, this is a motion to strike  
21 because it talks about OVEC not issuing dividends  
22 since 2013, before the audit period.

23 EXAMINER ADDISON: Mr. Nourse?

24 MR. NOURSE: Well, again, the point of  
25 this statement is not the time frame, it's how

1 Component D proceeds are used. And, you know, I  
2 think that's the factual statement based on his  
3 knowledge.

4 And again, just like the environmental  
5 which was let in the record, we're responding to  
6 their arguments that apply today.

7 And just to be more specific about my  
8 reference to other things in the case, Stanton, page  
9 24, this testimony was allowed in the record about  
10 2022 activities. Frankly, this one relates to the  
11 environmental, which I was addressing in my last  
12 objection, but same point.

13 EXAMINER ADDISON: I'm going to deny the  
14 motion to strike as to this one, Mr. Finnigan.

15 MR. FINNIGAN: Thank you, your Honor.

16 Your Honor, I have another motion to  
17 strike two other questions and answers, but I would  
18 ask permission to do a short voir dire to establish  
19 the basis for that motion.

20 EXAMINER ADDISON: Certainly.

21 - - -

22 VOIR DIRE

23 By Mr. Finnigan:

24 Q. Good afternoon, Mr. Stegall. Could you  
25 please turn to page 3 of your direct testimony

1 beginning the line 2?

2 A. Okay.

3 Q. Now, you are asked there, "What is the  
4 purpose of your testimony," correct?

5 A. Yes.

6 Q. And could you please take a moment to  
7 skim through the answer?

8 A. Okay.

9 Q. Now, part of your answer says that the  
10 purpose of your testimony is, "to support the  
11 prudence and reasonableness of AEP Ohio's actions  
12 with respect to OVEC during the audit period." Have  
13 I read that portion correctly?

14 A. Yes.

15 Q. Now, I next want to ask you about your  
16 role with respect to the OVEC operating committee.

17 A. I'm sorry, I didn't hear the last word  
18 you said.

19 Q. With respect to the OVEC operating  
20 committee.

21 A. The last word was committee?

22 Q. Yes, operating committee.

23 EXAMINER DAVIS: Mr. Finnigan, watch for  
24 the red part to blink. So keep hitting the button.  
25 By Mr. Finnigan:

1           Q. Now, Mr. Stegall, is it generally true  
2           that except for a period of time between April 14th  
3           and June 30th, of 2020, the decision whether to  
4           commit the OVEC plants into the day-ahead energy  
5           market were determined by the OVEC operating  
6           committee?

7           A. I think I would respond that the  
8           determination is a bit more specific, it's related to  
9           the operating procedures approved by the operating  
10          committee.

11          Q. Okay. And then during that other time  
12          period between April 14th and June 30th, the  
13          decisions were made by OVEC itself?

14          A. The decisions were made by OVEC itself  
15          according to a proposal submitted to the operating  
16          committee and unanimously approved.

17          Q. Okay. Now, have you ever been AEP  
18          Ohio's designated representative on the OVEC  
19          operating committee?

20          A. No, I have not.

21          Q. During the audit period did you  
22          participate in the OVEC operating committee's  
23          meetings as a nonvoting member?

24          A. I started participating at some point in  
25          time, I'm not sure when that was, as a nonvoting

1 member. Without looking at the roster for meetings,  
2 I don't know.

3 Q. Now, would you agree that the types of  
4 factors that an operator should take into account in  
5 deciding whether to use must run or economic  
6 commitment are things like the plant cost, the  
7 expected PJM revenues, the startup costs, cycling  
8 costs, expected profit or revenues in the future,  
9 things of that nature?

10 A. You said plant costs. Can you define  
11 what you mean by that?

12 Q. The cost of the units that comprise a  
13 plant or a station.

14 A. Once again, I think your definition of  
15 cost is a bit broad. Is it all costs?

16 Q. Startup costs and shutdown costs.

17 A. So, Mr. Finnigan, I'm going to refer you  
18 to page 15 of my direct testimony where, beginning on  
19 line 20, "There are many factors taken into  
20 consideration in the unit commitment decisions made  
21 by the operators of power plants in PJM, and  
22 short-term economics is not the only factor that  
23 enters into the decision to commit a unit with a Must  
24 Run status. The factors include, but are not limited  
25 to, generating unit economics, startup costs,

1 existing fuel inventories, scheduled deliveries of  
2 fuel, operational constraints, scheduled  
3 environmental and capability testing, and safe  
4 operation of the generating units."

5 Q. Thank you. And, Mr. Stegall, these  
6 commitment decision into the day-ahead market as must  
7 run or economic are made on a daily basis?

8 A. Are you asking me in general, or  
9 specific to OVEC?

10 Q. Specific to OVEC.

11 A. So I have a general idea based on what  
12 we have submitted in this case as to how OVEC submits  
13 information to PJM.

14 I am very aware of what AEP operating  
15 companies do in terms of how they participate in PJM.  
16 PJM does have daily requirements for information, so  
17 I have no doubt that OVEC is supplying the required  
18 daily information.

19 I can say, based on my experience, unit  
20 commitment is something that is considered not only  
21 in the day ahead, but also over a longer term.

22 Q. Okay. Now, with respect to these  
23 different factors on page 14 that you just identified  
24 in your prior answer, did you review all of the those  
25 factors in terms of judging the reasonableness of

1 OVEC's unit commitment decisions into the day-ahead  
2 market during 2020?

3 A. So I want to make sure I understand. So  
4 you started this line of questioning asking me about  
5 the purpose of my testimony and we read a line from  
6 my testimony. And the line that we read said to  
7 support the prudence and reasonableness of AEP Ohio's  
8 actions with respect to OVEC.

9 So I -- I will say OVEC is responsible  
10 for operating its units on a daily basis in the PJM  
11 markets. It submits the data.

12 The Sponsoring Companies, which include  
13 AEP Ohio, do not have access to all of that data. I  
14 think we provided some data in data requests in this  
15 proceeding, but did I -- did I evaluate all of these  
16 things? No. I would expect OVEC to do that sort of  
17 evaluation, but the Sponsoring Companies don't have  
18 that level of detail.

19 Q. Okay. And then could you please turn  
20 your attention to a document that's been marked as  
21 OCC Exhibit 14?

22 I just would like to ask you about a  
23 couple of items here. First, are you familiar with  
24 what this document is? Can you identify this  
25 document?

1           A. This appears to be discovery requests  
2 and responses that AEP provided in this docket. It  
3 looks like many of them are OCC related. Without  
4 looking at every page, I don't know if all of them  
5 are from OCC or not.

6           Q. And is the information that AEP provided  
7 in these responses accurate and truthful?

8           MR. NOURSE: Your Honor, if he's going  
9 to ask questions like that, I think we need to go  
10 through specifically what he's asking about.

11           MR. FINNIGAN: I can do that, your  
12 Honor. I can ask on a question by question basis.  
13 By Mr. Finnigan:

14           Q. Could you please turn your attention to  
15 OCC-INT-02-005?

16           A. Okay.

17           Q. The question there says, "Please  
18 identify any economic analysis which was performed  
19 relating to the Operating Company's decision to give  
20 OVEC temporary authorization to offer the OVEC units  
21 into the PJM Day-Ahead Energy Market using either a  
22 'must-run' or 'economic' commitment status beginning  
23 April 14th, 2020." Have I read that question  
24 correctly?

25           A. Yes.

1 Q. And if you scroll down to the bottom of  
2 the answer, the last sentence says, "The Company has  
3 not performed the requested analysis during the  
4 requested period." Have I read that correctly?

5 A. You've read that correctly. AEP Ohio,  
6 AEP Service Corporation, didn't perform this  
7 analysis, I would have expected OVEC to do that.

8 Q. And is that answer truthful?

9 A. To my knowledge it's truthful.

10 Q. Now let's turn to the next one, No. 6,  
11 and the question there says, "Please identify any  
12 economic analysis which was performed relating to the  
13 Operating Company's decision to terminate OVEC's  
14 temporary authorization to offer the OVEC units into  
15 the PJM Day-Ahead Energy Market either as 'must-run'  
16 or 'economic' as of June 30th, 2020." Have I read  
17 that correctly?

18 A. You've read that correctly. I think the  
19 question is a little bit odd in that the  
20 authorization expired, it wasn't officially  
21 terminated.

22 Q. Mr. Nourse thinks all of my questions  
23 are odd.

24 MS. BOJKO: Your Honor, I move to strike  
25 everything after you read that correctly. He asked

1 if he read the statement correctly. I think any kind  
2 of explanation could go to redirect.

3 EXAMINER ADDISON: Well, I don't even  
4 think we have made it into cross yet, we're still in  
5 voir dire.

6 MS. BOJKO: I apologize.

7 MR. FINNIGAN: And I just have a couple  
8 more questions along this line.

9 By Mr. Finnigan:

10 Q. And then to scroll down to the bottom of  
11 the answer it says, "The company has not performed  
12 the requested analysis during a requested period."  
13 Have I read that correctly?

14 A. Yes.

15 Q. And then let's jump ahead. Please take  
16 a look at item No. 7. The question there is, "Please  
17 identify any economic analysis which was performed  
18 relating to OVEC's daily decisions whether to offer  
19 the OVEC units into the PJM Day-Ahead Energy Market  
20 as 'must-run' or 'economic' during the period of  
21 April 14th, 2020 through June 30th, 2020." Have I  
22 read that correctly?

23 A. Yes.

24 Q. And again, scrolling down to the bottom,  
25 "The Company has not performed the requested analysis

1 during the requested period." Have I read that  
2 correctly?

3 A. Yes.

4 Q. Okay. Then please go forward to item  
5 No. 9. The question is, "Please explain what  
6 information OVEC evaluated regarding expected daily  
7 PJM Day-Ahead Energy Market revenues, for OVEC's use  
8 in making its daily decisions whether to offer the  
9 OVEC units into the PJM Day-Ahead Energy Market as  
10 'must-run' or 'economic' during the period of April  
11 14, 2020 through June 30, 2020." Have I read that  
12 correctly?

13 A. You have.

14 Q. And then the answer at the bottom, "AEP  
15 Ohio does not have knowledge of what OVEC evaluated."  
16 Did I read that correctly?

17 A. You have.

18 Q. Okay. Then finally, please go forward  
19 to item No. 15. There the question is, "Identify all  
20 communications where AEP provided feedback to OVEC  
21 regarding OVEC's performance in making the daily  
22 decisions on whether to offer the OVEC units into the  
23 PJM Day-Ahead Energy Market as 'must-run' or  
24 'economic' during the period of April 14th, 2020  
25 through June 30th 2020." Have I read that correctly?

1           A.   Yes.

2           Q.   And the answer, three lines from the  
3 bottom, "No responsive documents were located after a  
4 good faith search based on the Company's  
5 understanding of the question." Have I read that  
6 correctly?

7           A.   Yes.

8           Q.   And that's all the questions I have on  
9 that document.

10           MR. FINNIGAN: Your Honor, at this time  
11 I would like to make a motion to strike two more  
12 questions and answers.

13           The first one is on page 11, beginning  
14 at line 3, with the question, "Was OVEC's commitment  
15 status in 2020 reasonable," and I would move to  
16 strike the entire answer through page 12, line 6.

17           And the next one is very similar to  
18 this, and it's on page 13, line 11, the question,  
19 "Was the use of the must-run commitment status  
20 reasonable for the audit period," and I would move to  
21 strike the entire answer through line 18.

22           Your Honor, the basis of my motion to  
23 strike is that Mr. Stegall said that the purpose of  
24 his testimony here today is to support the  
25 reasonableness of AEP Ohio's actions, and these

1 questions deal with OVEC's commitment status.

2 He had no involvement with the OVEC  
3 operating committee that made the decisions  
4 throughout the entire year except for the period of  
5 April 14th through June 30th, and then for that  
6 period of April 14th through June 30th, these data  
7 requests ask for what information did you review, and  
8 he reviewed no information to be able to determine  
9 what type of analysis OVEC used during that period.

10 So based on the voir dire I would submit  
11 that there's no foundation for Mr. Stegall to submit  
12 these answers to these two questions and they should  
13 be stricken.

14 MS. BOJKO: Your Honor, OMAEG supports  
15 that motion to strike.

16 MR. DOUGHERTY: CUB Ohio, also.

17 MS. WHITFIELD: Kroger as well.

18 EXAMINER ADDISON: Thank you all.

19 Mr. Nourse.

20 MR. NOURSE: Yes, your Honor. First of  
21 all, I think Mr. Stegall's purpose is describing  
22 generally what he's addressing in his testimony. I  
23 don't think that can be used as a basis for excluding  
24 testimony that's in the written exhibit and is part  
25 of his testimony.

1           Obviously AEP Ohio, as with AES Ohio, as  
2           with Duke Energy Ohio, is -- is an owner of OVEC, is  
3           a participant in the ICPA, and is a participant in  
4           the operating committee, and a participant in the  
5           Board, and that's not the same as being OVEC.

6           So there should be no expectation that  
7           each owner, including AEP Ohio, possesses all the  
8           same information that OVEC has.

9           I think that's been clear throughout the  
10          proceeding that each of the owners has a role in  
11          those participation levels through the operating  
12          committee, through the Board, through daily  
13          interactions, and business interactions with OVEC,  
14          but is not the operator, the plant doesn't have all  
15          the information that the operator has.

16          So the fact that we answered discovery  
17          and said that we didn't have the analysis that OVEC  
18          had to do daily decisions, I don't think that has any  
19          bearing on his ability to testify in his role as an  
20          AEP representative on the operating committee, and as  
21          a knowledgeable person about all the data and  
22          information that's being discussed in this case.

23          I will also note that Mr. Finnigan only  
24          partly quoted Interrogatory 15. He skipped the last  
25          sentence that refers to a data request to the auditor

1 which also provided a set of data information as part  
2 of that answer. So it was an incomplete discussion.

3 But obviously one of the main purposes  
4 of Mr. Stegall's testimony in this proceeding is to  
5 talk about must run, and just like Mr. Swez, just  
6 like Mr. Crusey to come, I think, you know, we'll be  
7 addressing -- he is addressing in his testimony the  
8 factors, the reasonableness of the must run, the  
9 circumstances in 2020 that existed, and those are all  
10 matters within his knowledge and expertise.

11 If OCC wants to cross on these matters  
12 and question the weight the Commission should give to  
13 his testimony, that's different than striking it.  
14 Thank you.

15 EXAMINER ADDISON: Thank you. I do tend  
16 to agree with Mr. Nourse. I believe to the extent  
17 that parties want to investigate Mr. Stegall's  
18 knowledge of the commitment strategy in 2020, they  
19 can certainly pursue that on cross-examination, and  
20 the Commission can certainly evaluate his answers and  
21 determine the weight that is appropriate to provide  
22 to his testimony. So the motion to strike is denied,  
23 Mr. Finnigan.

24 MR. FINNIGAN: And, your Honor, just to  
25 speed up the proceeding, rather than reasking every

1 question again and presumably getting the same  
2 answers, would it be possible to simply incorporate  
3 my questioning and Mr. Stegall's answering from the  
4 voir dire section into the evidentiary record of the  
5 case?

6 EXAMINER ADDISON: Does that include Ms.  
7 Bojko's objection?

8 MS. BOJKO: I'll withdraw my objection  
9 to make it easier.

10 EXAMINER ADDISON: Thank you very much.  
11 Any objections to having those questions stand?

12 MR. NOURSE: I didn't hear what  
13 Ms. Bojko said.

14 EXAMINER ADDISON: She was withdrawing  
15 her objection that she had posed during the voir  
16 dire.

17 MS. BOJKO: Not my objection, my request  
18 to strike the extra sentence, I guess is what it was.

19 MR. NOURSE: I was going to support you  
20 on that. If it speeds things along, I'm fine with  
21 that, your Honor.

22 EXAMINER ADDISON: Thank you. Yes, of  
23 course, we will make a note of that, Mr. Finnigan.

24 MR. FINNIGAN: Thank you. With that,  
25 your Honor, I have no further questions.

1 EXAMINER ADDISON: Ms. Bojko.

2 - - -

3 CROSS-EXAMINATION

4 By Ms. Bojko:

5 Q. Good afternoon, Mr. Stegall. Good to  
6 see you again.

7 A. Good to see you, too.

8 Q. You do have your testimony still in  
9 front of you that's been marked as AEP Exhibit 1?

10 A. Yes.

11 Q. And, sir, you do not have a formal --  
12 any formal education in economics, do you?

13 A. Well, I don't have a degree in  
14 economics. I do have a Master's in business  
15 administration. Economics was heavily included in  
16 that curriculum, so I do have formal education in  
17 economics, just not the degree.

18 Q. Okay. And you don't have a degree in  
19 accounting either, do you?

20 A. I do have a degree in accounting, that's  
21 in my testimony.

22 Q. Could you direct me to where in your  
23 testimony you state you have a degree in accounting?

24 A. I'm going to direct you to page 1, lines  
25 12 and 13.

1 Q. Thank you. I did not see that.

2 But you are not a CPA, are you?

3 A. I am not.

4 Q. And you are not an attorney; is that  
5 correct?

6 A. That is correct.

7 Q. And if we turn to page 3, beginning on  
8 line 1, here you state the purpose of your testimony,  
9 do you see that?

10 A. Yes.

11 Q. And as Mr. Finnigan just asked, you  
12 state here that you do support the prudence and  
13 reasonableness of AEP's actions with respect to OVEC  
14 during the audit period, correct?

15 A. Yes.

16 Q. And then on line 7 you also state that  
17 you respond to certain statements made in comments.  
18 Do you see that?

19 A. Yes.

20 Q. And are those comments that you're  
21 referring to the initial comments that were filed in  
22 the docket back, I believe in May?

23 A. Yes.

24 Q. And your -- you filed your testimony  
25 before Intervenor, so you're not directly responding

1 to testimony that was filed in the docket, is that  
2 fair?

3 A. Yes, that's an impossibility.

4 Q. On page 3 going over to page 4, you  
5 describe the history and purpose of OVEC, do you see  
6 that?

7 A. Yes.

8 Q. And, sir, is it your understanding that  
9 the OVEC no longer provides electric service to the  
10 DOE facility?

11 A. That's my understanding, yes.

12 Q. And OVEC did not during the audit period  
13 either, did they?

14 A. To my knowledge, they did not.

15 Q. Do you have -- could you -- are you  
16 familiar -- before I ask you to look at it, are you  
17 familiar with the ICP that we have been discussing in  
18 this case?

19 A. The ICPA, the Intercompany Power  
20 Agreement?

21 Q. Yes. Thank you.

22 A. Yes, I'm familiar with it.

23 Q. Okay. Do you have a copy of what's been  
24 marked up there as OMAEG Exhibit -- I think it was an  
25 attachment to Mr. Crusey's testimony. Do you have

1 the ICPA up there somewhere?

2 A. Yes.

3 Q. Thank you. Is that marked as something?

4 A. It doesn't have a marking.

5 MS. BOJKO: I believe it was an  
6 attachment to Mr. Crusey's testimony.

7 EXAMINER ADDISON: That is correct.

8 By Ms. Bojko:

9 Q. What you have in front of you is the  
10 ICPA that's dated September 10, 2010?

11 A. Yes.

12 Q. And you discussed this ICPA in your  
13 testimony; is that correct?

14 A. That is correct.

15 Q. And it's fair to say you're familiar  
16 with this document?

17 A. I'm not sure what you mean by familiar.  
18 I have read sections of it. I'm familiar -- more  
19 familiar with some sections than others.

20 Q. Okay. On page 4 of your testimony you  
21 talk about the ICPA and describe it; is that correct?

22 A. Yes.

23 Q. And on lines 21 to 22 here you state  
24 that the ICPA requires the Sponsoring Companies to  
25 pay all of OVEC's costs; is that correct?

1 A. Yes, that is correct.

2 Q. The ICPA, though, does not require or  
3 give authority for the Sponsoring Companies to pass  
4 those costs on to customers, does it?

5 A. Can you repeat that one more time?

6 Q. The ICPA does not speak to whether AEP  
7 Ohio or any Sponsoring Companies can pass this cost  
8 on to customers, does it?

9 A. It does not, and I'm not aware of any  
10 purchase power contract that would do such a thing.

11 Q. And also on page 4 of your testimony you  
12 note that the Sponsoring Companies are entitled to  
13 all of OVEC's net power and energy; is that correct?

14 A. Are you referring to a specific line?

15 Q. Yeah, 9 through 11.

16 A. Yes, I see that.

17 Q. On page 5 of your testimony you describe  
18 the OVEC's governance and management structure  
19 starting with the question -- or statement on line 1;  
20 is that correct?

21 A. Yes, the question starts on line 1. My  
22 description starts on line 3.

23 Q. And the Board -- OVEC Board of Directors  
24 is responsible for overseeing the day-to-day  
25 operations of OVEC; is that correct?

1           A. That's not correct. As I state in line  
2     3, the Board of Directors oversees the organization  
3     from a strategic level.

4           Q. And OVEC is responsible for the  
5     day-to-day operations, that's your distinction?

6           A. So my understanding is based on the ICPA  
7     OVEC is responsible for the day-to-day operations  
8     within the construct of the operating procedures  
9     dictated by the operating committee, approved by the  
10    operating committee.

11          Q. And so is it your testimony that the  
12    operating committee does not oversee the day-to-day  
13    operations of OVEC either?

14          A. I think they set rules around day-to-day  
15    operations, but to my knowledge they don't oversee  
16    day-to-day operations.

17                 OVEC is still responsible for operating  
18    the plant, participating in PJM, doing the proper  
19    accounting and paying their bills and everything else  
20    that goes into a business.

21          Q. So it's your understanding that neither  
22    the Board of Directors or the operating committee  
23    oversees OVEC's day-to-day operation, OVEC is just  
24    responsible for that on its own?

25          A. Can you be a little bit more specific

1 responsible for it on its own?

2 Q. Well, I think -- I thought I believed  
3 that -- I thought you testified that the Board of  
4 Directors and the operating committee do not have  
5 day-to-day oversight over OVEC's operations; is that  
6 correct?

7 A. I think OVEC is responsible for the  
8 day-to-day operations. The operating committee,  
9 through the operating procedures, establishes rules  
10 around those operations, and the Board manages OVEC  
11 from a strategic level.

12 So OVEC operates the plants, but the  
13 operating committee, through the operating  
14 procedures, does provide a management structure.

15 Q. The management structure, but they don't  
16 oversee OVEC's operations on a day-to-day basis, is  
17 that your testimony?

18 A. They are not on-site managing the plant  
19 on a day-to-day, that is the responsibility of OVEC  
20 employees.

21 Q. And each of the Sponsoring Companies is  
22 entitled to one representative on an operating  
23 committee, is that your understanding?

24 A. I believe it is one representative per  
25 corporate organization, so AEP has one representative

1 for the three AEP operating companies that are  
2 sponsors.

3 Q. And as a member of the operating  
4 committee AEP has a vote regarding the operating  
5 committee's decisions, correct?

6 A. The three AEP operating companies, one  
7 of which being AEP Ohio, together collectively have  
8 one single vote representing the three of them.

9 Q. And you were not -- during the audit  
10 period you were not a member of the operating  
11 committee; is that correct?

12 A. I have -- I was not a member of the  
13 operating committee during 2020.

14 Q. And AEP employees, however, are allowed  
15 to participate in operating committee meetings even  
16 though they are not the designated representative; is  
17 that correct?

18 A. To my knowledge, yes, Sponsoring  
19 Companies are allowed to have their employees  
20 participate in these meetings. The official roster  
21 of operating company members or their delegates are  
22 the ones that provide the official vote when those  
23 are taken.

24 Q. If my memory serves me correct, you do  
25 participate, or have in the past participated, in

1 these operating committee meetings, is that correct?

2 A. I have sat in on those meetings, yes, as  
3 a nonvoting attendee.

4 Q. And can you tell me during 2020 who the  
5 AEP rep was that is the official representative on  
6 the operating committee?

7 A. I believe it was Steven McKee.

8 Q. And you stated earlier to me that the  
9 operating committee's responsibilities include the  
10 establishment and modification of scheduling,  
11 operating, testing, maintenance procedures, all for  
12 OVEC; is that right?

13 A. Are you referring to something in my  
14 testimony?

15 Q. No. I thought you mentioned in a  
16 comment -- you gave me a response and I thought one  
17 of the things that you stated to me today here on the  
18 stand was that the operating committee's  
19 responsibilities include scheduling, operating,  
20 testing, maintenance procedures?

21 A. I don't think that was what I said. I  
22 know that they would establish rules around such  
23 things, but in the end, the people that should be  
24 making the final decision on, for example, when a  
25 unit is tested for whatever -- whatever test, be it

1 environmental or capacity, would be the people at the  
2 plant.

3 Q. Okay. You have the ICPA. Can you turn  
4 to Section 9.05? Page 17 it is. The numbers are at  
5 the top. Are you there?

6 A. Okay.

7 Q. So here in the -- kind of the -- I guess  
8 it's the second sentence of 9.05, it says, "The  
9 'Operating Committee' shall establish (and modify as  
10 necessary) scheduling, operating, testing maintenance  
11 procedures of the Corporations in support of this  
12 Agreement"; is that right?

13 A. Yes, the key word being procedures,  
14 right, that OVEC still is responsible for conducting  
15 many of these tasks. The operating committee sets  
16 the guidelines, the framework.

17 Q. And then after, it says, "including  
18 establishing," and there's a colon, and then number  
19 (i) talks about procedures for scheduling delivery,  
20 number (ii) talks about procedures for power and  
21 energy accounting, (iii) procedures for reservation  
22 scheduling, (iv) is the minimum generation unit  
23 output. Is that correct?

24 A. Yes, that's what it says.

25 Q. So that's not procedures, it's actually

1 responsible for establishing the minimum generation  
2 unit output; is that correct?

3 A. Yes, that's what it says.

4 Q. And then it also says it's responsible  
5 for the form of notifications relating to power and  
6 energy and the price thereof; is that correct?

7 A. That's what the document says, yes.

8 Q. And then the document -- well, that's  
9 your understanding, right?

10 A. I mean, that's what the document says.  
11 I have no reason to argue with the document.

12 Q. Okay. And then the operating committee  
13 is also responsible for considering and making  
14 recommendations to the OVEC Board of Directors  
15 regarding any other concerns or problems that arise;  
16 is that correct?

17 A. Yes, that is correct.

18 Q. And AEP Corp, through its three  
19 subsidiaries, is responsible for 43.47 percent of the  
20 costs of the two OVEC plants; is that correct?

21 A. I'm not entirely sure that number is  
22 exact. It's roughly -- it's roughly 43-1/2 percent,  
23 so I'm not going to quibble over a couple hundredths  
24 of a percent we're off, but that's about it.

25 Q. Well, specific to AEP Ohio has 19.93

1 percent?

2 A. That is correct.

3 Q. And Appalachian Power Company has 15.69  
4 percent?

5 A. Did you say 15.69?

6 Q. Yes.

7 A. Yes, that is correct. I'm looking at  
8 page 5 of your document.

9 Q. And then the other affiliates, the IMPC  
10 has 7.85 percent?

11 A. Yes.

12 Q. I'm not an accountant, but the three of  
13 those, whatever that adds up to is roughly the  
14 43.47 -- 43-and-a-half percent; is that correct?

15 A. Yes.

16 Q. That's what you were referring to?

17 A. Yes, that's what I was referring to.

18 Q. And AEP Ohio is responsible for the  
19 19.93 percent of both OVEC units including the one  
20 located in Indiana; is that correct?

21 A. Yes, that is correct.

22 Q. And is it true that AEP Corp and OVEC  
23 have some overlapping executives?

24 MR. NOURSE: Objection. I don't -- it  
25 sounds like a vague question to me, I didn't

1 understand it.

2 THE WITNESS: I don't --

3 EXAMINER ADDISON: Mr. Stegall, theres  
4 an objection. Did you understand the question?

5 THE WITNESS: No, not really.

6 EXAMINER ADDISON: If you could just  
7 rephrase. Thank you.

8 By Ms. Bojko:

9 Q. The executive vice-president for  
10 generation of AEP Ohio is also responsible for the  
11 OVEC IKEC generating asset; is that correct?

12 MR. NOURSE: Objection.

13 EXAMINER ADDISON: Grounds.

14 MR. NOURSE: If she's reading something  
15 I'd like to know what it is, but AEP Ohio does not  
16 have a VP of generation.

17 EXAMINER ADDISON: Ms. Bojko, want to  
18 try a third time?

19 By Ms. Bojko:

20 Q. I guess we can go to page 15 of the  
21 audit report of AEP, which, let me see, was marked as  
22 Staff Exhibit 4. Do you have that in front of you?

23 A. Can you give me that page number again?

24 Q. I'm sorry?

25 A. Can you give me the page number?

1           Q. 15. If you direct your attention to  
2 2.5, and if you look at the second sentence, the  
3 auditor reported AEP and OVEC have overlapping  
4 executive management, is that your understanding?

5           A. That is my understanding. I'm not sure  
6 why, as Mr. Nourse indicated, it says executive  
7 vice-president of generation for AEP Ohio. I know  
8 that AEP as a whole has an executive vice-president  
9 of generation, I'm not aware that AEP Ohio has one.

10          Q. Okay. So the audit report is incorrect  
11 in that regard?

12          A. Yes.

13          Q. And there's a footnote, so is Paul  
14 Chodak the executive vice-president for generation of  
15 AEP Corp?

16               MR. NOURSE: Are you asking as of 2020?

17               MS. BOJKO: Yes. I'm assuming the  
18 auditor was talking about during the audit period.

19               THE WITNESS: I believe that Mr. Chodak  
20 reported -- was an employee of AEP Service  
21 Corporation and his title was Executive  
22 Vice-President of Generation in 2020.

23 By Ms. Bojko:

24          Q. Okay. And the Executive Vice-President  
25 for Generation of AEP Corp was also responsible for

1 the OVEC generating assets; is that correct?

2 A. I don't know what you mean by  
3 responsible.

4 Q. That's the auditor's statement. You  
5 don't understand what the auditor meant by that  
6 statement?

7 A. I don't understand what the word  
8 responsible is supposed to mean and in what context.

9 Q. Okay. Is it your understanding that the  
10 executive vice-president of generation of AEP Service  
11 Corp. sat on the executive committee of both AEP and  
12 OVEC?

13 A. I believe that Mr. Chodak was on the  
14 Board of Directors for OVEC in 2020. I'm not sure if  
15 that answers your question, but that's my  
16 recollection.

17 Q. And was he also on the executive  
18 committee of AEP Service Corp.?

19 A. If by being an executive vice-president  
20 that makes him on the executive committee, then yes.

21 MR. NOURSE: Excuse me, your Honor,  
22 could I ask Ms. Bojko to use her microphone? I'm not  
23 hearing all of her questions.

24 EXAMINER ADDISON: Thank you,  
25 Mr. Nourse.

1 MS. BOJKO: Shocking you can't hear me.  
2 My apologies, Mr. Nourse. Is that better?

3 MR. NOURSE: Thank you.  
4 By Ms. Bojko:

5 Q. And, sir, you are familiar -- I think  
6 you said in the question to Mr. Finnigan you are  
7 familiar with the audit report that was issued in  
8 this proceeding, is that correct?

9 A. Yes.

10 Q. And similar to your purpose of your  
11 testimony, you do understand that the purpose of the  
12 audit was to review the prudence of all costs and  
13 sales flowing through the LGR Rider; is that correct?

14 A. So my understanding is that the prudence  
15 evaluation was the actions of the three Utilities,  
16 three EDUs, and to review the operation of OVEC in  
17 the context of the actions of the three EDUs.

18 Q. So you don't believe that the OVEC -- or  
19 excuse me -- the auditor in this case was reviewing  
20 the prudence of all costs and sales flowing through  
21 the actual rider?

22 A. My understanding around prudence of cost  
23 is all based around the decision made at the time --  
24 the evaluation that was done at the time based on  
25 information that was available.

1           So when you ask me about prudence of  
2 costs, it's hard to say costs are imprudent or  
3 prudent without examining the underlying decision  
4 that was made at the time.

5           Q. Okay. And do you believe that the  
6 auditor in this case was reviewing the prudence of  
7 the costs and the decisions that were made during the  
8 audit period?

9           A. Can you say that one more time.

10           (Record read back.)

11           THE WITNESS: Yes, I think she provided  
12 the Commission with her opinion on the costs incurred  
13 passed through the rider, whether or not they were  
14 prudent, and made recommendations on disallowances,  
15 or lack of disallowances.

16 By Ms. Bojko:

17           Q. And do you understand that the purpose  
18 of the audit stated on 7 -- page 7 was -- it's in the  
19 third paragraph on page 7, that the purpose of that  
20 audit was also to investigate whether AEP's actions  
21 were in the best interest of its retail ratepayers?

22           A. Yes, that's what it says.

23           Q. And could you turn to page 42 of AEP's  
24 audit, please? Did you participate in the operating  
25 committee meetings that were held in 2020?

1           A. No, I did not.

2           Q. Are you the individual that confirmed  
3 for the auditor that there was one in-person meeting  
4 and one conference call in 2020?

5           A. If I recall correctly, I think I  
6 provided the operating committee meeting minutes, and  
7 they would have indicated whether the meeting was in  
8 person or virtual.

9           Q. Okay. And you mean you provided that to  
10 the auditor?

11          A. Yes, in a discovery response.

12          Q. So you believe that statement that there  
13 was one in-person and one conference call is  
14 accurate?

15          A. I believe so. And given that 2020 was  
16 the year of COVID, it makes very much sense.

17          Q. So if you didn't participate in the  
18 meeting during the audit period, how did you obtain  
19 the meeting minutes that you just referenced?

20          A. To be honest, I'm not sure if I  
21 requested them from OVEC specifically, which AEP is  
22 allowed to do as a sponsored company, or if I  
23 requested them from our operating committee  
24 representative, but I did request them from someone.

25          Q. Okay. And you're aware on page 48 that

1 the auditor had made the recommendation for the  
2 operating committee meetings to be held more  
3 frequently to receive more timely updates on each  
4 plant's operating performance, cost of service, and  
5 profit and loss statements?

6 A. I see that on page 48.

7 Q. Were you aware of that before reading it  
8 here today?

9 A. Yes.

10 Q. Sir, you testified in the prior AEP  
11 audit proceeding 2019, didn't you?

12 A. You're asking me for the audit period  
13 that covered 2019?

14 Q. Thank you. Yes.

15 A. I think we met much after 2019. Yes, I  
16 did testify in that case.

17 Q. Thank you for that clarification. In --  
18 to your recollection, isn't it true that the auditor  
19 made the same recommendation back in the 2019 audit?

20 A. Without the document I can't verify  
21 that, I don't know.

22 Q. Since you regularly review the OVEC  
23 meeting minutes, do you know whether this process or  
24 recommendation has been discussed to hold more  
25 frequent meetings?

1 MR. NOURSE: Sorry, are you asking  
2 whether it's been discussed after the audit period?

3 MS. BOJKO: No, I was asking in his  
4 meeting minutes from 2019, which would be this audit  
5 period, 2020, if it has been discussed in 2020.

6 MR. NOURSE: Well, I'm sorry, your  
7 Honor, I object. I'm confused as to the question.  
8 If it's not 2020, and I thought she just said --

9 MS. BOJKO: I'll rephrase, your Honor.

10 EXAMINER ADDISON: Thank you.

11 By Ms. Bojko:

12 Q. You stated earlier that you regularly  
13 review the operating meeting minutes; is that  
14 correct?

15 A. I said that I requested them in order to  
16 provide them to the auditor in this case.

17 Q. I thought you told me before that you  
18 either participate in the meetings or you regularly  
19 review the meeting minutes.

20 A. I think my participation began after the  
21 audit period, so obviously by participating I'm aware  
22 of the minutes, but I think we're trying to keep this  
23 to the audit period.

24 So I reviewed the operating committee  
25 meeting minutes for this particular audit period, but

1 at the time was not attending the meetings.

2 Q. I thought I asked you previously if I  
3 was recalling correctly that you had participated in  
4 operating committee meetings during the -- during the  
5 2019 audit when you testified, and you told me you  
6 had participated in the meetings.

7 MR. NOURSE: I Object.

8 By Ms. Bojko:

9 Q. I'll ask him. When did you start  
10 participating in the meeting minutes -- or committee  
11 meetings?

12 A. I believe it was in 2021. I would have  
13 to look. If I attended it would be listed in the  
14 attendee for the minutes.

15 Q. So you do not believe that you  
16 participated in any meeting or reviewed the meeting  
17 minutes from 2020?

18 A. I reviewed the meeting minutes for 2020.  
19 I provided them to the auditor, but I did not attend  
20 those meetings.

21 Q. Thank you. So in the review of your  
22 meeting minutes from 2020, was there any discussion  
23 about holding more frequent operating committee  
24 meetings that you can recall?

25 A. Well, I don't recall. I would defer to

1 the meeting minutes themselves. If that was  
2 discussed, it should be documented.

3 And I will also point out that we were  
4 in the middle of COVID, there was health concerns as  
5 far as meeting goes.

6 Q. To clarify my question just so we're  
7 making sure that we're responding correctly, meetings  
8 did not necessarily mean in person in my question.

9 So to rephrase, is your recollection  
10 that the OVEC meeting minutes discussed additional --  
11 holding more frequent meetings, whether virtual or in  
12 person, regarding the operating committee?

13 A. Once again, we're confining this to the  
14 audit period?

15 Q. That is correct.

16 A. I don't recall, when I reviewed the  
17 meeting minutes, a discussion of holding more  
18 frequent meetings during the audit period.

19 Q. It's your understanding -- I think you  
20 talk about it at page 7 of your testimony -- that the  
21 LGR Rider is a mechanism allowing AEP to collect  
22 costs from customers, the difference between OVEC  
23 costs and PJM revenues; is that correct?

24 A. Are you referring to a specific line in  
25 my testimony?

1           Q. Yeah, you do a section of what is the  
2 LGR and how does it function. It's starting on page  
3 6, you talk about the rider mechanism; is that  
4 correct?

5           A. Yes.

6           Q. And you talk about the history and how  
7 it was established and enacted pursuant to 4928.148;  
8 is that correct?

9           A. Yes.

10          Q. And then you go on on top of page 7 and  
11 talk about the mechanics of the rider, and that the  
12 rider reflects all charges from OVEC net of revenues  
13 received from PJM revenues; is that correct?

14          A. That is correct.

15                 I'll also point out that as we listened  
16 to testimony from other witnesses earlier today, you  
17 know, there's always a timing difference whenever  
18 you're establishing a rider rate, meaning you may  
19 forecast a cost, bill for it and true it up in a  
20 subsequent filing.

21                 So the costs eventually flow through and  
22 everything lines up, but there may be some timing  
23 difference, collection difference.

24          Q. And on page 7 you say that, "LGR  
25 reflects, on a quarterly basis, all charges from OVEC

1 net of the revenues received from the selling of the  
2 Company's share of OVEC's capacity, energy, and  
3 ancillary services into the applicable PJM markets."

4 A. Yes.

5 Q. And those costs are different than fixed  
6 charges or demand charges associated with AEP's share  
7 of OVEC; is that correct?

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

9 Q. The net costs or the net revenues, all  
10 charges -- excuse me, use the word charges, make sure  
11 I use your terminology -- all charges from OVEC,  
12 those charges that you're referencing on the top of  
13 page 7 are different than OVEC's fixed charges or  
14 demand charges, correct?

15 A. So the all charges includes both of  
16 those categories.

17 Q. Right. So the amount -- the net amount  
18 that's flowed through the LGR Rider is different than  
19 the fixed charges or the demand charges of OVEC?

20 A. It is different because the all charges  
21 includes additional items beyond the demand charge.

22 Q. Do you still have the ICPA in front of  
23 you?

24 A. Yes.

25 Q. The Section 4.02 on page 6. Are you

1 there?

2 A. Yes.

3 Q. This section describes how a Sponsoring  
4 Company takes available power entitlement and  
5 available energy entitlement under the terms of ICPA,  
6 is that correct?

7 MR. NOURSE: Just for clarification, I  
8 thought you might have said the section, but are you  
9 asking about the article?

10 MS. BOJKO: Yes, Article 4.02 versus  
11 Section 4.02, is that the question?

12 MR. NOURSE: If you're just asking about  
13 4.02, that would be a good clarification. Thank you.

14 THE WITNESS: So I'll point out that  
15 4.02 uses definitions established in Article 1, or  
16 I'm willing to call it Section 1 if it's more  
17 convenient for you.

18 By Ms. Bojko:

19 Q. I'm fine with article clarification from  
20 your attorney.

21 So my question is Article 4.02 states  
22 the Sponsoring Company shall be entitled to take any  
23 and all available power and available energy; is that  
24 correct?

25 A. That's what it says, but Section 1

1 defines the terms of available power and available  
2 energy.

3 Q. Sure. And Article 4.03 states that no  
4 Sponsoring Company shall be obligated to avail itself  
5 of any available energy; is that correct?

6 A. So if your question is about 4.03, I  
7 think you have to take into context Article 4.032,  
8 which further clarifies the questions you're asking.

9 Q. My question is that 4.03 states, "No  
10 Sponsoring Company, however, shall be obligated to  
11 avail itself of any Available Energy." Did I read  
12 that correctly?

13 A. Once again, you've read it, but you  
14 can't take it out of context when -- in order to take  
15 in context, you need to include 4.032.

16 Q. Thank you for that explanation. Turning  
17 to Article 5.03. 5.03 is entitled "Demand Charge";  
18 is that correct?

19 A. That is correct.

20 Q. And this section describes that the  
21 demand charge under the ICPA includes charges for  
22 debt and debt interest; is that correct?

23 A. Are you referring to Section (a) of  
24 5.03?

25 Q. Yes. I mean, you have to read the first

1 part of 5.03 before can you read 5.03 (a), so  
2 speaking generally, this section talks about debt and  
3 debt interest, is that correct, being a part of  
4 demand charge?

5 A. So I will agree that debt and debt  
6 interest are part of the demand charge. They are  
7 specifically addressed in 5.03 (a) in a level of  
8 detail that I think makes it more clear, but yes, you  
9 do have to read the whole section together.

10 Q. And to go along with the demand charges  
11 section, or article, if you turn to Article 8.04,  
12 including the Subpart (a), (b), (c), (d), this 8.04  
13 discusses the unconditional obligation to pay the  
14 demand and other charges; is that correct?

15 A. So yes, Section 8.04 does identify each  
16 sponsor's obligation to pay their Power Participation  
17 Ratio share of demand charges.

18 Q. And, Mr. Stegall, it's your  
19 understanding that AEP includes the cost of its  
20 unconditional obligated demand charge from OVEC under  
21 the ICPA in its calculation of the LGR Rider?

22 A. So the only place I've ever seen  
23 unconditional obligation is in this contract. It  
24 does pass its demand charge on through the LGR Rider.

25 Q. You're saying AEP passes the demand

1 charge through its LGR Rider?

2 A. AEP Ohio. Obviously Appalachian Power  
3 and Indiana Michigan Power deal with their portions  
4 differently.

5 Q. So AEP Ohio -- and from now on I don't  
6 think I have any additional questions about the  
7 affiliates. From now on if I say AEP I'm going to be  
8 referring to AEP Ohio, if that's satisfactory.

9 A. That's fine.

10 Q. Great. Okay. Let me try to ask again.  
11 AEP Ohio -- AEP passes the cost of the demand charge  
12 from OVEC on to -- or it puts it through the  
13 calculation of the LGR Rider, correct?

14 A. It is part of the revenue requirement of  
15 the LGR.

16 MS. BOJKO: Your Honor, may we go off  
17 the record for one minute, please?

18 EXAMINER ADDISON: Let's go off the  
19 record.

20 (Recess taken.)

21 EXAMINER ADDISON: Let's go ahead and go  
22 back on the record. Ms. Bojko.

23 MS. BOJKO: Thank you, your Honor.

24 By Ms. Bojko:

25 Q. Could we turn to page 11 of your

1 testimony?

2 A. Okay.

3 Q. On page 11 you discuss the must-run  
4 strategy. Do you see that?

5 A. Are you referring to the response that  
6 begins on line 4?

7 Q. Yes.

8 A. Yes, I see that.

9 Q. And you believe, sir, that must run,  
10 or -- yeah, must-run units are also called  
11 self-committed units or self-scheduled units?

12 A. I've heard the terms used  
13 interchangeably. I know Mr. Swez spoke recently that  
14 self-scheduled may mean a commitment status at a  
15 different level than economic minimum, but for  
16 purposes of discussion here today I'm willing to  
17 stipulate that I've seen the terms used  
18 interchangeably.

19 Q. Well, look on page 9 of your testimony,  
20 line 13 and 14. You actually say here must-run units  
21 also called self-committed units or self-scheduled  
22 units; is that correct?

23 A. Yes, I'm using it -- for purposes of my  
24 testimony, for purposes of our discussion, I think  
25 that the one-off scenarios that Mr. Swez discussed in

1 his cross-examination I don't think apply to what  
2 you're asking. So yes, I would use the terms  
3 interchangeably in this case.

4 Q. On the first line back on page 11,  
5 starting on line 4, the first sentence in that Q and  
6 A, you state that, "there are many factors taken into  
7 account when determining unit commitment." Do you  
8 see that?

9 A. Yes.

10 Q. Isn't it true that AEP did not conduct  
11 any formal analyses or documentation of these many  
12 factors?

13 A. You have to be more specific. The  
14 company AEP as a whole evaluates these factors for  
15 its own units, for units that are not located in  
16 Ohio, so the units -- so for AEP Ohio affiliates.

17 Q. Okay. So for the OVEC unit, isn't it  
18 true that AEP did not conduct any formal analysis  
19 regarding the factors to take into account when  
20 determining unit commitment for OVEC?

21 MR. NOURSE: Can I clarify? Is that  
22 asking during 2020, to parallel the discovery  
23 request?

24 MS. BOJKO: Of course, your Honor. This  
25 is a 2020 audit.

1           EXAMINER ADDISON: Thank you for that  
2 clarification.

3           THE WITNESS: So I will say for some of  
4 these, while AEP may not have conducted analysis,  
5 it's easily documented as to when items were tested.

6           Testing is filed with the EPA or filed  
7 with PJM. So I don't know that there's any analysis  
8 that needs to be conducted for situations like that.

9           I know OVEC, like every other coal unit  
10 in PJM was dealing with issues with over abundance of  
11 coal supply when COVID hit and electricity demand  
12 declined, so there's no official analysis that I'm  
13 aware of, but I know every coal-fired plant knows how  
14 much coal it can store, that's a known factor for  
15 anybody sitting in a control room in a power plant.

16           And then operating limitations, those  
17 are -- those would be filed with PJM, so OVEC would  
18 have submitted some of these limitations, minimum  
19 uptime, minimum downtime, startup time, startup  
20 costs, all of that would have been submitted to PJM  
21 as part of its normal interactions.

22           Q. Going back to my question, I actually  
23 just asked you about AEP.

24           So it's my understanding that AEP did  
25 not conduct any formal analyses of the many factors

1 you reference in your testimony during the audit  
2 period, correct?

3 A. And I will say while that is correct,  
4 AEP doesn't have access to all of that data. So of  
5 course we couldn't conduct such an analysis.

6 When you have multiple parties in a  
7 power agreement like this one, and they are all  
8 competing at PJM, you could create competitive issues  
9 if OVEC is sharing data like incremental cost curves,  
10 things like that that that they would supply to PJM  
11 that other parties could use for their own benefit.

12 Q. Thank you.

13 MS. BOJKO: Your Honor, I move to strike  
14 everything after his response of AEP did not conduct  
15 any formal analyses.

16 EXAMINER ADDISON: Thank you. I'll  
17 allow the answer to stand. I'll utilize my one bite  
18 at the apple rule.

19 But, Mr. Stegall, I will direct you to  
20 answer Ms. Bojko's questions, and only her questions  
21 from this point forward. If there's additional  
22 information you'd like to bring out on redirect,  
23 Mr. Nourse would certainly have that opportunity.

24 MR. NOURSE: Your Honor, with all due  
25 respect, I think the question was confusing,

1 commitment status in general, with the must-run  
2 status. That's part of why Mr. Stegall, consistent  
3 with his testimony --

4 EXAMINER ADDISON: Thank you.

5 MR. NOURSE: -- went into the general  
6 points.

7 EXAMINER ADDISON: The answer is going  
8 to stand, Mr. Nourse, so we'll just go from here.  
9 By Ms. Bojko:

10 Q. Sir, during the audit period, you do not  
11 have in your possession any documentation of any  
12 formal analysis that OVEC conducted with regard to  
13 the many factors you discussed in your testimony, do  
14 you?

15 A. So I believe there was some subpoenaed  
16 information from OCC that I was copied on when it was  
17 submitted in response by OVEC. So I have seen some  
18 of the information that OVEC prepared during the  
19 April 14th through June 30th period.

20 Q. So you're saying that this documentation  
21 is a formal analysis of the factors that OVEC  
22 considered in 2020 when making the commitment  
23 decision for April to June? Is that your  
24 understanding of the information you saw?

25 A. So, one, I have never seen an analysis

1 that can take into account all of these factors, but  
2 it does take into account some of them. I mean, it  
3 was prepared by OVEC and supplied in response to a  
4 subpoena in this case.

5 Q. What subpoena was that, sir?

6 A. It was a subpoena issued by OCC, to my  
7 understanding.

8 Q. And you reviewed that documentation in  
9 the subpoena?

10 A. I did. I was copied on it, I looked at  
11 it, reviewed the analyses.

12 Q. Do you still have in front of you --  
13 first before we go there, Mr. Stegall, do you know if  
14 during the audit period OVEC analyzed the amount of  
15 time necessary to shut down and restart the units?

16 A. I believe that's a parameter that's  
17 supplied to PJM, so I don't see how that they could  
18 not have done it.

19 Q. But you haven't seen that analysis, have  
20 you, sir?

21 A. The parameters that OVEC files with PJM  
22 are not provided to the Sponsoring Companies.

23 Q. So the answer is no, you have not seen  
24 it?

25 A. I have not seen it, but it had to have

1     been supplied. It's required in the obligations and  
2     participation in the market.

3             MS. BOJKO: Your Honor, he has not seen  
4     it so now he's speculating on what may or may not  
5     have been provided by OVEC, so I move to strike  
6     everything after, "I have not seen it."

7             MR. NOURSE: Your Honor, I think again  
8     he's saying what the requirements are from PJM and  
9     that he knows for that reason that it exists, so I  
10    think that's part of his answer.

11            EXAMINER ADDISON: Thank you. I'm going  
12    to deny the motion to strike. Please move on,  
13    Ms. Bojko.

14    By Ms. Bojko:

15            Q. It's your understanding that the  
16    must-run strategy was established in accordance with  
17    the operating committee procedures; is that correct?

18            A. To my knowledge, that is correct.

19            Q. And under those operating procedures the  
20    operating committee has to have a unanimous vote to  
21    change the commitment status away from must run; is  
22    that correct?

23            A. That's my understanding.

24            Q. And in contrast, it only takes a vote of  
25    two-thirds of the members of the operating committee

1 to present other modifications to the operating  
2 procedures; is that correct?

3 A. That is my understanding. That's  
4 basically all I can tell you.

5 Q. As a Sponsoring Company with  
6 representation on the operating committee during the  
7 audit period, AEP had input as to the commitment  
8 strategy of the OVEC units, is that correct?

9 THE WITNESS: Can I get that question  
10 read back one more time?

11 EXAMINER ADDISON: You may.

12 (Record read back.)

13 THE WITNESS: It has input to the  
14 operating procedures which define the commitment  
15 strategies, so I -- yes, it's my understanding that  
16 they went through that process.

17 By Ms. Bojko:

18 Q. And AEP has a vote on whether to change  
19 procedures; is that correct?

20 A. So you said before you were saying AEP  
21 meaning just AEP Ohio. As we talked earlier, one  
22 vote representing AEP Ohio, Appalachian Power and  
23 Indiana Michigan Power, so collectively their one  
24 vote has influence over this process.

25 Q. Thank you for that clarification.

1           And with your clarification, AEP Service  
2 Corp. has the -- one vote, but the ability to modify  
3 the operating procedures; is that correct?

4           A. The way you ask the question made it  
5 sound somewhat unilateral. It's not unilateral.

6           I think we, a few questions ago,  
7 established commitment strategy requires a hundred  
8 percent approval, other changes to the operating  
9 procedures require three-fourths of the committee to  
10 approve, so under those parameters, that's how change  
11 is made.

12           Q. I thought I said AEP Service Company  
13 had -- Service Corp. has one vote in the votes  
14 required to change the operating procedures. Is that  
15 correct, or are you disagreeing with my one vote  
16 comment?

17           MR. NOURSE: Your Honor, can I ask  
18 Ms. Bojko to turn her mic back on because some of her  
19 phrases like that are not coming through to me  
20 either.

21           EXAMINER ADDISON: Yes, please. And I  
22 don't believe that was the same question that you had  
23 asked, so maybe if you could just ask your question  
24 again and we can pick it up.

25           MS. BOJKO: Sure. Thank you.

1 By Ms. Bojko:

2 Q. I said AEP Corp. with one vote has the  
3 ability to modify the operating procedures, correct?

4 A. It has one vote of nine to modify the  
5 operating procedures.

6 Q. And the operating procedures, to your  
7 knowledge, have been changed; is that correct?

8 A. Are you talking about during the audit  
9 period, or ever?

10 Q. Ever. But obviously it's been changed  
11 during the audit period, right?

12 A. Yeah, they have been changed over time,  
13 especially when OVEC was integrated into PJM.

14 Q. Well, the operating procedures  
15 themselves state that they were revised in -- do you  
16 have the operating procedures up there? I apologize,  
17 I haven't asked you to find them, have I?

18 The operating procedures were attached  
19 to Mr. Swez's testimony, and then I believe that  
20 there was also another copy without being on the  
21 testimony up there.

22 MR. SHARKEY: They are also attached to  
23 the confidential testimony of Mr. Crusey.

24 MS. BOJKO: They are thin like this,  
25 sir? I thought we had an individual packet up there.

1 EXAMINER ADDISON: I think he's trying  
2 to find it. Ms. Bojko, did you have an extra copy?

3 MS. BOJKO: I was just looking for that,  
4 your Honor. Can we go off the record?

5 EXAMINER ADDISON: Let's go off the  
6 record.

7 (Discussion off the record.)

8 EXAMINER ADDISON: Let's go back on the  
9 record. Whenever you're ready, Ms. Bojko.

10 By Ms. Bojko:

11 Q. Do you have in front of you now a  
12 document that is titled Operating Procedures Pursuant  
13 to 9.05 of the Amended and Restated ICPA?

14 A. Yes, I do.

15 Q. And, sir, I wrote public on it now. I  
16 know it's highlighted yellow as if it's confidential  
17 and it says confidential, but it's already been  
18 released in the public record, so you are able to  
19 discuss it in this public session. I just wanted to  
20 clarify that for you.

21 A. Okay. Appreciate that.

22 Q. On the top of this page it says it was  
23 revised October 7, 2019, correct?

24 A. Yes, that is correct.

25 Q. So I mean, you recognize that has been

1 revised in the past; is that right?

2 A. Yes.

3 Q. And it's during the audit period that  
4 the operating company did in fact authorize OVEC the  
5 discretion to offer its units with the commitment of  
6 economic status instead of must run; is that correct?

7 A. Yes, that is correct. It's my  
8 understanding they did not change the operating  
9 procedures, but instead approved a proposal of the  
10 operating committee.

11 Q. Which is authorized in the operating  
12 committee procedures that you have in front of you in  
13 paragraph B on page 5 from the parenthetical; is that  
14 correct?

15 A. If I understand your question, the  
16 Section B here identifies the commitment status of  
17 must run and the procedure -- or the proposal that  
18 was adopted on, I think it was April 14th, would have  
19 changed that for the period that the proposal was in  
20 force.

21 Q. Right. They invoked the parenthetical  
22 that said, "or some other commitment status as  
23 approved by all sponsors"; is that correct?

24 A. That --

25 Q. Is that your understanding?

1           A. That's my understanding.

2           Q. And AEP was -- obviously if it was  
3 unanimous, AEP was one of the sponsoring -- AEP Corp.  
4 was one of the Sponsoring Companies that voted yes to  
5 unanimously support that change to economic status  
6 for some of the units, correct?

7           A. The representative for the three  
8 operating companies approved the proposal.

9           Q. The AEP Corp. representative?

10          A. The AEP representative, yes. It's a  
11 Service Corp. employee.

12          Q. And it's your understanding that AEP did  
13 not recommend making that change; is that correct?  
14 It wasn't AEP's recommendation that they were voting  
15 on?

16          A. To my knowledge, it was not.

17          Q. Could AEP Ohio, as a member -- or as a  
18 voting interest with AEP Corp. have made such a  
19 recommendation? Let me strike that.

20                 AEP Ohio, through its representative in  
21 AEP Corp., could have made such a recommendation,  
22 correct?

23          A. I believe so.

24                 MS. BOJKO: Your Honor, at this time I  
25 am going to -- I don't need to mark it, Mr. Finnigan

1 already marked it, so if you could pull up OCC  
2 Exhibit 14, which is the stack of data requests that  
3 were provided to you by Mr. Finnigan.

4 THE WITNESS: Okay.

5 By Ms. Bojko:

6 Q. I believe Mr. Finnigan asked you about a  
7 few of these, but I have a couple more questions. If  
8 you could turn to OCC Interrogatory 02-13.

9 A. Okay.

10 Q. Here in this interrogatory it is seeking  
11 information regarding the total PJM Day-Ahead Energy  
12 Market revenues minus the OVEC energy charges for  
13 those days when the plants were committed as economic  
14 during the period that it was operated as an economic  
15 commitment strategy. Do you see that?

16 A. Yes.

17 Q. And isn't it true that AEP Ohio  
18 responded that they had not performed this  
19 calculation?

20 A. Yes. The Company doesn't have the  
21 commitment status information submitted to PJM.

22 Q. Okay. And then could you go to the next  
23 page, which is OCC Interrogatory 02-014? This  
24 interrogatory for the period of April 14th, 2020,  
25 through June 30th, 2020, is asking for AEP to

1 identify the total PJM Day-Ahead Energy Market  
2 revenues minus the OVEC energy charges for those  
3 dates when the plants were committed as must-run. Is  
4 that correct?

5 A. That's the request.

6 Q. And AEP responds that they have not  
7 performed that calculation, isn't that true?

8 MR. NOURSE: Your Honor, I object. If  
9 we're going to go through these and read them, I  
10 think we need to acknowledge the objections that were  
11 part of the answer and not just say the last  
12 sentence.

13 I don't know whether this document is  
14 going to come into evidence or not. I'm happy to  
15 stipulate it into the record, if it saves time, but I  
16 think it's unfair to read portions and portray that  
17 as the entire answer.

18 EXAMINER ADDISON: Thank you,  
19 Mr. Nourse.

20 Ms. Bojko, just to keep things going, if  
21 we could note the noted objections and then ask your  
22 question, we would certainly appreciate it.

23 MS. BOJKO: Sure, your Honor. I'm  
24 trying not to reask any questions Mr. Finnigan asked.

25 EXAMINER ADDISON: I'm sorry, Ms. Bojko,

1 if Mr. Nourse has agreed to stipulate --

2 MS. BOJKO: That's what I was just going  
3 to say.

4 EXAMINER ADDISON: Okay. Perfect.  
5 Mr. Nourse, good?

6 MR. NOURSE: I'm good.

7 MR. FINNIGAN: Your Honor, so I  
8 understand, does that mean we're stipulating the  
9 admission of OCC Exhibit 14?

10 EXAMINER ADDISON: That's my  
11 understanding, Mr. Finnigan.

12 MR. NOURSE: Yes.

13 EXAMINER ADDISON: Thank you,  
14 Mr. Nourse.

15 MR. NOURSE: Of course.

16 MS. BOJKO: Your Honor, at this time I  
17 would like to mark as OMAEG Exhibit 12. This is a DR  
18 numbered OCC-INT-02-001.

19 Recognizing this is part of the larger  
20 packet, it also included an attachment and that is  
21 not attached in the larger packet, so I would like to  
22 mark it separately, but I need the cover sheet to  
23 explain what it is.

24 EXAMINER ADDISON: Certainly. It will  
25 be so marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MS. BOJKO: May we approach?

3 EXAMINER ADDISON: You may.

4 By Ms. Bojko:

5 Q. Sir, do you have in front of you what's  
6 been marked as OMAEG Exhibit 12?

7 A. Yes, I do.

8 Q. And do you recognize this to be an AEP  
9 Ohio discovery response to OCC Interrogatory 02-001?

10 A. Yes, I do.

11 Q. And you were -- this asks for the amount  
12 of revenue AEP collected through the Legacy  
13 Generation Rider in 2020; is that correct?

14 A. Yes.

15 Q. And at the last sentence it says --  
16 after objections it says for the amount of revenue  
17 AEP billed through the Legacy Generation Rider in  
18 2020, please see OCC Interrogatory 02-001 Attachment  
19 1; is that correct?

20 A. That is correct.

21 Q. And flip to the next page. It's my  
22 understanding that this is the attachment that  
23 answers the interrogatory; is that true?

24 A. That appears to be the case.

25 Q. First in the asterisk -- the second

1 asterisk -- or actually both asterisks, there's a  
2 note that says 2022. Do you know whether that should  
3 be 2020?

4 A. I believe both are 2020 based on the  
5 values in the first column, the one titled "Revenue,"  
6 the first four numbers in each of those values are  
7 2020 which should indicate the year.

8 Q. Okay.

9 A. It looks like the way our customer  
10 accounting system tracks month and year.

11 Q. Okay. So you think those were just  
12 typographical errors?

13 A. That would be my guess.

14 Q. And when it says 2020 then 01, 02, 03,  
15 that's the months; is that correct?

16 A. Yes.

17 Q. And do you know from this interrogatory  
18 what the total amount billed to AEP Ohio is?

19 A. So the footnote says "LGR Rider  
20 collections 23.1 million," so to answer your question  
21 I would expect that to be the answer, 23.1.

22 Q. Okay. And then --

23 MR. NOURSE: I'm sorry, your Honor,  
24 could I have the last question and answer reread.

25 (Record read back.)

1 MS. BOJKO: And, Mr. Nourse, I'm going  
2 to revise my question.

3 MR. NOURSE: Hopefully the answer will  
4 be revised, too.

5 By Ms. Bojko:

6 Q. I believe what I was asking is do you  
7 know what the total amount was billed to AEP Ohio  
8 customers through 2020. Is your answer the same?

9 A. So honestly, based on this response, I'm  
10 not entirely clear. And I was hoping I had a copy of  
11 the confidential AEP audit, I would at least be able  
12 to validate the number that's in this exhibit.

13 Q. That would be great. It's Exhibit 5C.

14 EXAMINER ADDISON: He has a copy.

15 MR. NOURSE: And I'm sorry to do this,  
16 your Honor, but I was asking it to be read because it  
17 happened quickly, and I actually was going to object,  
18 and then she said she rephrased, but then it's really  
19 the same question. Can I interpose an objection to  
20 this question?

21 EXAMINER ADDISON: You may.

22 MR. NOURSE: The objection is I don't  
23 think based on this -- this exhibit, which is true  
24 and accurate discovery, willing to stipulate it, but  
25 if you understand Part A and Part B, you understand

1 that these revenue collections -- that it would not  
2 be the equivalent to what was billed to customers in  
3 the same period, there are differences in timing.

4 EXAMINER ADDISON: I think that's for  
5 the witness to say, Mr. Nourse, so we'll -- he can  
6 provide an answer. If he can't provide one, then  
7 we'll move on. Take your time.

8 THE WITNESS: I'm looking at this  
9 discovery, and this appears to be what was billed  
10 through the Legacy Generation Rider, so I think  
11 collection, billing, obviously there's -- there's  
12 some disconnect there based on when customers pay.

13 I also note that with riders, and I  
14 think we talked about this with the rate design  
15 witnesses that were up before me, everything is  
16 billed based on a projection and then trued up when  
17 you provide the next update.

18 By Ms. Bojko:

19 Q. Sure. And if we turned back to the  
20 interrogatory -- I was reading the interrogatory.  
21 The question was, "Please state the amount of revenue  
22 AEP collected through the Legacy Generation Rider in  
23 2020: Right?

24 And then the response says, after  
25 objection, "For the amount of revenue AEP Ohio billed

1 through the Legacy Generation Rider in 2020," please  
2 see the attachment.

3 So it was my understanding that this  
4 attachment represented the amount that AEP Ohio  
5 billed through the LGR in 2020.

6 A. Yeah, I didn't prepare this response,  
7 but I have no reason to disbelieve that this is what  
8 it says, this is what it is.

9 Q. And are you able, sir, to -- Figure 9 is  
10 the -- in the audit report. Are you familiar with  
11 Figure 9 on page 28?

12 A. Yes.

13 Q. Do you know whether Figure 9, without  
14 saying the number, depicts the amount charged through  
15 the audit report, or does it depict -- well, I'll ask  
16 you that?

17 MR. NOURSE: Sorry, is there a question  
18 pending, or were you rephrasing?

19 MS. BOJKO: No, I asked him a question.

20 MR. NOURSE: I'd like to hear the  
21 question.

22 EXAMINER ADDISON: Absolutely.

23 MS. BOJKO: Excuse me.

24 By Ms. Bojko:

25 Q. Does it depict the amount charged

1 through the LGR?

2 MR. NOURSE: Well, again, I'll just  
3 object. I think this is already evidence in the  
4 record, and asking what the auditor meant by that  
5 table -- it's one thing to ask him if he agrees with  
6 her, he has any knowledge to agree with it, but to  
7 interpret the audit report and without that step I  
8 think is -- lacks foundation and is inappropriate.

9 EXAMINER ADDISON: Thank you,  
10 Mr. Nourse. The objection is overruled. You can  
11 answer to the extent that you know.

12 THE WITNESS: So Figure 9 appears to be  
13 an accounting reconciliation, so everything presented  
14 here is accounting data.

15 So understand that our PJM activity is  
16 accrued in the current month, so a January entry  
17 would be an accrual entry, we would have the official  
18 data in February, true that up in February business  
19 in the accounting cycle, the February accounting  
20 cycle.

21 So -- and I believe OVEC bills are also  
22 estimated and then trued up in following months. So  
23 understand that what we're looking at is accounting  
24 data. There's a timing difference. I think that's  
25 about all I can say about this exhibit.

1 By Ms. Bojko:

2 Q. I'm just trying to understand if you  
3 know, as the AEP witness, what amount was billed  
4 through the LGR Rider to AEP Ohio customers in 2020?

5 A. So I think the answer that you're  
6 looking for is on page 35 of the AEP audit report in  
7 Column A.

8 Q. You're saying I would have to add up all  
9 those numbers and then I'd be able to determine how  
10 much revenue was collected through the LGR Rider?

11 A. Yes. I think that the total 2020 number  
12 for revenues would be the sum of Column A.

13 Q. Okay.

14 EXAMINER ADDISON: Ms. Bojko, would you  
15 mind turning on your mic again?

16 MS. BOJKO: I keep doing it. I think it  
17 keeps going off or something.

18 EXAMINER ADDISON: Thank you.

19 By Ms. Bojko:

20 Q. And what do you believe that the  
21 Attachment 1 to OCC Interrogatory 01-002 depicts?

22 A. Without having prepared this myself, I'm  
23 not sure. It looks like it could be billed revenues  
24 coming from the customer accounting system. I would  
25 expect Column A probably to be something maybe on

1 more of a billed and accrued basis.

2 Q. So you would expect, if I added up  
3 Column A, it would correspond to the Interrogatory  
4 02-001?

5 A. I don't know, I'm not sure what --  
6 whoever put that exhibit together, that attachment,  
7 what they pulled.

8 Q. Okay. So testifying here today you  
9 can't tell me the exact number that you believe was  
10 billed to AEP Ohio customers in 2020 through Rider  
11 LGR, is that fair?

12 A. I think that the number that was billed  
13 is the number presented here in Figure 16, Column A.  
14 And I say billed. I guess I think we have to be --  
15 maybe we should specify.

16 Revenue -- customer revenues include an  
17 accrued and estimated portion. Any time you bill  
18 retail revenues you know the bills that you issued  
19 over the course of a calendar month, but not everyone  
20 is billed on the very last day of the month.

21 So for customers that are billed at  
22 different points in time you are either estimating if  
23 they are a large customer, or you're calculating some  
24 sort of unbilled revenue amounts for smaller  
25 customers, all of that becomes the general ledger

1 value.

2 So I believe that what we're looking at  
3 in Column A is the general ledger value. What we may  
4 be looking at in this attachment is purely the billed  
5 number. But it's hard to know.

6 I don't know what the person that put  
7 this response -- discovery response together, I don't  
8 know what they obtained.

9 Q. And you don't know why the numbers would  
10 be significantly different either, then?

11 A. I do not.

12 Q. It is your understanding, sir, that  
13 during the audit period the LGR Rider resulted in a  
14 net charge to AEP customers, correct?

15 A. Yes. And I think Column A in Figure 16  
16 of the audit report confirms that.

17 Q. You stated earlier to me that -- I  
18 believe it was in your testimony as well, that you  
19 are familiar with the law establishing 4928.148; is  
20 that correct?

21 A. I have a nonlegal understanding of the  
22 law.

23 MS. BOJKO: Can you hear me, Mr. Nourse,  
24 with all the noise down here?

25 EXAMINER ADDISON: I'm not certain if

1 the building is falling down.

2 MR. NOURSE: Trying to figure out what  
3 song that was.

4 By Ms. Bojko:

5 Q. Let's go to page 20 of your testimony,  
6 please. And page 20, starting on line 17, going over  
7 to the end of that question, you discuss Component D;  
8 is that correct?

9 A. Yes, the question starts on line 17 and  
10 the response starts on line 18.

11 Q. Here you state that the cost component  
12 charged to AEP was first -- sorry. Strike that.

13 Yeah, on Line 21 you state that the cost  
14 component charged -- the Component D charge was first  
15 charged to AEP in 1953; is that correct?

16 A. That is correct.

17 Q. And it was through the ICPA; is that  
18 correct?

19 A. Yes, through the ICPA. I believe it  
20 says Section 6.03. I think that should be 5.03.

21 Q. There's a typographical error in your  
22 testimony, you say?

23 A. Yeah, that I just noticed. So line 20  
24 where I cite Section 6.03(d) of the ICPA, that should  
25 be 5.03(d), and I apologize, I've read Section 5 many

1 times offer the last several years, I should have  
2 known that.

3 Q. And to be technically correct, per your  
4 attorney it should be Article 5.03, right?

5 A. I find that we can correct both of  
6 those.

7 Q. And isn't it true that Article 5.03 does  
8 not require AEP or any Sponsoring Company to pass  
9 that charge on to customers?

10 A. 5.03(d) just determines how part D of  
11 the demand charge is calculated. It does not address  
12 how it's charged subsequently to retail customers.  
13 I'm not aware of any FERC regulated contract that  
14 determines how retail customers are charged.

15 Q. And the law that you stated you're  
16 familiar with, the 4928.148, that was established and  
17 became effective in -- October 22, 2019; is that  
18 correct?

19 A. If you have a law, I'd be --

20 Q. I'm sorry. It runs together which  
21 witnesses we have already showed documents to, so my  
22 apologies.

23 It's OMAEG Exhibit 3, it's 4928.148, and  
24 then we might as well also have you pull up the  
25 definition, which is 4928.01. I don't believe that

1 we marked it or identified it. Do you have a copy of  
2 that up there as well? I do have an extra copy.

3 A. OMAEG Exhibit 8, is that --

4 Q. We did mark it. Okay, great. So 3 and  
5 8.

6 A. Okay.

7 Q. Okay. So the 4928.148, OMAEG Exhibit 3  
8 states that it was effective October 22nd, 2019,  
9 correct?

10 A. Yes.

11 Q. And is it your understanding that the  
12 LGR Rider became effective January 1st, 2020?

13 A. Yes.

14 Q. And this is the actual law that  
15 authorizes the cost recovery from customers of  
16 prudently incurred OVEC costs; am I correct?

17 A. That's my understanding.

18 Q. And this law became effective subsequent  
19 to the ICPA being signed by the Utilities, correct,  
20 or the Sponsoring Companies?

21 A. Yes.

22 Q. And looking at the definitions that  
23 define Legacy Generation Resource on 4928.01(41) and  
24 (42) here, Legacy Generation Resource is defined as  
25 those OVEC generating units; is that correct?

1 THE WITNESS: Can I get that question  
2 repeated?

3 (Record read back.)

4 THE WITNESS: So I'm not sure that's  
5 quite correct. The line says including the Ohio  
6 Valley Electric Corporation, which means there could  
7 be others, it's not a one-to-one, it's a one to many,  
8 and OVEC is in the many.

9 By Ms. Bojko:

10 Q. Fair enough. So OVEC units are  
11 considered a Legacy Generation Resource for purposes  
12 of this -- the statute that allows the OVEC related  
13 cost to be charged through Rider LGR, right?

14 A. Based on my read of this paragraph  
15 Section (41).

16 Q. Okay. Great. And if you look at (42),  
17 that defines prudently incurred costs. It states  
18 that these costs are related to the Legacy Generation  
19 which can include OVEC, and it also references a  
20 power agreement approved by the Federal Energy  
21 Regulatory Commission?

22 A. Are you referring to specific sections?

23 Q. (42) where prudently incurred costs are  
24 defined.

25 A. Can I have that question one more time?

1 Q. Let me try it again.

2 The definition of prudently incurred  
3 cost says that they are related to generation --  
4 Legacy Generation Resources that are allocated  
5 pursuant to a power agreement provided by the Federal  
6 Energy Regulatory Commission; is that correct?

7 A. That is correct.

8 Q. So it's related to costs allocated  
9 pursuant to the ICPA; is that your understanding?

10 A. Because the ICPA is a contract approved  
11 by -- or an agreement approved by the FERC, Federal  
12 Energy Regulatory Commission.

13 Q. Thank you. And it's your understanding  
14 that under the ICPA OVEC bills AEP for fuel related  
15 expenses; is that correct?

16 A. When you say fuel related expenses: It  
17 bills all sponsors for consumption of fuel to  
18 generate power.

19 Q. And then those fuel related expenses  
20 that you just defined are charged to AEP and passed  
21 on to customers through the LGR Rider, right?

22 A. Yes.

23 Q. And is it your understanding that fuel  
24 and variable cost expenses are a significant portion  
25 of OVEC costs that are billed to AEP?

1           A. I do not -- I'm not sure what you mean  
2 by significant. It is a component of the bill.

3           Q. And it's more than the majority of the  
4 bill; is that correct?

5           A. I'm not sure that's always the case, or  
6 that that was even always the case in the audit  
7 period.

8           Q. Do you know what percentage comprises  
9 the fuel and variable cost expenses then?

10          A. I haven't done that math. I mean, I  
11 think we provided a bill summary in discovery that  
12 shows energy charge, demand charge, transmission, PJM  
13 fees, so the four major components of the bill on a  
14 month-by-month basis. I think that could be easily  
15 derived, but off the top of my head I don't know what  
16 it is.

17          Q. So if in the audit report on page 49 the  
18 auditor states that fuel and variable cost expenses  
19 comprise a significant portion of OVEC's cost to  
20 AEP's customers, you would -- would you disagree with  
21 that statement?

22          A. I can't disagree. I don't know what  
23 significant means. Significant compared to -- I  
24 don't know.

25          Q. Okay. Is it your understanding that

1 OVEC's largest Sponsoring Company, AEP Corp.,  
2 provides coal procurement and other related services  
3 to OVEC?

4 A. So I want to reword what you said  
5 because there's -- I think some of that was  
6 inaccurate. Some of it was very accurate.

7 AEP Service Corporation provides fuel  
8 procurement services to OVEC at a -- on a pure cost  
9 basis, so the services are compensated on a cost  
10 basis to AEP Service Corporation. But AEP Service  
11 Corporation is not a Sponsoring Company.

12 Q. I was trying to say them collectively.  
13 Thank you for -- we were calling them all three  
14 companies had one vote earlier, we were calling them  
15 AEP Corp., so thanks for the clarification.

16 So first of all, AEP Ohio is the largest  
17 Sponsoring Company of -- in the ICPA, is it not?

18 A. I believe it is with the 19.39 percent  
19 participation ratio.

20 Q. And then if you add all three companies  
21 under the AEP umbrella, so all of the AEP Corp.  
22 affiliates, it's the 47 percent, I think we --

23 A. 43-1/2.

24 Q. I'm sorry, 43.47, or 43-1/2 percent. So  
25 that would be the largest -- even collective AEP

1 would be the largest owner of OVEC entitlement?

2 A. On a corporate basis the largest sponsor  
3 share, participation ratio share, I think that's  
4 probably more accurate.

5 Q. Thank you. Better way to put it.

6 And is it your understanding that the  
7 auditor in this case found that the Clifty Creek  
8 plant -- the coal purchase prices for that plant  
9 during the audit period were significantly higher  
10 than the spot price?

11 A. I know that's in a table. If you want  
12 to refer me, I'm certainly willing to pull that up.

13 Q. Sure. Page 57.

14 A. So page 57 showing the Kyger Creek  
15 plant, is that the one --

16 Q. I actually said Clifty Creek. If you  
17 look at the first sentence under the table, it says  
18 the LEI found that the Clifty Creek plant, the fuel  
19 purchase prices in 2020 were significantly higher  
20 than stock prices from SNL. I'm asking if you knew  
21 that the auditor found that.

22 A. I read that comment. I have some  
23 disagreements with the auditor in that regard.

24 Q. Okay. And you're aware that the -- what  
25 the auditor states as the high average price is

1 attributed to an expensive coal purchased from  
2 Resource Fuel?

3 A. So while the auditor states that, the  
4 auditor also indicates that the contract was entered  
5 into in 2012, and it accounts for a significant  
6 amount of supply. I don't want to go into numbers  
7 because I'm sure that is confidential. So it's an  
8 old contract.

9 When I read it, it determined that it  
10 was intending to provide a significant amount of  
11 supply at a steady price with limits into price  
12 increase and decrease, so providing the coal supplier  
13 some level of guaranteed cash flow while ensuring a  
14 reliable coal supply for the plant.

15 Q. Sure. I just asked you if the auditor  
16 attributed the high price to one expensive coal  
17 contract with Resource Fuel. So is the answer to  
18 that question yes, that's what the auditor attributed  
19 it to?

20 MR. NOURSE: Your Honor, I object. He  
21 did answer that as part of his answer, and he  
22 explained it the way he wanted to explain it.

23 EXAMINER ADDISON: I think he gave you  
24 the answer you're going to get, Ms. Bojko.

25 By Ms. Bojko:

1           Q. You said you read the coal contract; is  
2 that correct?

3           A. I read this particular contract.

4           Q. Were you involved in the AEP Service  
5 Corp. group that is responsible for entering into the  
6 coal procurement contract?

7           A. As part of my role to liaise with fuel  
8 procurement I do see all the coal contracts that go  
9 up for review through the Corporation, so I was not  
10 in that role in 2012, but currently I do.

11          Q. In -- I thought we were talking about  
12 2020 during the audit period. I see what you're  
13 saying. My apologies.

14                 You said you were not in the AEP coal  
15 procurement group when the contract was entered into,  
16 but were you in the AEP coal procurement group during  
17 the audit period?

18          A. So while I'm not in the coal procurement  
19 group, I do review contracts when they go up for  
20 approval throughout the corporation.

21                 So I don't report up through the  
22 vice-president of fuel procurement, but I'm heavily  
23 integrated with the work that that organization does.

24          Q. Okay. It's my understanding that there  
25 is an AEP fuel procurement group --

1 A. Yes.

2 Q. -- that is hired by OVEC to manage  
3 OVEC's coal contracts. Is that your understanding?

4 A. I'm not sure I would agree with manage.  
5 I think they -- they perform the negotiation, issue  
6 RFPs on behalf of OVEC based on information provided  
7 from OVEC, so they are essentially acting as an agent  
8 for OVEC.

9 Q. And what is the name of that group?

10 A. I would say AEP Fuel Procurement.

11 Q. Are you in the AEP Fuel Procurement  
12 group?

13 A. While I'm not in the group, I do review  
14 their work.

15 Q. I'm asking if you're in the group?

16 A. And I'm saying while -- corporately I  
17 don't report up through that organization, I'm  
18 heavily integrated with the work that they do.

19 Q. So my understanding, in what you just  
20 said, the group actually negotiates the coal  
21 contract. So do you actually negotiate the coal  
22 contracts?

23 A. I don't negotiate coal contracts.

24 Q. Are you familiar with Resource Fuel?

25 A. I'm familiar with the contract to some

1 extent, but I'm not familiar with the company, no.

2 Q. Have you had fuel or coal procurement  
3 discussions with Resource Fuel?

4 A. No, all of my discussions around coal  
5 procurement occur with AEP employees.

6 Q. Are you involved -- are you aware of  
7 this supplier's involvement in the House Bill 6  
8 scandal?

9 MR. NOURSE: Objection. Object to  
10 relevance, and we're talking about a contract that  
11 was entered into in 2012.

12 EXAMINER ADDISON: Well, more  
13 importantly, I think he's already testified that he's  
14 not familiar with the company, any coal procurement  
15 decisions or discussions are had with AEP Ohio  
16 personally, so let's move on. I'm sustaining the  
17 objection.

18 By Ms. Bojko:

19 Q. I thought -- now I'm really confused. I  
20 thought you said you did actually review, and you  
21 keep trying to tell me that you have a large role --  
22 or a role -- excuse me, I'll eliminate the word  
23 large -- that you have a role in reviewing and --  
24 coal procurement decisions.

25 You said you review every coal contract

1 and you have a role, or you discuss the contract with  
2 AEP Service Corp.'s Fuel Procurement group, correct?

3 A. So I think I want to clarify because  
4 some of the things you said were correct and some  
5 were not.

6 I do, in my current role, review fuel  
7 contracts when they go through corporately for  
8 review.

9 So a lot of times for internal contracts  
10 for AEP operating companies it starts with a coal  
11 buyer and usually it ends with some member of senior  
12 management, either the vice-president of fuel  
13 procurement or the senior vice-president of  
14 commercial operations.

15 For OVEC the last -- for OVEC contracts,  
16 similar sort of approval string ending with a high  
17 ranking member of OVEC. So OVEC is the ultimate  
18 approver of their contracts.

19 I am a member of that approval string,  
20 so I do approve contracts. In terms of specific  
21 contracts I -- I have a standing invitation to all  
22 the regular meetings to discuss contract status, in  
23 times preparation for hearings and things like that,  
24 or for regular fuel filings, I do discuss fuel  
25 procurement issues, but most of the time it is fuel

1 procurement issues in general and not specific  
2 contracts, unless it relates to a specific issue with  
3 a specific fuel filing.

4 Q. And if there is an issue you are part of  
5 the decision making team; is that correct?

6 A. I have a voice. I think ultimately the  
7 decision would be depending on the -- whether we're  
8 talking about OVEC -- if we're talking about OVEC I  
9 think ultimately the decision would be the  
10 vice-president of fuel procurement, possibly the  
11 senior vice-president of commercial operations, and  
12 some senior level member of OVEC.

13 Q. And are you aware that the auditor has  
14 recommended in this case that AEP, in its role in the  
15 operating committee, encouraged OVEC to provide less  
16 coal through long-term contracts?

17 A. I am aware that the auditor said that.  
18 However, when providing service with a coal plant,  
19 the function of ensuring coal supply is reliable coal  
20 supply so the units can perform.

21 MS. BOJKO: Your Honor, I move to strike  
22 everything that begins with however. I asked him if  
23 he was aware.

24 MR. NOURSE: Your Honor, what is the  
25 point of asking about the audit report if he can't

1 explain his position, or his opinion. He's up here  
2 testifying on the issues in this case. I think  
3 that's absolutely part of his answer.

4 EXAMINER ADDISON: Well, consistent with  
5 my earlier instruction I will grant the motion to  
6 strike. Mr. Nourse can bring that in on redirect if  
7 he likes.

8 By Ms. Bojko:

9 Q. You would agree with me that coal  
10 contracts -- the coal contracts that you've reviewed  
11 do allow a company to renegotiate delivery of future  
12 coal, or may include provisions that allow a company  
13 to manage their coal supply and change delivery  
14 dates?

15 A. That wasn't very clear. Is there a way  
16 you can rephrase it?

17 Q. Sure. Isn't it true that coal contracts  
18 that you reviewed typically have a clause that allows  
19 a renegotiation of the delivery dates or extensions  
20 of coal delivery dates regarding the management of  
21 coal inventory?

22 A. So to my understanding, the delivery  
23 dates are adjustable within a period of time. So if  
24 you have a one-year contract, that contract may allow  
25 either the supplier to deliver more or less for an

1 individual month, but over the course of the contract  
2 period the obligation is set unless you renegotiate  
3 the contract.

4 So there may be some oscillation in  
5 delivery. It's not necessarily a rateable delivery  
6 for every month in the contract, but there's still  
7 the obligation to take the total amount, and an  
8 obligation to pay for the total amount.

9 Q. And you weren't involved in any of the  
10 OVEC discussions or decisions of whether to do any  
11 type of renegotiation of their coal contracts, were  
12 you?

13 MR. NOURSE: Objection. That was a very  
14 broad question. Are we talking about certain  
15 contracts? Are we talking about the audit year?  
16 Your Honor, I object.

17 EXAMINER ADDISON: We'll specify for  
18 clarity. So please rephrase your question,  
19 Ms. Bojko.

20 By Ms. Bojko:

21 Q. Any contract that you have reviewed  
22 during the audit period -- no, strike that. I'm  
23 sorry.

24 I asked if you were involved during the  
25 audit period of any OVEC discussions or decisions

1 around whether to renegotiate their coal contract  
2 when the coal inventory was high?

3 A. I wasn't part of any discussions with  
4 suppliers. That's not my role, that's something that  
5 OVEC and the coal miner would undertake.

6 Q. I was actually asking if you were a part  
7 of the OVEC decision of whether to do those  
8 renegotiations or not, not the negotiations  
9 themselves.

10 A. Based on my understanding, OVEC would  
11 manage that process and enlist AEP Fuel Procurement  
12 to help them effect it.

13 Q. So no, you weren't involved, or yes, you  
14 were involved through AEP's Fuel Procurement group?

15 A. I was not involved. All of that starts  
16 with OVEC.

17 Q. Thank you.

18 MS. BOJKO: Your Honor, if I could have  
19 just a moment.

20 EXAMINER ADDISON: Absolutely. Let's go  
21 off the record.

22 (Discussion off the record.)

23 EXAMINER ADDISON: Let's go back on the  
24 record. Ms. Bojko.

25 MS. BOJKO: Thank you. I have no

1 further questions on the public record. And on the  
2 break Mr. Nourse, counsel for AEP Ohio, and I  
3 discussed and have agreed to admit in the  
4 confidential record two interrogatories, one is named  
5 LEI-DR-02-021, and Attachment 1 to that.

6 EXAMINER ADDISON: Are you marking these  
7 as exhibits right now, Ms. Bojko?

8 MS. BOJKO: Yes, that would probably be  
9 best. 12C, your Honor, for that one.

10 . EXAMINER ADDISON: I think we're on  
11 13. It will be so marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MS. BOJKO: And then, your Honor, I'd  
14 like to also mark for identification purposes as  
15 OMAEG 14C, an interrogatory titled LEI-DR-02-006,  
16 with Confidential Attachments 1 and 2.

17 EXAMINER ADDISON: They'll be so marked.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 MS. BOJKO: And both of these documents  
20 are -- well, the attachments are confidential, and we  
21 would like to -- or we have a stipulation between AEP  
22 Ohio and OMAEG to allow these two discovery requests  
23 to be admitted into the record with the confidential  
24 attachment in lieu of any cross-examination on the  
25 confidential session.

1 EXAMINER ADDISON: Thank you, Ms. Bojko.  
2 Is that correct, Mr. Nourse?

3 MR. NOURSE: Yes, that is correct. And  
4 my stipulation is I get a copy of it, I know you only  
5 have one copy right now.

6 MS. BOJKO: No, we have.

7 MR. NOURSE: Okay, we're good.

8 EXAMINER ADDISON: Excellent. Thank  
9 you.

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

11 EXAMINER ADDISON: You may. Let's just  
12 go off the record for a second.

13 (Discussion off the record.)

14 EXAMINER ADDISON: Let's go back on the  
15 record. Just to put a bow on it, Ms. Bojko, that  
16 does conclude your cross?

17 MS. BOJKO: Yes. Thank you, your Honor.  
18 Thank you, Mr. Stegall.

19 EXAMINER ADDISON: Thank you very much.  
20 Ms. Whitfield?

21 MS. WHITFIELD: No questions.

22 MR. DOUGHERTY: No questions, your  
23 Honor.

24 EXAMINER ADDISON: Miss Wilson?

25 MS. WILSON: Very, very briefly.

- - -

CROSS-EXAMINATION

By Ms. Wilson:

Q. Mr. Stegall, if you would, please return to page 4 of your testimony. Are you there?

A. Yes.

Q. And do you still have a copy of the ICPA up there?

A. Somewhere. Found it, yes.

Q. Are you familiar with the description of components within the ICPA, generally?

A. All components established in Article 5, is that --

Q. Yeah, just that are in there.

A. Yes.

Q. Okay. Turn, if you would, to page 10 of the ICPA, please, and I'm going to look at little (d) in parentheses. Do you see that?

A. Yes.

Q. Would you agree with me that this says, "Component (D) shall consist of an amount equal to the product of \$2.089 multiplied by the total number of shares of capital stock of the par value of \$100 per share of Ohio Valley Electric Corporation which shall have been issued and which are outstanding on

1 the last day of such month"?

2 A. I agree that's the text that's here.

3 Q. Okay. Thank you. Is that also your  
4 accounting understanding of what Component D is?

5 A. I'm not -- I'm not sure how accounting  
6 fits into your question.

7 Q. Well, I'm trying to avoid a he's not a  
8 lawyer objection, I just wanted to specify in your  
9 role.

10 What is your accounting understanding of  
11 the phrase "shares of capital stock"?

12 A. I think the term speaks for itself.  
13 There's shares of stock that are authorized and  
14 issued.

15 Q. So it's your testimony that that is  
16 basically a typical accounting term?

17 A. I don't even know if it's an accounting  
18 term or if it's a generic corporate term.

19 Q. Okay. What about the phrase par value?

20 A. I believe that, once again, may be the  
21 standard corporate term. I don't know that it's an  
22 accounting term. I've seen it in plenty of  
23 statements, documents.

24 Q. As company terms, what do you understand  
25 that to be?

1 A. What, par value?

2 Q. Yes.

3 A. It's a value stated on a share of stock.

4 Q. And then there should still be a copy of  
5 Revised Code 4928 up there. Can you find that?

6 A. Yes.

7 Q. Thank you. If you turn to page 12 of  
8 13, specifically paragraph (42)?

9 A. Okay.

10 Q. About halfway down that paragraph  
11 starting with, "Such costs," do you see that?

12 A. Yes.

13 Q. And have you reviewed these definitions  
14 for the LGR Rider that are in this statute?

15 A. I have reviewed the definitions. I just  
16 didn't believe that Component D was a return on  
17 equity.

18 Q. So based on your reading -- your  
19 subsequent reading of that, it's now your  
20 understanding that LGR excludes return on investment  
21 and common equity?

22 A. Once again, I agree that that's what  
23 Section (42) says, I just don't believe that  
24 Component D is a return on -- return on equity, or  
25 invest in capital.

1 Q. Okay. So no return on investment,  
2 neither equity or common equity.

3 MS. AKHBARI: I would just object as to  
4 it's asked and answered.

5 MS. WILSON: I withdraw that.

6 EXAMINER ADDISON: Thank you.

7 By Ms. Wilson:

8 Q. Can you explain generally in accounting  
9 what a return on investment and common equity is  
10 typically used for?

11 A. I'm not sure I understand your question.  
12 I mean, in my regulatory career I've reviewed  
13 contracts that specify return on equity, or even  
14 return in general, and they are all based on usually  
15 rate base, debt-to-equity ratio. None of that is  
16 mentioned in Component D.

17 Q. And your response would be the same for  
18 common equity, correct?

19 MS. BOJKO: Your Honor, I'm going to  
20 object now. I've let a couple questions go, but  
21 she's asking a legal conclusion.

22 We were not allowed to ask Mr. Swez  
23 about anything about legal conclusions and whether  
24 this was an exclusion or not exclusion with regard to  
25 Component D, so I don't think that it's fair to allow

1 another nonattorney witness to do the same thing.

2 MS. WILSON: I am just asking based on  
3 his accounting degree, which accounting typically  
4 includes return on investment, common equity, in  
5 general.

6 EXAMINER ADDISON: Hold on. I'm not  
7 sure that I'm following the line of questioning  
8 either, Ms. Wilson, so perhaps you can move on to  
9 your next question.

10 By Ms. Wilson:

11 Q. If you would, can you grab the AEP Ohio  
12 audit report up there?

13 A. Okay.

14 Q. And on page -- well --

15 MS. BOJKO: I didn't hear.

16 MS. WILSON: Sorry, page 31.

17 By Ms. Wilson:

18 Q. And I believe Ms. Bojko previously asked  
19 you if you're familiar with Component D of the OVEC  
20 bills; is that correct?

21 A. Yes, I'm familiar with it.

22 Q. Thank you. And the auditor  
23 recommendation here, do you agree that it covers  
24 components of fixed cost and specifically discusses  
25 Component D of the demand charge?

1 MS. BOJKO: Objection. Could I have the  
2 question reread?

3 EXAMINER ADDISON: You may.

4 (Record read back.)

5 MS. BOJKO: I withdraw. I didn't  
6 understand her question. I think she's asking if the  
7 auditor stated something. Can you ask her to  
8 rephrase her question?

9 MR. NOURSE: I don't understand the  
10 question, either.

11 EXAMINER ADDISON: Just turn on your  
12 microphone if you object going forward.

13 Ms. Wilson, would you mind taking  
14 another stab at your question?

15 MS. WILSON: Sure.

16 By Ms. Wilson:

17 Q. Can you read for me the first sentence  
18 under 4.3.2.2, Recommendations?

19 A. "The components of fixed cost were  
20 billed properly and LEI has no recommendation for AE  
21 Ohio," which I think should AEP Ohio.

22 MR. NOURSE: Your Honor, I think this  
23 might be confidential.

24 MS. WILSON: I'm not asking for amounts.

25 MR. NOURSE: All right. We're just

1 double checking. Thank you.

2 EXAMINER ADDISON: Thank you. No, we  
3 appreciate the diligence.

4 MS. WILSON: I got distracted. I meant  
5 to state also don't disclose any actual numbers if  
6 they are confidential.

7 By Ms. Wilson:

8 Q. So you just read that -- we were talking  
9 about fixed costs here, and then the next paragraph  
10 after that sentence starts to talk about Component D,  
11 do you agree with that?

12 A. I agree that the next sentence starts to  
13 discuss Component D.

14 Q. Okay. Are you generally familiar with  
15 the items or components included on OVEC bills for  
16 2020?

17 A. Yes.

18 Q. Now, we already had you look at item (d)  
19 in the ICPA. Is it your understanding that Component  
20 D was paid by the Utilities in 2020?

21 A. Yes, it was.

22 Q. And is it your understanding that  
23 Component D was included in the LGR charges that were  
24 audited in this case?

25 A. Yes.

1 Q. And do you know if the component --  
2 Component D amount collected by OVEC back in 2020 was  
3 used for any expenses or any other purposes?

4 A. I don't do the books for OVEC or manage  
5 their cash flow, so no, I don't.

6 MS. WILSON: Thank you. I have no  
7 further questions.

8 EXAMINER ADDISON: Thank you.  
9 Mr. Nourse, any redirect?

10 MR. NOURSE: No.

11 EXAMINER ADDISON: Thank you.

12 - - -

13 EXAMINATION

14 By Examiner Addison:

15 Q. Very quickly, Mr. Stegall. I'll make it  
16 brief. You know -- you noted in your testimony  
17 multiple times that you don't believe Component D  
18 constitutes an amount as contemplated by 4928.01a42;  
19 is that correct?

20 A. Yes.

21 Q. But ultimately it's the Commission that  
22 will make that determination, correct?

23 A. Yes.

24 Q. It's just your opinion that that does  
25 not constitute a -- let me get the specific -- it

1 does not constitute a return on investment and common  
2 equity; that's your opinion, correct?

3 A. It's my opinion, and it's based on my  
4 experience with other FERC regulated contracts for  
5 AEP Ohio affiliates.

6 EXAMINER ADDISON: Thank you. That's  
7 all I have.

8 MS. BOJKO: I'm sorry, he was turned  
9 towards you away from the mic. I didn't hear his  
10 last answer.

11 EXAMINER ADDISON: Can I have the last  
12 answer read, Valerie?

13 (Record read back.)

14 EXAMINER ADDISON: Thank you.

15 MR. NOURSE: Your Honor, I renew my  
16 motion for admission of AEP Ohio Exhibit 1.

17 EXAMINER ADDISON: You're excused,  
18 Mr. Stegall.

19 (Witness excused.)

20 EXAMINER ADDISON: Thank you very much  
21 for your testimony.

22 Any objections to the admission of AEP  
23 Ohio Exhibit 1 at this time?

24 MR. FINNIGAN: No, your Honor.

25 EXAMINER ADDISON: Hearing none, it will

1 be admitted.

2 (EXHIBIT ADMITTED INTO EVIDENCE.)

3 EXAMINER ADDISON: And I believe earlier  
4 we had discussed the parties reached a stipulation as  
5 to OCC Exhibit 14; is that correct?

6 MR. FINNIGAN: Yes, your Honor.

7 MR. NOURSE: 14 and 14C and 13C.

8 EXAMINER ADDISON: I believe those --  
9 I'm just talking about OCC exhibits.

10 MR. NOURSE: I'm sorry.

11 EXAMINER ADDISON: No, you're fine, Mr.  
12 Nourse, you're getting a little ahead of me. Thank  
13 you all. OCC Exhibit 14 will be admitted at this  
14 time.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 EXAMINER ADDISON: Moving on to OMAEG's  
17 exhibits, Ms. Bojko.

18 MS. BOJKO: Yes, I would like to move  
19 the admission of OMAEG Exhibit 12 at this time.

20 EXAMINER ADDISON: Any objection to the  
21 admission of OMAEG Exhibit 12 at this time?

22 MR. NOURSE: No.

23 EXAMINER ADDISON: Thank you.

24 MS. BOJKO: And then --

25 EXAMINER ADDISON: It will be admitted.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 MS. BOJKO: Sorry. And then, your  
3 Honor, by stipulation I would move the admission of  
4 OMAEG Exhibit 13C and 14C.

5 EXAMINER ADDISON: And just to confirm,  
6 Mr. Nourse, you had agreed to stipulate to the  
7 admission of these exhibits, correct?

8 MR. NOURSE: Yes.

9 EXAMINER ADDISON: They will be admitted  
10 at this time.

11 (EXHIBITS ADMITTED INTO EVIDENCE.)

12 MS. BOJKO: Thank you, your Honor.

13 EXAMINER ADDISON: That will conclude  
14 the witnesses that we take today. We will resume on  
15 Monday at 9:00 a.m. Let's go off the record for a  
16 moment.

17 (Discussion off the record.)

18 EXAMINER ADDISON: Let's go back on the  
19 record. When we resume with the hearing on Monday we  
20 will begin with AES Ohio's witness Crusey.

21 Is there anything else we need to  
22 discuss before going off the record this evening?  
23 All right. We are adjourned. Thank you.

24 (Thereupon, the hearing was  
25 adjourned at 5:15 p.m.)

CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the proceedings  
taken by me in this matter on Friday, November 3,  
2023, and carefully compared with my original  
stenographic notes.

---

Valerie J. Grubaugh,  
Court Reporter and Notary  
Public in and for the State  
of Ohio.

My commission expires August 11, 2026.

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