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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In re: R-00974104 R-00974104C0001-C0002 Duquesne Light Company Application for approval of a Restructuring Plan. Further Hearings.

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Stenographic report of hearing held in Hearing Room 2, State Office Building, Pittsburgh, Pennsylvania,

Tuesday,
December 16, 1997
9:05 a.m.

- - - - -

BEFORE

JOHN CORBETT, JR, ADMINISTRATIVE LAW JUDGE

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I N D E X

WITNESSES

<u>FOR DUQUESNE LIGHT:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
DONALD J. CLAYTON	--	300	359	364
MICHAEL M. SCHNITZER	374	390	557	560
MORGAN K. O'BRIEN	563	569	--	--

I N D E XEXHIBITS

	<u>MARKED</u>	<u>ADMITTED</u>
3 <u>FOR OTS:</u>		
4 ✓ Cross-Examination 1 ✓✓	302	305
5 <u>FOR OCA:</u>		
6 ✓ Cross-Examination 1 ✓✓	307	307
7 <u>FOR IBEW:</u>		
8 ✓ Cross-Examination 1 ✓✓✓	354	356
9 <u>FOR DUQUESNE:</u>		
10 ✓✓ MMS-1 through MMS-7 ✓✓✓✓	377	377
11 ✓✓ MKO-1A through MKO-1E ✓✓✓✓	564	564
12 ✓ MKO-2 ✓✓	564	564
13 <u>FOR HSS:</u>		
14 ✓ Cross-Examination 3 ✓✓✓	434	486
15 ✓ Cross-Examination 4 ✓✓✓	449	486
16 ✓ Cross-Examination 5 ✓✓✓	451	486
17 ✓ Cross-Examination 6 ✓✓✓	453	486
18 ✓ Cross-Examination 7	457	486
19 ✓ Cross-Examination 8 ✓✓✓	463	486

STATEMENTS

21 <u>FOR DUQUESNE:</u>		
22 ✓ Statement 3 ✓✓✓	377	377
23 ✓ Statement 3-R ✓✓✓	377	377
24 ✓ Statement 4 ✓✓✓	564	564
25 ✓ Statement 4-R ✓✓✓	564	564

1 JUDGE CORBETT: This is a continuation of the
2 hearings on the restructuring plan filed by Duquesne
3 Light Company. Before we go any further, are there
4 any preliminary matters that need to be addressed?

5 (No audible response.)

6 JUDGE CORBETT: While we were off the record,
7 Ms. Melillo for the Office of Trial Staff approached
8 me concerning going over some points that were raised
9 yesterday during her cross-examination that,
10 apparently, she and the witness for Duquesne Light
11 Company have discussed since yesterday's cross, and
12 I've indicated that now would be an appropriate time
13 for Ms. Melillo to cover that material.

14 Ms. Melillo, would you care to proceed.

15 MS. MELILLO: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. MELILLO:

18 Q Good morning, Mr. Clayton.

19 A Good morning.

20 Q Do you recall yesterday during your
21 cross-examination we discussed the issue concerning
22 the Brunot Island units that are in cold reserve. Do
23 you recall that?

24 A Yes, I do.

25 Q Do you recall that you said that Units 2A

1 and 2B in Brunot Island were placed into service in
2 1996 via the Fort Martin agreement?

3 A That's correct.

4 Q Those two units, Units 2A and 2B, had
5 formally been in cold reserve as a result of the 1986
6 placement of these units in cold reserve by Duquesne;
7 is that correct?

8 A Yes. That's correct.

9 Q I asked you an on-the-record data request
10 yesterday concerning the portion of the cold reserve
11 that related to Units 2A and 2B in Brunot Island.
12 Have you responded to that?

13 A Yes, I have. If you would look on Line 3
14 of the on-the-record data request response that I
15 provided to you, you'll see a line that says Brunot
16 Island cold reserved portion, and across from that it
17 says the rate base is 16.69, and that's dollars in
18 millions. All the dollars in the schedule are in
19 millions. That is referenced on DJC-21, Page 48 of
20 141.

21 That would be the portion of Brunot Island
22 that is currently in cold reserved status and does
23 relate to Units 2A and 2B -- I'm sorry, to Units 3
24 and 4, which are the units that remain in cold
25 reserve, excluding Units 2A and 2B.

1 MS. MELILLO: And for purposes of
2 identification, Your Honor, I would like marked as
3 OTS Cross-Examination Exhibit 1 the response of
4 Mr. Clayton to the OTS on-the-record data request
5 that he just spoke of.

6 JUDGE CORBETT: Yes. This document will be so
7 marked and identified.

8 MS. MELILLO: Thank you.

9 JUDGE CORBETT: Will there be distribution
10 among the parties and supplying to the court
11 reporter?

12 MS. MELILLO: Your Honor, it's my
13 understanding that Duquesne has provided copies to
14 the parties, and I have two copies for the court
15 reporter.

16 MR. MOOT: That is correct.

17 JUDGE CORBETT: And I'll need one copy also.

18 (OTS Cross-Examination Exhibit Number 1 was
19 produced and marked.)

20 BY MS. MELILLO:

21 Q Mr. Clayton, please take a look at what has
22 been marked for identification as OTS Cross-
23 Examination Exhibit 1, as you earlier referenced
24 that. That is your on-the-record data request
25 response?

1 A Yes, it is.

2 Q Please take a look at the bottom line
3 number, the 65.58 million. Does that represent what
4 the company's claim is in this proceeding for the
5 cold reserved units currently in service?

6 A The cold reserved units currently not in
7 service.

8 Q Currently not in service. I'm sorry.
9 Currently not in service?

10 A Yes.

11 Q And the 65.58 number then excludes the two
12 units, being Units 2A and 2B, in Brunot Island that
13 were placed in service via the Fort Martin agreement
14 in 1996; is that correct?

15 A Yes.

16 Q And the OTS adjustment in this case made by
17 Mr. Metro relates only to the cold reserved units
18 that are not currently in service; is that correct?

19 A That is correct.

20 Q And his adjustment doesn't include the
21 Units 2A and 2B in Brunot Island that were placed in
22 service in 1996 via the Fort Martin agreement?

23 A That is correct. His adjustment does not
24 include those units.

25 Q Also, with respect to the deferred

1 caretaker costs, am I correct Mr. Metro's adjustment
2 only includes the deferred caretaker cost
3 disallowance related to the units that are not
4 currently in service and not included in the Fort
5 Martin agreement?

6 A On deferred caretaker costs, there was no
7 allocation between the units, but for Brunot Island
8 that would be an exceedingly small number. So no
9 adjustment was made.

10 Q But his adjustment for deferred caretaker
11 costs would only relate to the units that are not in
12 service at present; is that correct?

13 A I'll have to say it again. The deferred
14 caretaker costs relate to the accumulation of costs
15 for all the units that were in cold reserve over a
16 period of years.

17 For the years that Units 2A and 2B were in
18 cold reserve, the caretaker costs were accumulated on
19 those items. However, they were a very small number,
20 and I do not believe Mr. Metro's adjustment takes
21 that into account, but it is such a small number that
22 the company would waive such an adjustment.

23 Q So Units 2A and 2B at Brunot Island were in
24 cold reserve from 1986 to 1996?

25 A That's correct.

1 Q And they were just placed in service in
2 1996 via the Fort Martin agreement?

3 A That is correct.

4 MS. MELILLO: Your Honor, at this time that
5 concludes my cross-examination on this point. Thank
6 you for that opportunity to clarify the record.

7 If it would be appropriate, I would like to
8 move into evidence at this time OTS Cross-Examination
9 Exhibit Number 1.

10 JUDGE CORBETT: All right. Hearing no
11 objection, it will be so admitted.

12 (OTS Cross-Examination Exhibit Number 1 was
13 admitted into evidence.)

14 MR. MOOT: Your Honor, if I may, one very
15 minor procedural matter. I just had occasion to open
16 the first pages of yesterday's transcript, and in the
17 index it indicates that Mr. Marshall's exhibits and
18 statements were marked but not admitted.

19 I just think it was our understanding that
20 when something is moved for admission subject to
21 motions that it is thereby admitted if there are no
22 motions, and I think the record would reflect that
23 there were no such motions for Mr. Marshall's
24 testimony.

25 JUDGE CORBETT: That's correct. The

1 transcript should reflect that fact.

2 Mr. Berger, I received some indication that
3 you had some type of cross that you wanted to go back
4 to.

5 MR. BERGER: Yes, Your Honor.

6 JUDGE CORBETT: Can you tell me what that's
7 about?

8 MR. BERGER: There's two items. First the
9 company provided a response to the questions we had
10 pertaining to the calculation of the present value
11 cost independent of operation on DJC Exhibit 13. We
12 wanted to distribute that as a cross-examination
13 exhibit and just briefly ask Mr. Clayton to explain
14 it.

15 Then I want -- I had a few additional
16 questions for Mr. Clayton on DJC Exhibit 10.

17 JUDGE CORBETT: Okay.

18 MR. BERGER: We can do that now or after the
19 other parties have completed their cross.

20 JUDGE CORBETT: We took Ms. Melillo out of
21 turn. Do we have any objection?

22 (No audible response.)

23 JUDGE CORBETT: All right. Then, Mr. Berger,
24 why don't we take you next.

25 MR. BERGER: Okay. At this time I'll

1 distribute OCA Cross-Examination Exhibit Number 1.

2 Do you have a copy, Mr. Clayton?

3 THE WITNESS: Yes, I do.

4 MR. BERGER: I'll give two to the court
5 reporter. Mr. Moot has a number of copies, and I
6 think he's distributed them to the parties.

7 Is that right?

8 MR. MOOT: That is correct.

9 MR. BERGER: They should be marked OCA
10 Cross-Examination Exhibit 1.

11 JUDGE CORBETT: It will be so marked and
12 identified.

13 (OCA Cross-Examination Exhibit Number 1 was
14 marked for identification.)

15 CROSS-EXAMINATION

16 BY MR. BERGER:

17 Q Mr. Clayton, you provided this in response
18 to some questions yesterday by myself; is that
19 correct?

20 A Yes.

21 Q And just let me briefly go through each of
22 the lines. The first line there indicates present
23 value of unavoidable costs. And these are
24 unavoidable costs associated with the four generating
25 units identified there; is that correct?

1 A Yes.

2 Q And the second line is present value of
3 margin using avoidable costs. When you're talking
4 about avoidable costs, you're talking about,
5 essentially, "to go" costs, operating costs of those
6 units; is that correct?

7 A It's the "to go" cost that could be avoided
8 if the units were not operated.

9 Q The third line is present value of costs
10 independent of operation, which is merely a
11 subtraction of the first line minus -- the second
12 line from the first line; is that correct?

13 A Yes. That's correct.

14 Q Would you agree with me that that reflects
15 the company's judgment with respect to three of the
16 units--Perry, Beaver Valley 2, and Cheswick--that the
17 present value of -- that it would not be economical
18 to shut down those units; and, therefore, it would
19 not be economic to avoid the avoidable costs, so to
20 speak? In other words, it would make more sense to
21 keep those units operating even though you would
22 still have some costs that could have been avoided
23 otherwise?

24 A That is correct.

25 Q Okay. Would you just briefly turn to

1 Exhibit DJC-10?

2 A Yes.

3 Q I asked you some questions yesterday about
4 the numbers there pertaining to the company's net
5 book value as compared to the stranded generating
6 plant. Do you remember that?

7 A Yes, I do.

8 Q Now, from a purchaser's perspective, if a
9 purchaser was going out to purchase the company's
10 generating assets, would you agree with me that a
11 purchaser would consider the market value of the
12 assets, the \$27.4 million, for example, indicated in
13 the Duquesne Light Company column? Would you agree
14 with that? That's one item they would consider, is
15 their evaluation of the market value?

16 A I think the purchaser would establish that
17 line item.

18 Q They would establish that for themselves;
19 right?

20 A Yes.

21 Q They would also need to consider the
22 unfunded decommissioning liability that they would
23 still have?

24 A Again, it would depend on who took over
25 responsibility for that liability.

1 Q Okay. But in your assessment, your present
2 value of decommissioning on this line reflects both
3 fossil decommissioning and nuclear decommissioning
4 costs, correct, unfunded costs?

5 A Yes.

6 Q So, if they took over that responsibility,
7 they would need to consider those costs; correct?

8 A Yes, they would.

9 Q Now, would the purchaser need to consider
10 the present value of costs independent of operation,
11 or would they merely look to their own overhead types
12 of costs in considering that item?

13 A Again, it would depend on whether or not
14 they would relieve the company of its responsibility
15 for those costs.

16 Q Well, let's assume that they did relieve
17 the company of its responsibility for those costs.

18 A If they did, then that would be part of the
19 value that they would convey to the company, yes.

20 Q Now, from a ratepayer's perspective, if
21 stranded costs are less than the 1.542 billion, I
22 think we established yesterday that there would be a
23 ratepayer benefit. Do you remember that?

24 MR. MOOT: Your Honor, this was a very long
25 and somewhat confusing area yesterday. This is

1 getting into cumulative cross. I guess I either have
2 an objection or I request that if we're going to go
3 back there that the witness be permitted to look at
4 the transcript, and maybe we ought to take a five-
5 minute break and allow him to read the transcript
6 from yesterday.

7 MR. BERGER: I thought I was just asking a
8 very simple question; if your stranded costs are less
9 than the amount asked for as a result of a purchase,
10 for example.

11 MR. MOOT: Mr. Berger, you spent at least 20
12 minutes on that simple question and related ones
13 yesterday. It didn't occur to the witness to be too
14 simple.

15 JUDGE CORBETT: Let me ask you this,
16 Mr. Berger. How far are we going with this?

17 MR. BERGER: I only have maybe one or two
18 other questions. I wanted to establish this basic
19 point; that if stranded costs are less than the
20 request as a result of a purchase, that that's a
21 benefit to ratepayers.

22 JUDGE CORBETT: All right. We'll let you do
23 that.

24 Would you care to have the question read back,
25 Mr. Clayton?

1 THE WITNESS: Yes, please.

2 MR. BERGER: I'll repeat it.

3 JUDGE CORBETT: All right.

4 BY MR. BERGER:

5 Q Mr. Clayton, if stranded costs are less
6 than the amount reflected in the company's case as a
7 result of a sale of those assets, would you agree
8 that that would be a benefit to ratepayers, assuming
9 that the lower amount of stranded costs got flowed
10 through to those ratepayers?

11 MR. MOOT: Could I ask for clarification? A
12 benefit compared to what?

13 MR. BERGER: Compared to, let's say, the
14 company's claim as reflected here.

15 A Yes, that would be a benefit that would
16 ultimately be returned to customers.

17 BY MR. BERGER:

18 Q Now, would you agree with me that, if a
19 purchaser came in and agreed to take the plants off
20 the company's hands and assume just its fossil
21 decommissioning liability, that that would create
22 lower stranded costs than reflected on this exhibit?

23 MR. MOOT: Could I ask a clarification? When
24 he refers to plants, does he refer to all the plants?

25 MR. BERGER: All the plants, yes.

1 A In my opinion, it would not.

2 BY MR. BERGER:

3 Q And that's because of the PV costs
4 independent of operation?

5 A No. It's because their value, if it
6 considered decommissioning, would be -- Basically,
7 we would think it would be consistent with the
8 numbers that we have here.

9 Now, if you're telling me that they would give
10 me a higher price than I have here and would relieve
11 the company of additional responsibility and give us
12 a much more optimistic price for our plants, then,
13 yes, our stranded costs would be less. But no single
14 line item on here would make me agree with your
15 statement.

16 Q Well, if the purchaser were simply to take
17 over the company's fossil decommissioning liability,
18 let's say, that would reduce costs by -- Is it
19 sixty-six and a half million dollars or something
20 like that?

21 A The present value I show on Exhibit DJC-10
22 is \$123.9 million.

23 Q Well, that includes nuclear.

24 A Yes.

25 Q If they just took the fossil

1 decommissioning, I think it's sixty-six and a half
2 million.

3 A That sounds about right.

4 Q That would reduce stranded costs by
5 sixty-six and a half million; is that correct?

6 A If they relieve the company of that
7 responsibility?

8 Q Yes.

9 A Yes.

10 Q So, if the company gave up those plants, it
11 would still recover its net book value in the
12 stranded costs; it would still recover its nuclear
13 decommissioning liability; and, obviously, it
14 wouldn't receive any market value anymore for those
15 plants; but that sixty-six and a half million would
16 still create lower stranded costs; am I correct?

17 MR. MOOT: Can I ask for a clarification?
18 When the questioner says "gave up those plants," is
19 it their assumption that there's a price to be paid
20 for those plants, and what is that price?

21 MR. BERGER: Transfer of those plants at zero
22 dollars.

23 THE WITNESS: Including nuclear plants?

24 MR. BERGER: Yes, including nuclear plants.

25 BY MR. BERGER:

1 Q If they gave up those plants and simply
2 agreed to take on the fossil decommissioning
3 liability, would you agree with me that that would
4 reduce stranded costs?

5 A That would result in a higher estimated
6 market value than we show on this exhibit.

7 Q It would result in a zero market value;
8 right?

9 A No.

10 Q Are you talking about estimated market
11 value?

12 A Yes.

13 Q And wouldn't you agree with me that, if the
14 company didn't hold the plants anymore, they wouldn't
15 have any market value in these plants and they
16 wouldn't -- since the company wouldn't bear any of
17 the costs?

18 A What I'm suggesting is, if someone took
19 over our decommissioning liability, which we believe
20 to be, according to this schedule, 123.9 million, or
21 in your case if they only took over the fossil piece,
22 which is about \$66 million, that that would mean that
23 they were paying us nearly \$100 million, a little
24 over \$90 million, for the plants on my analysis.

25 Q I'm suggesting that they're paying nothing.

1 I'm just saying that they're saying, We'll take over
2 your fossil decommissioning liability; transfer the
3 assets to us at zero price. Doesn't that reduce the
4 stranded costs? That's all I'm asking.

5 MR. MOOT: That was not the original question.

6 MR. BERGER: That was the original question.

7 JUDGE CORBETT: Let's not argue about what the
8 original question was. Just ask the question and see
9 if the witness can answer it.

10 A My answer is that, if stranded costs are
11 determined to be less than the number that we have
12 here, that is a benefit.

13 Stranded costs can be determined in a number
14 of fashions. We have set out three separate line
15 items below our book value that would contribute to
16 the company's stranded costs. Those line items are
17 the present value of decommissioning, the present
18 value of costs independent of operations, and an
19 estimated market value of the margin difference in
20 running the plants on a go-forward basis.

21 If someone gave us a price for our plants or
22 took over liabilities for our plants that was less
23 than the net of those three amounts, less negative or
24 positive, and did have the result of reducing
25 stranded costs, that would be a ratepayer benefit.

1 Q Would you agree that in my scenario where
2 the purchaser takes over the plants, doesn't pay the
3 company anything but agrees to take over the fossil
4 decommissioning liability that happens?

5 A I don't think that's as simple as that. I
6 think there are a number of other factors. You would
7 have to look at all the terms of the transaction.
8 But, again, my original statement stands; that if
9 someone paid us more than we think they would pay us
10 under our scenario, it would reduce stranded costs.

11 MR. BERGER: Thank you. That's all I have.

12 Thank you, Mr. Moot, for the additional time
13 to ask additional questions.

14 JUDGE CORBETT: Mr. Barak, I think we're
15 finally back to you.

16 MR. BARAK: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. BARAK:

19 Q Just a couple of questions on the matters
20 that just came before me.

21 JUDGE CORBETT: I'm sorry, if I can interrupt
22 you.

23 Mr. Berger, are you moving for the admission
24 of your exhibit?

25 MR. BERGER: Yes. Thank you, Your Honor.

1 I'll move for the admission of OCA Cross-Examination
2 Exhibit Number 1.

3 JUDGE CORBETT: Hearing no objection, it will
4 be so admitted.

5 (OCA Cross-Examination Exhibit Number 1 was
6 admitted into evidence.)

7 JUDGE CORBETT: I'm sorry to interrupt you,
8 Mr. Barak.

9 MR. BARAK: Thank you, Your Honor.

10 BY MR. BARAK:

11 Q On OCA Cross-Examination Exhibit Number 1,
12 there are figures. Those figures are in the millions
13 of dollars; is that correct?

14 A Yes, they are.

15 Q On OTS Cross-Examination Exhibit Number 1,
16 there are also figures in the middle column, Rate
17 Base. Those are also in the millions of dollars?

18 A Yes. In the record I did state that they
19 are in millions of dollars.

20 Q On OCA Cross-Examination Exhibit Number 1,
21 the term PV is used. That stands for present value;
22 is that right?

23 A Yes.

24 Q The PV on this OCA Cross-Examination
25 Exhibit Number 1 was calculated using the same

1 methodology as the present value figures on Exhibit
2 DJC-10; is that right?

3 A Yes, it was.

4 Q I would like to tie up a concept that you
5 and Mr. Berger were discussing a moment ago. Is it
6 an assumption of your analysis as we see it on DJC-10
7 that the company divests itself of any fossil
8 generation plants?

9 A No.

10 Q In the hypotheticals that you were
11 discussing with Mr. Berger when you were asked what
12 would happen vis-a-vis your numbers if the company
13 were to transfer, I think was the term, generation
14 plants, do you think it reasonable that if the
15 company were to transfer fossil generation plants to
16 other owners that the company would retain the
17 responsibility to decommission those plants?

18 A I don't know what the terms of any transfer
19 would be until the terms of that transfer were
20 designed. There are many arrangements where there
21 could be take-back contracts. There could be many
22 liabilities that the company has already incurred
23 that would not be able to be transferred to another
24 party.

25 Q You were here yesterday when Mr. Marshall

1 was cross-examined; right?

2 A Yes, I was.

3 Q And did you hear him discuss the term
4 divestiture?

5 A I heard him discuss the term an auction of
6 our plants.

7 Q Have you used the term divestiture or the
8 term divest within the context of discussing with
9 other senior officials at the company the potential
10 merger of APS and DQE?

11 A I don't know if I really understand that
12 question. Can I say --

13 Q Let me rephrase it, and don't try to answer
14 it.

15 MR. MOOT: I would ask that the witness, in
16 answering, not reveal any information that he
17 believes is proprietary. We would have to undertake
18 the procedures that Judge Corbett referred to
19 yesterday.

20 JUDGE CORBETT: Okay.

21 MR. BARAK: Thank you, Counsel.

22 BY MR. BARAK:

23 Q What does the term divest mean to you?

24 A It means to dispose of an asset or to rid
25 one's self of an asset.

1 Q Does it mean to fully dispose of that
2 asset, so that if divest is applied to Duquesne that
3 Duquesne would have no more interest in that asset?

4 A I think that's one version, yes.

5 Q Well, it's very important to me whether
6 that's one version or that's the version that you
7 use. Is that how you see the term?

8 A I think there are different degrees. I
9 don't think that you can say there's one particular
10 scenario. I think that is a scenario. It might even
11 be a preferred scenario in a divestiture scenario.

12 Q Is that particular scenario the one that
13 the company is contemplating if the merger with APS
14 goes through?

15 A Again, I'm not testifying to the merger,
16 but it is my understanding that in the merger the
17 company is not offering to divest all of its assets,
18 its generating assets.

19 Q It is not?

20 A As it is, it is not, which is in contrast
21 to its position in its stand-alone case where it is
22 willing to auction off its assets. I hesitate to use
23 the term divest. It's an auction.

24 Q I understand you. In that merger scenario,
25 the company proposes actually to divest itself of no

1 more than five percent of its generating --

2 A Five percent of the Pennsylvania generating
3 assets, yes.

4 Q In the stand-alone case, the company
5 proposes to divest itself of its generation assets in
6 the sense of fully releasing itself from all
7 ownership interests in them; right?

8 A Again, that may or may not be possible.
9 We've certainly said there are certain assets that we
10 may not be able to divest ourselves of in that
11 version of the term divest; for example, our nuclear
12 facilities. It may be very difficult for us to
13 divest ourselves of our decommissioning liability for
14 nuclear plants.

15 It may also be that for certain of our fossil
16 assets we may not be able to divest ourselves, like
17 our cold reserved units, for example, or some of our
18 older units or some of our jointly-owned units that
19 may be less desirable to purchasers.

20 Q Is this a fair conclusion, then, to take
21 from your last few minutes' comments that as the
22 Commission examines the record in this case it should
23 bear fully in mind that, while it may approve a
24 program of divestiture for the company's generation
25 assets, in fact the company may not divest itself of

1 those assets in the sense of releasing itself of full
2 ownership and responsibility of them?

3 A My point is that it may not be possible for
4 the company to do that in all cases.

5 Q So the company --

6 A On the other hand, that does not undermine
7 any value of the Commission-ordered divestiture for
8 purposes of establishing value for our assets. It
9 would simply mean that the value of a plant was
10 capped at zero if we were unable to sell it.

11 Q Is this a correct statement? The company's
12 position is not -- I don't want to hit you with a
13 negative. Let me try this again.

14 Is this a fair statement? The company
15 promises that if the Commission approves its stand-
16 alone proposal it will fully divest itself of its
17 generation plant?

18 MR. MOOT: Objection, Your Honor. That's a
19 policy question that goes to the heart of the
20 company's case. It goes to Mr. Marshall's testimony,
21 and Mr. Barak missed his opportunity yesterday. This
22 is the wrong witness. It's clearly a major policy
23 issue.

24 MR. BARAK: Let me rephrase the question so we
25 get away from that whole fight.

1 BY MR. BARAK:

2 Q The numbers you propose in DJC-10, are they
3 consistent with the company fully divesting itself of
4 its generation plant in the sense that we've
5 discussed divestiture in the last few minutes?

6 A The analysis on DJC-10 does not assume
7 divestiture.

8 Q And you are not supporting -- Let me
9 rephrase this question. I don't want to hit you with
10 a negative again.

11 In your testimony, combined direct and
12 rebuttal, are you supporting a position and proposal
13 that the company will fully divest itself of its
14 generation assets in the sense that I've used the
15 term with you in the last few minutes?

16 A Again, the company's position is that it
17 would give the Commission the option to order
18 divestiture or order an auction of its assets which
19 could result in divestiture, but it might not. There
20 are some limits to whether or not that would be
21 possible. Again, that does not undermine the value
22 of that process in providing information on the
23 market value of the company's assets.

24 Q Your answer to my just previous question is
25 no, with the explanation you just gave; correct?

1 MR. MOOT: I'd ask that the question be read
2 back to the witness.

3 JUDGE CORBETT: Okay.

4 (Question at Page 324, Lines 12-16, read by
5 court reporter.)

6 A No, with that explanation.

7 BY MR. BARAK:

8 Q Now, just a couple of questions on the
9 scenario involving the fossil plants and
10 decommissioning obligation. I want to ask you a
11 question about reasonableness, but I want to
12 understand something about your own decisions in your
13 life. Have you ever sold a house that you owned?

14 A Yes, I have.

15 Q And did you have a mortgage on the house
16 that you sold?

17 A Yes, I did.

18 Q And when you sold the house, did you retain
19 responsibility for paying that mortgage?

20 A Yes, I did.

21 Q Have you sold more than one house? Have
22 you sold more than one house? Have you sold any
23 others?

24 A Let me understand the question. I paid off
25 the mortgage when I sold the house.

1 Q All right.

2 A I retained responsibility for the mortgage
3 and paying it off.

4 Q Oh. So that when you left the closing, you
5 had no more financial responsibility for your former
6 home; correct?

7 A I am not sure what my legal liabilities are
8 in my ownership of my former residences, frankly.

9 Q Do you believe that you still have an
10 obligation to pay a mortgage on your former
11 residence?

12 A No, I don't pay a mortgage on my former
13 residence.

14 Q Do you think it's reasonable for you in
15 selling one house to try to remove all obligations
16 for that former house as you walk out of the closing?

17 A It is reasonable to try to do that. I may
18 or may not have been successful in doing that. I
19 just don't know.

20 Q Now, I want to ask you about the company
21 and its fossil decommissioning responsibilities. In
22 your judgment, would it be reasonable for the company
23 in selling its fossil units, assuming it did so, to
24 try to remove all obligation for fossil
25 decommissioning from itself within the context of the

1 sale?

2 A Yes, I do believe it would be very
3 reasonable to try to do that. Again, how successful
4 the company would be in doing that would be a matter
5 that would have to be figured out in the future.

6 Q In your view, in terms of the various
7 options that might present themselves in the context
8 of an auction or a request for purchasers for the
9 company's fossil units, one of the highest objectives
10 would be to remove from the company all obligations
11 for those units, including decommissioning?

12 A I would think the objective of the process
13 would be to create the most value.

14 Q I guess --

15 A One of the elements of value is removing
16 obligations of the company. Another element of value
17 is how much money are you going to get up-front and
18 what ongoing obligations you're going to retain. So
19 the total package you would look at would be to try
20 to maximize the value of any sale.

21 Q And when you contemplate that scenario of
22 the company trying to maximize value, would it be
23 correct to say that you see the retention or not of
24 fossil decommissioning responsibility as a matter of
25 risk?

1 A That would be a detriment to value, yes.

2 Q And explain that a little bit. Retaining
3 that obligation for fossil decommissioning might
4 present some risk because the company really won't
5 know until it goes through the decommissioning
6 process how much it will have to spend; correct?

7 A I think the company has a very good
8 objective study of how much it will have to spend.
9 That was presented as evidence in this case. It was
10 prepared by Mr. LaGuardia, and the details of that
11 study could be reviewed by him. So I think we have a
12 pretty good idea of what it would cost us to
13 decommission our fossil units, at least in 1997
14 dollars.

15 Q You're saying that there is no element of
16 risk?

17 A I didn't say that at all. I think I said
18 that we have a good estimate of what it would cost.
19 I also said there was a detriment to value. It would
20 have to be considered in any offer for our fossil
21 plants.

22 Q The uncertainty of future decommissioning
23 costs for the company for these fossil plants that it
24 would put out for auction or bid, would it be correct
25 to say that the company's risk or uncertainty is

1 moderated to the extent the Commission orders that
2 the rates include, through the stranded investment
3 calculation, an element for the fossil
4 decommissioning costs?

5 A I think if the company is to recover fossil
6 decommissioning through another means other than
7 through the purchase price, yes, that would increase
8 the value of those plants.

9 Q Would it also be true that the incentive on
10 the company to eliminate that uncertainty through the
11 auction process or the bid process is correspondingly
12 reduced?

13 A Could you repeat that question?

14 Q Okay. In the situation where the
15 Commission orders that a stranded investment,
16 ultimately through the CTC, stranded investment
17 recovery, includes some of these -- strike that,
18 includes these estimates of fossil decommissioning
19 charges that your people in this case have presented,
20 the company's incentive to try to remove its
21 obligations for fossil decommissioning through the
22 auction or bid process are correspondingly reduced?

23 A I wouldn't necessarily concede that.
24 Again, I think you would look at the total value
25 package. If the company had recovery of an item for

1 fossil decommissioning and then later on decided that
2 it either couldn't get rid of that obligation and
3 decided to keep that money for whatever reason or if
4 -- There would be lots of ways to create a total
5 value package.

6 So I don't think there's any definitive answer
7 that I can give you given your specifics here. You
8 would have to, again, look at the whole package. If
9 it created maximum value, the company would be
10 interested. If it didn't, then it would go on to the
11 next more valuable bid.

12 Q Your presentation in the case does not
13 include an option for the Commission whereby, if the
14 company through the auction or bid process were to
15 fully divest itself of its fossil generation,
16 including fully divesting itself of its
17 decommissioning obligations, yet the Commission had
18 somehow calculated stranded investment to include
19 that amount, your presentation doesn't include an
20 option whereby the company would credit back to the
21 CTC that obligation; is that correct?

22 A I think it would. We've said that we would
23 credit any over-recovery of stranded costs back to
24 ratepayers. I testified to that yesterday, and I
25 believe that to be the case.

1 So it wouldn't matter what we collected it
2 for. We are going to get a certain dollar amount of
3 stranded cost recovery. If that's more than we
4 ultimately need, we are going to refund it to the
5 customers.

6 We have put in a number of protections,
7 however, to ensure that we don't over collect that
8 amount. But there is no opportunity, in my view, for
9 the company to over-collect its stranded costs and
10 retain that benefit on a long-term basis.

11 Q Just so we're clear here, because I don't
12 want to misquote you later, the company's position is
13 that if the Commission were to include fossil
14 decommissioning costs in its calculation of stranded
15 investment and the company subsequently fully
16 divested itself of its fossil plant, including fully
17 divesting itself of its decommissioning obligation,
18 the amounts in your presentation related to fossil
19 decommissioning would be credited back to the
20 stranded investment figure; is that correct?

21 MR. MOOT: Can I ask for a clarification,
22 whether Mr. Barak is asking his question in the
23 context of Duquesne's proposal, which includes
24 amortization and final valuation, or is he asking it
25 in terms of a one-time determination of stranded

1 costs by the Commission?

2 MR. BARAK: Excellent clarification.

3 BY MR. BARAK:

4 Q In terms of a one-time stranded investment
5 determination by the Commission. Can you answer my
6 question?

7 A In terms of a one -- I guess it would
8 depend on when that one-time determination is made.
9 If it's made at the conclusion of this proceeding, it
10 would seem to me that there would then be no
11 obligation for the company to basically true-up
12 anything other than under the section of the act
13 which requires an annual true-up on a sale.

14 But that is not the company's proposal, and it
15 would not -- In our proposal, again, any over-
16 recovery of stranded costs would be refunded to
17 ratepayers.

18 So, in your one-time scenario analysis, if
19 they make a one-time determination, that's it. There
20 is no adjustment for anything, other than volume, in
21 the future. That's what we believe is the problem
22 with that proposal, in that it would put risk on
23 either ratepayers or shareholders for either over- or
24 under-recovery for stranded costs.

25 But your scenario doesn't really make any

1 sense, to say, Well, what would we do with this or
2 that down the road if there's a one-time
3 determination? because there's a one-time
4 determination and that's it.

5 Q In terms of the company proposal which
6 looks at a number of points in time, if the
7 Commission were to accept the company's proposal and
8 start the process, it will have effectively told the
9 company that if it sells its fossil generators but
10 somehow retains the obligation to decommission them
11 that the CTC will pick up, as a stranded investment,
12 that obligation; is that correct?

13 A Again, the company has put forth a total
14 stranded cost proposal that includes an element for
15 fossil decommissioning. If we recover that as part
16 of the Commission's approvals and at the conclusion
17 of this proceeding that is an allowed stranded cost,
18 then the company will collect that. If it turns out
19 that it is not needed, it will refund it. The
20 company will not collect one dollar more than its
21 stranded costs.

22 Q I asked you a question I thought was a yes
23 or no question, but you gave me a longer answer. Is
24 that because my question just doesn't work in terms
25 of your view of the way your case is set up?

1 A I think you better give me the question
2 again.

3 Q Let me try it a different way. Isn't it
4 correct that, given the way the company has set up
5 its proposal, its preferred proposal, that the only
6 way the Commission can be assured that the company
7 has a full incentive to divest itself not only of the
8 physical fossil plant but also the fossil
9 decommissioning obligation is to declare in advance
10 that it will not treat as a stranded investment cost
11 fossil decommissioning estimates?

12 A No.

13 Q Isn't it correct that when the company
14 undertakes the auction and bid process, assuming the
15 Commission approves the company's proposal, that the
16 company will set against fossil decommissioning
17 obligations potential sale prices of the plants?

18 A I would make a clarification. First of
19 all, the company's proposal is not to divest its
20 plants. The company's proposal is to use market
21 information to determine the value of its plants in
22 mid-2003.

23 The Commission-ordered divestiture is only one
24 option, or the Commission-ordered auction is only one
25 option that the Commission could use to assess the

1 value in 2003.

2 So, again, I think we need that clarification,
3 that the company's proposal is not to divest its
4 assets or to auction its assets. The company's
5 proposal is to use market information, an auction
6 being one method, in mid-2003.

7 Mr. Marshall yesterday offered up that if the
8 Commission so ordered that auction could be conducted
9 earlier than 2003.

10 Q I want to go to some different topics now.
11 On Page 18 of your direct, Lines 10 through 12, you
12 urge that the Commission look at the customer bill,
13 rather than the particular rate for a customer, in
14 assessing, basically, whether the company's rates are
15 high or not. Do you recall that testimony?

16 A Correct.

17 Q Implicit in that recommendation is your
18 view that customer bills are a reasonable way to
19 examine the impact of a stranded investment recovery
20 on the customers; is that correct?

21 A My position is that the monthly bill is
22 what the customer sees and what they actually pay in
23 dollars. That bill is important to how much or how
24 little importance they place on that dollar amount.

25 Q So, in your view, it would be reasonable

1 for the Commission to test the justness and
2 reasonableness of its ultimate decisions in this case
3 against numbers that would be customer bills or
4 potential customer bills, rather than simply a rate
5 for customers of various classes?

6 A I think the customer does that and has done
7 that historically. We always submit typical bill
8 analysis, and that is a very big decision point for
9 the Commission, is the impact on the customer's bill.
10 Yes.

11 Q You're familiar with -- Let me rephrase
12 this. You address in your testimony the issue of
13 mitigation.

14 A Yes, I do.

15 Q As you use the term mitigation, is that
16 consistent with the company taking measures that
17 would have the effect of lower customer bills, all
18 other things being equal?

19 A I think in the context that we have put
20 into my direct testimony and into this case, it would
21 show that there's a combination of things. We have
22 shown in my direct that through the company's
23 historic mitigation efforts they have avoided some
24 \$700 million worth of rate increases since the
25 company's last base rate case. Yes, that is one

1 element.

2 I think the other is to recognize that the
3 company has stranded costs, significant investment in
4 nuclear facilities primarily. We took other measures
5 which sought to amortize those investments more
6 quickly than we would have historically amortized.
7 This would serve to lower the company's overall
8 revenue requirement related to those assets. Again,
9 that would be a longer term benefit to the consumers.

10 Q I didn't mean for you to have to
11 recapitulate your views on mitigation in general.
12 Let me pose two situations, and tell me which you
13 think applies to mitigation as you see it.

14 One situation: Company takes a number of
15 measures, no impact felt on customers' bills, all
16 other things being equal, for the Commission's
17 decision in this case.

18 Second scenario: Company takes a number of
19 measures and there is an impact of lowering charges
20 so that bills are lower ultimately.

21 Which of those two situations is consistent
22 with your testimony?

23 A I don't think either one of those is
24 consistent with our testimony. Our testimony is that
25 over the long run customers will -- Our mitigation

1 goes to the long run. Over the long run and over the
2 remaining life of Duquesne Light Company, our
3 customers will be better off under our proposals.
4 Even though we didn't reduce rates currently, we
5 would propose to reduce rates in the future.

6 So I think there's a big tradeoff in timing
7 there. Our proposals reduce the company's overall
8 recovery over the life of the company.

9 Q I tried not to put a timing element in my
10 last question. If that's understood, that we're not
11 looking at any one point in time but we're simply
12 comparing whether there is an effect of lowering
13 bills with -- excuse me, an effect of no lowering of
14 bills versus a lowering of bills over whatever period
15 you choose, which represents your view of mitigation?

16 A I would suggest that lower bills over the
17 life of the company would be better than higher
18 bills.

19 Q And that reflects your use of the term and
20 the concept of mitigation?

21 A Yes.

22 Q That the customers feel it?

23 A Yes. Over the life cycle of the
24 corporation, yes.

25 Q You, in your testimony with some of the

1 cross-examiners yesterday, if I recall correctly,
2 talked about the auction as a test for value and an
3 arbitration panel if and when that didn't work out.
4 Do you recall that generally?

5 A Yes, in general.

6 Q That arbitration panel, do you see that as
7 a panel made up of state officials or a panel made up
8 of private individuals?

9 A The arbitration panel is probably more
10 properly the subject of Mr. Schnitzer's testimony.
11 He goes into some detail as to that panel.

12 Q So you don't have an opinion as to who
13 would be the members of that panel; is that correct?

14 A That's correct.

15 MR. BARAK: Thanks very much. That's all I
16 have, Your Honor.

17 JUDGE CORBETT: Mr. Stewart.

18 CROSS-EXAMINATION

19 BY MR. STEWART:

20 Q Good morning, Mr. Clayton. My name is Todd
21 Stewart, and I'll be examining you on behalf of Mid-
22 Atlantic Power Supply Association.

23 A Good morning.

24 Q I'll try to keep this painless.

25 Do you agree that there's a mathematical

1 relationship between the market price of energy and
2 capacity and the CTC; that is, when the market price
3 goes up, the CTC or the level of stranded costs that
4 the CTC reflects necessarily go down?

5 MR. MOOT: Your Honor, I guess I would object
6 to this question. This is not only beyond the scope
7 of this witness, but this is very fertile ground.
8 Mr. Marshall talks about this. Mr. Schnitzer talks
9 about this. Mr. Lahtinen talks about this.

10 Mr. Stewart will have ample opportunity and
11 has had to go into his CTC and market price related
12 questions.

13 MR. STEWART: Your Honor, this witness has
14 testified -- If I am not incorrect in this, I
15 believe he's testified as to the level of stranded
16 costs.

17 MR. MOOT: That is correct. He has taken the
18 calculations of market prices and come up with a
19 number for stranded costs.

20 MR. STEWART: I'm simply asking the witness if
21 he recognizes a mathematical relationship --

22 MR. MOOT: He does not propose to set CTCs,
23 which is a very different thing.

24 JUDGE CORBETT: It's also a different
25 question. We'll see how far we go on this one. Go

1 ahead.

2 BY MR. STEWART:

3 Q Just one question. Would you agree that
4 there's a mathematical relationship between the
5 market price of energy and capacity and the CTC as
6 being reflective of stranded costs?

7 A Yes. I --

8 MR. MOOT: Can I ask for clarification on
9 whose methodology for calculating the CTC that you're
10 talking about? Under what assumption? Our proposal?

11 MR. STEWART: I'm taking the statute as
12 written. It says that the CTC is the amount -- It's
13 reflective of the amount of stranded costs which are
14 -- And stranded costs are, by definition under the
15 statute, those costs which are not recoverable in the
16 competitive market.

17 MR. MOOT: By the CTC, you're referring to the
18 life of the CTC in total or any one year?

19 MR. STEWART: The life of the CTC in total.

20 MR. MOOT: Fair enough.

21 A With those clarifications, I believe
22 there's a mathematical relationship.

23 MR. STEWART: Thank you.

24 BY MR. STEWART:

25 Q Would you agree that without an accurate

1 valuation of generation assets it is possible to have
2 Duquesne's CTC over the life of the CTC be set
3 incorrectly?

4 A Under Duquesne's proposals, I don't think
5 that is possible.

6 Q Would you agree -- And if this question
7 you feel should be deferred to somebody else, feel
8 free to do so. Would you agree that there's a
9 significant risk of harm to competition in general if
10 the CTC is not accurately set?

11 A I will defer that question. That is
12 clearly outside of my area of expertise.

13 Q Fair enough. Referring to Page 28 of your
14 direct testimony at Line 10 --

15 A Yes.

16 Q -- is it true that Duquesne believes that
17 Section 2804, little four (v) relieves the company of
18 the duty of finally determining its stranded cost
19 level now, as opposed to doing it in 2003 when the
20 company proposes to do it?

21 A The company believes that its proposals are
22 consistent with the act.

23 Q So it's your testimony -- Your testimony,
24 then, is that your proposal is consistent with
25 Section 2804, four (v).

1 A Yes. It is consistent with that and all
2 provisions of the act.

3 Q Referring to your rebuttal testimony at
4 Page 5, at Line 5 are the markets to which you refer
5 the markets for the sale of energy and capacity or
6 the markets for the sale of generation assets?

7 A It could be either one.

8 Q On Page 11 of your rebuttal testimony at
9 Line 7, you state that, Rather than focusing on the
10 actual level of stranded costs, Duquesne has chosen
11 instead to focus on the best method for calculating
12 stranded costs. Is that true?

13 MR. MOOT: I think that's an incorrect --
14 It's not what it says, but answer the question.

15 MR. STEWART: If he doesn't believe that's a
16 correct statement, he can answer the question.

17 MR. MOOT: Fair enough.

18 THE WITNESS: Would you give me it again?

19 BY MR. STEWART:

20 Q Is this an accurate paraphrase of what you
21 said at Line 7 on Page 11 of your rebuttal testimony:
22 That rather than focusing on the actual level of
23 stranded costs today, Duquesne has chosen instead to
24 focus on the best method for calculating stranded
25 costs?

1 1998 that would look at whether any Duquesne
2 generating plants should be shut down before the end
3 of its currently projected -- or before its currently
4 projected retirement date; is that right?

5 A Mr. Marshall proposed such a study, yes, in
6 his testimony.

7 Q Which plants will be studied? Do you know?

8 MR. MOOT: Objection, Your Honor. It's
9 Mr. Marshall's area. It's beyond the scope of his
10 testimony. He presents numbers.

11 JUDGE CORBETT: I don't believe this was in
12 Mr. Clayton's testimony. If you can refer me to
13 something that shows it was in his testimony,
14 Mr. Rubin, I'll let you follow it.

15 MR. RUBIN: I'll move on, Your Honor. That's
16 fine.

17 JUDGE CORBETT: Okay.

18 BY MR. RUBIN:

19 Q Mr. Clayton, in Duquesne's filing in this
20 case as part of the Commission's filing requirements,
21 you are the witness listed as the sponsor for Item
22 L-5, which, among other things, lists the currently
23 planned retirement date for each unit; is that
24 correct?

25 A Yes. To my recollection, that is correct.

1 Q And does the information provided in that
2 portion of the filing requirements, among others,
3 provide the basis for your direct case?

4 A Yes, it does.

5 Q Would I be correct that the current
6 retirement dates range from the year 2005 for El Rama
7 to the year 2027 for Beaver Valley Unit 2?

8 MR. MOOT: Your Honor, at this point I just
9 want to let the record reflect that I'm handing the
10 witness a copy of L-5 in case he needs it.

11 JUDGE CORBETT: All right.

12 A That's correct.

13 BY MR. RUBIN:

14 Q Other than the information that is
15 presented in the company's rebuttal testimony, has
16 Duquesne conducted any studies that examine the
17 effect of closing a generating plant before the end
18 of the retirement dates that are shown in Item L-5?

19 A The company has made no such studies, to my
20 knowledge.

21 Q Do you consider the information presented
22 in your rebuttal testimony to be sufficient to
23 justify closing any of Duquesne's power plants before
24 their currently anticipated retirement dates as shown
25 in Item L-5?

1 A No. The only questionable item that has
2 any open question is on the El Rama plant where the
3 numbers would show that even when unavoidable costs
4 are considered there's still a negative margin on
5 that plant. However, that study does not go far
6 enough. It does not consider transmission and other
7 implications of closing El Rama.

8 Q We'll be getting back to El Rama in a
9 minute. I appreciate your mentioning that here.

10 Before we do that, do you consider the
11 information presented in the testimony of any other
12 party to this case to be sufficient to justify
13 closing any of Duquesne's plants before the end of
14 their currently anticipated retirement dates as shown
15 in Item L-5?

16 A No.

17 Q Now, as part of your rebuttal testimony,
18 you prepared Exhibit DJC-13. I hate to ask you to do
19 this, but if we could turn to that again for a
20 minute. Among other things, this exhibit shows an
21 estimate of employee severance costs. For example,
22 that item for the Cheswick plant is \$3.6 million, and
23 for El Rama it's \$4.7 million. What do these figures
24 represent?

25 A The details of these numbers should be

1 discussed with O'Brien.

2 Q I'm sorry. I wasn't asking about the
3 detail. I'm just asking, are these current dollars,
4 present value dollars? What are they?

5 A These are present value dollars that would
6 relate to the unavoidable costs that would be
7 incurred in severance relationships with employees.
8 That could be termination pay. It could be re-
9 training. It could be a number of items.

10 Again, Mr. O'Brien could probably discuss that
11 in much more detail with you than I can.

12 Q And he certainly will. I'm not asking you
13 to do that.

14 Are the figures that are shown here -- You
15 said that they're present value, and it says at the
16 top as of 12/31/98. Are these also net-of-tax
17 numbers? They're after-tax numbers?

18 A Yes, they are.

19 Q So these numbers would reflect the impact
20 on Duquesne Light Company. They wouldn't reflect
21 what employees would actually receive as severance
22 benefits?

23 A Right.

24 Q Now, from the computer files that were
25 provided with your work papers, I think I was able to

1 figure out what the actual estimate of employee
2 severance costs are, and I'd like to give you some
3 numbers subject to check, if we can do that.

4 A I would suggest that you would do that with
5 Mr. O'Brien. That would really be the subject of his
6 testimony. He prepared those calculations. I simply
7 added them in this table.

8 Q All right. I mean I understood that
9 Mr. O'Brien prepared them. You didn't do anything to
10 those numbers other than take Mr. O'Brien's numbers,
11 do the present value and the tax calculation?

12 A That's essentially what I did. I accepted
13 his numbers, yes.

14 Q Would I be correct that Exhibit DJC-13
15 presents an analysis by looking at costs that could
16 actually be avoided in 1999?

17 A Yes.

18 Q And I believe, as you stated a few moments
19 ago, based on that analysis, El Rama would be the
20 only unit that essentially would not pay its own way
21 on a present value basis.

22 A On this preliminary basis, yes, that would
23 be what would be indicated.

24 Q Is one of the reasons that El Rama fails to
25 pay for itself the fact that you're projecting that

1 the plant would close in 2005?

2 A The end of the estimated book life for
3 El Rama is 2005, and we have in our analysis used the
4 existing book retirement date or the estimated
5 retirement dates for all of the plants, and it
6 happens that El Rama's is 2005.

7 Again, that places that plant at an age in the
8 50-year range. So it is not an unrealistically short
9 number or anything like that.

10 Q But isn't there -- I mean under your
11 analysis the market price for power increases
12 significantly in the year 2006, doesn't it?

13 A Yes. Based on Mr. Schnitzer's analysis,
14 there is a small step-up or it's actually a rather
15 large step-up in 2006 above the RFP prices that we
16 recently had in the solicitation that Duquesne
17 offered last summer.

18 Q In fact, there's something like a 30-
19 percent increase between 2005 and 2006, isn't there?

20 A I'm not sure of the exact increase, but
21 there could be that much, yes.

22 Q If we look at your Exhibit DJC-20, for
23 example, Page -- I'm sorry. I'll give you a minute
24 to get there.

25 A All right.

1 Q Do you have that?

2 A Yes.

3 Q For example, if we look at Page 3 -- These
4 numbers would be the same on all the pages, I guess.
5 In 2005 the price of power is 2.56 cents, and in 2006
6 it's 3.38 cents.

7 A Yes.

8 Q So that's a pretty substantial increase,
9 isn't it?

10 A Yes.

11 Q With El Rama retiring before 2006, it can't
12 capture the benefit of operating in an environment
13 where the market price for power is substantially
14 higher; is that right?

15 A That would be correct; that if the plant
16 closes in 2005, it will not benefit from market price
17 increases after 2005.

18 Q In fact, if we look at Page 6 of your
19 Exhibit DJC-20, which is the page for El Rama, in
20 2004, the last year when it operates, it shows the
21 total expenses of the plant at 3.38 cents per
22 kilowatt hour; is that right?

23 A Would you refer me to the page again?

24 Q I'm sorry. I'm in DJC-20, Page 6.

25 A Okay.

1 Q I'm looking down at the bottom of the page.
2 Expenses, including corporate overhead.

3 A Yes.

4 Q In the year 2004, that figure is 3.38
5 cents; is that correct?

6 A That is correct.

7 Q That starts to get pretty close to the
8 market price for power in 2006; but it's, of course,
9 well above the price for power in 2004?

10 A Yes. The only thing I would point out is
11 this analysis would not include any new capital that
12 might be required to keep the plant running through
13 2006, which could have the effect of increasing that
14 number above the 3.38.

15 But I would concede that the 3.38 is close to
16 the number that we are projecting for 2006.

17 Q Does your analysis of El Rama's costs and
18 benefits consider the system support issues that
19 Duquesne witness Karl discusses?

20 A No, it does not.

21 Q So there's nothing in here to modify
22 Duquesne's transmission system to ensure the same
23 level of reliability that exists when El Rama is
24 operating?

25 A That's correct. The other thing I would

1 add that is not in here is any benefits of the
2 merger. There are no merger synergies reflected in
3 the El Rama analysis, and we believe that is a
4 significant number and would be far greater than the
5 negative margin that we would show on that basis.

6 Q I wasn't even going to bring up the merger
7 today, but that's okay. And I appreciate that.

8 Would the same be true of the analysis that
9 you did of the Cheswick plant, that this does not
10 consider any system support benefits that might be
11 provided by that plant?

12 A It does not.

13 Q So that there are no costs in here, again,
14 to maintain existing levels of reliability if any
15 costs were necessary for that plant to be shut down?

16 A That's correct.

17 Q Now, on Page 13 of your rebuttal
18 testimony--and I'm looking at the answer that begins
19 on Line 11--you state that just because a generating
20 unit may have a negative margin, that is that it
21 loses money during a given time period, does not mean
22 that it should be shut down. Why is that the case?

23 A Because of the unavoidable costs that the
24 company would incur regardless of whether they
25 operate or don't operate.

1 MR. RUBIN: Your Honor, I would ask to have
2 marked for identification as IBEW Cross Exhibit
3 Number 1 a document that I'll proceed to identify
4 with the witness.

5 JUDGE CORBETT: All right. This document will
6 be so marked and identified.

7 (IBEW Cross-Examination Exhibit Number 1 was
8 marked and identified.)

9 BY MR. RUBIN:

10 Q Mr. Clayton, this is the company's response
11 to IBEW Interrogatory Set 1, Item 7. You are
12 responsible for preparing this; is that correct?

13 A Yes, I am.

14 Q As I read this response, you are saying
15 that you support the reasonableness of both your
16 original proposal and of the proposal presented in
17 your rebuttal testimony. Here, specifically, we're
18 talking about how we value Duquesne's generation; is
19 that right?

20 A Yes.

21 Q So you would not oppose either outcome to
22 this case, either the expert panel or arbitration
23 panel or an auction in 2003?

24 A Let me clarify. The company prefers in
25 2003 to use market information. We believe, again,

1 that the auction is only one option available to the
2 Commission, and there may be a number of options
3 available to the Commission which may be more
4 desirable than an auction. We just don't know.

5 We think it is a way. It is not the only way
6 to value the company's assets. We would prefer to
7 wait until mid-2003 because we believe that that's
8 the proper time frame to make a proper assessment of
9 the value of the company's generating assets.

10 Q Does it make any difference to Duquesne
11 whether it stays in the generation business or not?
12 I'm sorry. Does it make any difference financially
13 to Duquesne whether it stays in the generation
14 business or not?

15 MR. MOOT: Could I ask for a clarification?
16 Would that be Duquesne Light as a stand-alone company
17 or Duquesne Light as part of a larger system?

18 MR. RUBIN: My understanding was this is the
19 stand-alone case, so it's a stand-alone question.

20 A As a stand-alone company, it is the
21 company's position that it would not be a long-term
22 player in generation. It would not be large enough,
23 does not have enough generation to make it a viable
24 entity in that business.

25 So probably financially on a stand-alone basis

1 the company would be better off out of the generation
2 business.

3 Q Have you or any other witness for Duquesne
4 examined whether it makes a difference to the safety
5 and reliability of Duquesne's electric system whether
6 Duquesne is in the generation business or not in the
7 generation business?

8 A I have not made any such study.

9 Q Do you know if anyone else at Duquesne has
10 made such a study?

11 A No, I do not.

12 MR. RUBIN: Thank you. That's all I have for
13 this witness, Your Honor.

14 I would move the admission of IBEW Cross
15 Exhibit 1.

16 JUDGE CORBETT: Hearing no objection, it will
17 be so admitted.

18 (IBEW Cross-Examination Exhibit Number 1 was
19 admitted into evidence.)

20 MR. RUBIN: Thank you, Your Honor.

21 MR. BARAK: Your Honor, when I walked out of
22 here, I forgot to ask the witness about a document I
23 had shown him before we began our cross. It's one
24 question, and it just asks him for the source of a
25 statement he made. I wonder if I might ask that

1 question now.

2 JUDGE CORBETT: Any objection?

3 (No audible response.)

4 JUDGE CORBETT: Hearing none, Mr. Barak, you
5 may proceed on that basis.

6 MR. BARAK: Thank you, Your Honor. Counsel
7 has seen this.

8 (Pause)

9 **CROSS-EXAMINATION**

10 BY MR. BARAK:

11 Q In your direct, Page 5, which is in Volume
12 1, Lines 10 through 19, you discuss the steel company
13 intentions in the 1970s for high load factor load. I
14 won't read that. Do you recall that testimony?

15 A Yes, I do.

16 Q Is it correct that the source for that
17 paragraph is copies of chairman's letters from the
18 company's annual reports to shareholders for the
19 years 1975 to 1985, the page titled "Perspective on
20 1985" from the company's 1985 annual report, and a
21 copy of Dimensions for the period 1968 to 1978?

22 A Yes.

23 MR. BARAK: Thank you.

24 Thank you, Your Honor.

25 MR. CLEARFIELD: I'm sorry, Your Honor. May I

1 ask a clarifying question that arose as a result of a
2 few questions that were asked by -- I believe it was
3 Mr. Rubin, about one of the schedules.

4 JUDGE CORBETT: All right. Hearing no
5 objection, Mr. Clearfield.

6 CROSS-EXAMINATION

7 BY MR. CLEARFIELD:

8 Q. Mr. Clayton, with respect to DJC-20, I
9 just wanted -- You can take any page. Page 3, for
10 example. Just for the clarity of the record, would
11 you tell me the source of the market price estimates
12 that are on the very first line on that page?

13 A The market price estimates through 2005 are
14 based on the company's RFP. The estimates for 2006
15 and beyond are based on Mr. Schnitzer's load price
16 scenario line.

17 MR. CLEARFIELD: Thank you.

18 JUDGE CORBETT: We have now gone through all
19 the parties who were scheduled for cross-examination.
20 Is there any other party who has not had the
21 opportunity to cross-examine this witness?

22 (No audible response.)

23 JUDGE CORBETT: Hearing none, Mr. Moot, do you
24 have any redirect of this witness?

25 MR. MOOT: Yes, I do.

1 JUDGE CORBETT: Do you need to take a break,
2 or are you ready to go?

3 MR. MOOT: No. I think we can finish up and
4 perhaps then take a break.

5 JUDGE CORBETT: All right.

6 REDIRECT EXAMINATION

7 BY MR. MOOT:

8 Q Mr. Clayton, does anything in your
9 testimony or in the testimony of any Duquesne witness
10 of which you are aware suggest that any party or
11 interested person would be precluded from reviewing
12 the quarterly or annual reports that you would file
13 with the Commission which would identify Duquesne's
14 earnings levels and whether it was over- or under-
15 earning during the transition period?

16 A No. We believe that there would be ample
17 opportunity for all parties to review those reports
18 on a quarterly or annual basis.

19 Q In your opinion, based on your experience
20 with regulation in Pennsylvania, do you have any
21 reason to believe that a party such as the Office of
22 Consumer Advocate would lack sufficient
23 sophistication to determine whether, based on those
24 reports, we would be over-earning?

25 A No.

1 Q Mr. Clayton, is there a difference between
2 using any excess earnings to accelerate the
3 amortization of stranded costs from a minimum
4 commitment of amortization?

5 A Yes, I believe there is a difference. Our
6 minimum commitment represents a one-sided adjustment
7 where we have absolutely committed to a level of
8 amortization; whereby, if the company is
9 under-earning, it has no ability to adjust that
10 amortization level to get back up to its authorized
11 earnings level.

12 On the other hand and on the other side of
13 that, if we were over-earning we would actually
14 increase amortization. So it becomes a one-sided
15 adjustment, and there is a difference between that
16 and a minimum commitment.

17 Q Is reallocating a cost equivalent to
18 avoiding a cost?

19 A No.

20 Q How is that?

21 A A reallocation simply would assign that
22 cost responsibility to either another function or
23 another account or however, do whatever it was
24 allocated to, but costs would not go away.

25 Q Under the company's ROE spillover, if

1 earnings fell below 11.5 percent in the early years
2 of the transition but that situation reversed and
3 earnings were above 11.5 percent in the second part
4 of the transition, would the company be able to make
5 up the early year losses through the ROE spillover?

6 A No, it would not.

7 Q Do you recall a question from Mr. Hughes
8 regarding the remedies that might be available to the
9 Commission in response to the complaint he filed in
10 1994?

11 A Yes, I recall that.

12 Q By your answer, did you intend to offer a
13 legal opinion with regard to which of those remedies,
14 if any, would have been lawful?

15 A No, I did not.

16 Q Do you recall being asked a question about
17 whether Duquesne had presented a specific plan for
18 crediting any overcollections of stranded costs that
19 might exist following the final valuation?

20 A Yes, I do recall that.

21 Q Do you have any opinion regarding which
22 customers would receive those credits?

23 A Yes. I believe it would be Duquesne's
24 distribution customers at the time those credits were
25 identified.

1 Q Would the credits be, in your opinion,
2 flowed back to those customers in whatever form and
3 amount was approved by the Commission?

4 A Yes, it would.

5 Q Is there anything in your testimony or the
6 testimony of any other Duquesne witness of which you
7 are aware that would suggest that if the company
8 received a valid offer pursuant to the auction to
9 purchase all of the company's generating facilities
10 and to take on the decommissioning obligations that
11 the company would decline that offer?

12 A No. I believe the company would accept
13 that offer.

14 Q Under the company's final valuation
15 proposal, was it necessary to make a one-time
16 estimate or determination of stranded costs as of
17 1/1/99?

18 A No, it was not. The company made a showing
19 that it has a significant level of stranded costs.
20 There was enough stranded costs to justify a rate cap
21 at least through 2003, if not through 2005.

22 Q In your opinion, did that render it
23 unnecessary for the company to provide a calculation
24 as of January 1, 1999 in its direct testimony?

25 A Yes. In my opinion, that calculation was

1 not necessary.

2 Q Do you recall being asked several questions
3 with regard to a jump in market prices between the
4 years 2005 and 2006?

5 A Yes, I do.

6 Q And did you testify that the numbers from
7 the years 2006 on were derived from Mr. Schnitzer's
8 testimony?

9 A Yes, I did.

10 Q And is it your understanding that for those
11 years Mr. Schnitzer presents a market -- Scratch
12 that.

13 Is it your understanding that for those years
14 Mr. Schnitzer presents a forecast of a market ceiling
15 price, rather than a forecast of the market price
16 itself?

17 A Yes, that is my understanding of his
18 testimony.

19 Q With regard to Mr. Barak's question about
20 the source of your statement in testimony regarding
21 the loss of load, was your answer that you gave him
22 limited to documentary sources?

23 A No. It was also based on my general
24 knowledge of the company.

25 MR. MOOT: I have no further questions.

1 JUDGE CORBETT: All right. Do we have any
2 recross?

3 MR. BERGER: Yes, Your Honor.

4 JUDGE CORBETT: Ms. Melillo.

5 MS. MELILLO: No.

6 JUDGE CORBETT: All right. Mr. Berger.

7 MR. BERGER: Thank you.

8 RECROSS EXAMINATION

9 BY MR. BERGER:

10 Q Mr. Clayton, you were asked some questions
11 on redirect concerning whether any party would be
12 precluded from reviewing the quarterly or the annual
13 financial reports the company would submit in order
14 to determine whether it had excess earnings or not.
15 You suggested that you were sure that there would be
16 -- the parties would be sophisticated enough to
17 review those filings.

18 MR. MOOT: There's no foundation for that.
19 I'd like his answer read back. That is absolutely
20 incorrect. He was asked about the OCA.

21 MR. BERGER: If you want to clarify that,
22 that's fine with me. I was just trying to
23 paraphrase.

24 MR. MOOT: No foundation for the question as
25 asked.

1 BY MR. BERGER:

2 Q Would you agree with me that you were asked
3 a question about whether there would be parties such
4 as the OCA --

5 MR. BERGER: And I'll have to ask the question
6 be re-read because I don't recall.

7 MR. MOOT: Fair enough. That's what we have
8 transcription for.

9 (Answer at Page 359, Lines 20-25, read by
10 court reporter.)

11 BY MR. BERGER:

12 Q Do you recall that?

13 A Yes.

14 Q In your viewpoint, in order for a party to
15 make an evaluation, would it be reasonable that they
16 be given an opportunity to perform discovery on the
17 company's filing?

18 A I think a reasonable amount of discovery
19 certainly would be reasonable.

20 Q Would you agree that it would be
21 appropriate that parties would have an opportunity to
22 cross-examine witnesses for the company who supported
23 that filing?

24 A I think if there was a significant
25 question, yes, that should be -- that would be a

1 valid request.

2 Q Would you agree with me that the company
3 should have the obligation to meet a burden of proof
4 to show that that filing supported -- that that
5 filing was reasonably supported by the evidence?

6 MR. MOOT: I object to that. It calls for a
7 legal answer.

8 BY MR. BERGER:

9 Q Do you have any opinion with respect to who
10 should have the burden of proof in reviewing those
11 filings in the hearing process?

12 A Again, I don't have a legal opinion, but I
13 believe the company would have to prove its numbers.

14 Q You were asked some questions pertaining to
15 whether reallocating a cost is equivalent to avoiding
16 a cost. Do you recall that?

17 A Yes, I do.

18 Q Would you agree with me that when a cost is
19 unavoidable or if costs are associated with the
20 plants that we earlier discussed in DJC-13, to the
21 extent that they're unavoidable, that means that the
22 shutdown of those plants would not enable the company
23 to avoid those costs?

24 A Yes, I agree with that.

25 Q I think you indicated that Mr. O'Brien was

1 the witness to answer questions with respect to how
2 those costs might be reallocated yesterday. Do you
3 recall that?

4 A Yes, I do.

5 Q You're not changing that viewpoint now?

6 A No.

7 MR. BERGER: That's all I have. Thank you,
8 Mr. Clayton.

9 JUDGE CORBETT: The OSBA and the City did not
10 cross, and I believe the City is not in the hearing
11 room at this time.

12 Mr. Dougherty, any recross?

13 MR. DOUGHERTY: Your Honor, we have nothing
14 further for Mr. Clayton. Thank you.

15 JUDGE CORBETT: Mr. Wiseman.

16 MR. WISEMAN: Nothing further, Your Honor.

17 JUDGE CORBETT: Mr. Zielonis.

18 MR. ZIELONIS: Nothing, Your Honor.

19 JUDGE CORBETT: Mr. Barak.

20 MR. BARAK: Yes, just one question. May I
21 just ask from here, Your Honor?

22 JUDGE CORBETT: I think it would be easier if
23 you came up to the hearing table, for the court
24 reporter's benefit.

25 RECROSS EXAMINATION

1 BY MR. BARAK:

2 Q Mr. Clayton, do you recall counsel's
3 question to you about the loss of load in the '70s
4 and your response to me -- excuse me, that the
5 testimony I cited to you earlier was also based on
6 your general knowledge of the company? Do you recall
7 that colloquy? All I'm asking you is whether you
8 recall counsel asking you the question and your
9 response.

10 A Yes, I do recall.

11 Q Your general knowledge, "your general
12 knowledge," that phrase, as you use it, does that
13 include your being part of communications in the
14 1970s regarding steel companies' expressions to the
15 company of their likely increases in load?

16 A No. My general knowledge of the company
17 dates back to 1977 when I was a consultant for the
18 company. I was a consultant for the company through
19 the mid '80s and joined the company in 1985.

20 So I have a long history with Duquesne Light
21 Company and am generally aware of things that have
22 gone on at the company but was not involved in any
23 direct communications with steel companies.

24 Q When you use the term "general knowledge,"
25 you meant information you obtained by talking to

1 others and by reviewing documents generated from
2 others; is that correct?

3 A It was based on my general experience with
4 the company, yes; consulting roles, discussions, and
5 as an employee.

6 MR. BARAK: Thanks very much.

7 Thank you, Your Honor.

8 JUDGE CORBETT: Mr. Stewart.

9 MR. STEWART: Nothing, Your Honor.

10 JUDGE CORBETT: Mr. Clearfield.

11 MR. CLEARFIELD: Just a few, Your Honor.
12 Thank you. For purposes of clarification.

13 RECROSS EXAMINATION

14 BY MR. CLEARFIELD:

15 Q. Mr. Clayton, with respect to the answer
16 that you provided regarding the credit to ratepayers
17 if there was an overcollection, in the event there
18 was an overcollection of CTC, are you familiar with
19 the way in which the company would propose to
20 calculate the interest -- There would be interest on
21 that overcollection; isn't that correct?

22 A Yes.

23 Q Are you familiar with the way in which the
24 company would propose to calculate the interest, the
25 value of collecting CTC earlier than, presumably, it

1 was --

2 A No, I'm not. And I don't have a specific
3 proposal.

4 Q Is there a witness that is responsible for
5 that or can testify to that?

6 MR. MOOT: This is your chance.

7 MR. CLEARFIELD: He just said he's not
8 familiar with it, Your Honor. Perhaps I could ask as
9 an on-the-record data request that some specifics be
10 provided, as available, with respect to how the
11 interest would be calculated on any overcollection of
12 the CTC.

13 MR. MOOT: You can ask.

14 MR. CLEARFIELD: Your Honor, may I ask that
15 the company tell us whether they're going to comply
16 with that on-the-record data request?

17 JUDGE CORBETT: All right. That's fair.

18 Mr. Clayton, did you understand the question?

19 MR. MOOT: Why don't we have the request
20 succinctly stated in the record, and we will respond
21 to it.

22 My hesitation, Mr. Clearfield, is this one
23 area where -- As the predicate to my question
24 indicated, Mr. Clayton was asked whether the company
25 had a specific plan, and his answer was no. But he

1 was asked, Do you know who is going to get the
2 credits? And he said yes.

3 So you may get an answer that says the company
4 doesn't have a specific plan on the interest
5 calculation, and I don't want to be deemed in
6 contempt if that's the answer.

7 JUDGE CORBETT: Let's get --

8 MR. CLEARFIELD: We'll waive any motion for
9 contempt, Your Honor.

10 MR. MOOT: Fair enough. You'll get an answer
11 then.

12 JUDGE CORBETT: All right.

13 BY MR. CLEARFIELD:

14 Q. Can the company provide any details with
15 respect to the calculation of interest, including the
16 level of interest that it would propose or way in
17 which that interest would be calculated, if, in fact,
18 at some final valuation of CTC there is an over-
19 collection of CTC or the determination that an over-
20 collection of CTC has occurred?

21 A Not at this time.

22 Q Can you provide that to the extent that
23 such a plan has been or can be formulated as an on-
24 the-record data request?

25 MR. MOOT: Your Honor, the company has no

1 objection to trying to provide that information in
2 the best form it can.

3 MR. CLEARFIELD: Thank you.

4 BY MR. CLEARFIELD:

5 Q With respect to your reference to the--I
6 may have gotten this wrong--the absolute guarantee.
7 The reference that you made and Mr. Marshall made to
8 the 1.7 billion amortization, as a point of
9 clarification without debating the applicability,
10 does the company's plan include a waiver of its right
11 -- I'm sorry. Strike that.

12 Are you familiar with the provisions in the
13 competition act that would permit a company such as
14 Duquesne to seek a waiver of the rate cap levels in
15 certain circumstances?

16 A Yes, I'm generally familiar with those
17 provisions.

18 Q Does the company's plan, if you know,
19 include a waiver of Duquesne's right to seek such a
20 waiver if it believed that circumstances would
21 require it to do so?

22 A No. The company is not waiving any of its
23 rights under the act.

24 MR. CLEARFIELD: That's all I have. Thank
25 you.

1 JUDGE CORBETT: Mr. Rubin.

2 MR. RUBIN: Yes, just very briefly. Thank
3 you, Your Honor.

4 RECROSS EXAMINATION

5 BY MR. RUBIN:

6 Q Mr. Clayton, when you discussed the prices
7 in your Exhibit DJC-20 and you referred to them as
8 market ceiling prices rather than true market prices,
9 am I correct that these are the prices you used in
10 determining whether Duquesne's plants would recover
11 their operating costs?

12 A Yes.

13 Q And these prices directly affect the
14 analysis that you summarize in Exhibit DJC-13?

15 A Yes.

16 MR. RUBIN: Thank you.

17 JUDGE CORBETT: Again, anyone else?

18 (No audible response.)

19 JUDGE CORBETT: Any further redirect?

20 MR. MOOT: No, Your Honor.

21 JUDGE CORBETT: Mr. Clayton, you are excused,
22 sir. Thank you very much.

23 Mr. Moot, I believe the next witness is
24 Mr. Schnitzer. Do you plan on having any rejoinder
25 for Mr. Schnitzer?

1 MR. MOOT: Yes, we do have some rejoinder.

2 JUDGE CORBETT: Would that be more than just a
3 few minutes?

4 MR. MOOT: I don't think so. If you would
5 like to get Mr. Schnitzer on and the rejoinder done
6 and then take a break, that would be fine.

7 JUDGE CORBETT: Yes. I was planning on doing
8 that, rather than have two breaks close together.

9 MR. MOOT: I may have to fumble around and
10 find some documents, but if you'll give me a minute.

11 (Pause)

12 MICHAEL SCHNITZER, called as a witness, being
13 duly sworn, testified as follows:

14 JUDGE CORBETT: Would you begin, please, by
15 giving us your full name.

16 THE WITNESS: My name is Michael Schnitzer,
17 S-C-H-N-I-T-Z-E-R.

18 JUDGE CORBETT: Mr. Moot, when you're
19 prepared, when you're ready.

20 DIRECT EXAMINATION

21 BY MR. MOOT:

22 Q Mr. Schnitzer, did you file direct and
23 rebuttal testimony in this proceeding marked as
24 Duquesne Statement Numbers 3 and Number 3-R as well
25 as exhibits attached thereto?

1 A I did.

2 Q Do you have any corrections to those
3 statements or exhibits?

4 A I have two corrections to Statement 3-R, no
5 corrections to Statement 3.

6 Q Have you reduced your corrections to
7 Statement 3-R or part of those corrections to
8 corrective pages?

9 A Yes. There are some incorrect numbers on
10 Page 46 of Statement 3-R, and I believe a replacement
11 page has been prepared.

12 MS. JONES: Your Honor, could we have the
13 witness speak up?

14 JUDGE CORBETT: Okay.

15 A There are some incorrect numbers on Page 46
16 of Statement 3-R, and a replacement Page 46
17 reflecting the corrected numbers has been prepared.

18 MR. MOOT: I would like to state for the
19 record that the pages that I will now hand to the
20 judge and to the reporter and circulate to the
21 parties have been previously circulated to the
22 parties in discovery.

23 I am now handing two copies of Page 46 as
24 corrected to Statement 3-R with the corrected numbers
25 indicated by underlining.

1 MR. CLEARFIELD: Your Honor, off the record
2 for a moment.

3 JUDGE CORBETT: Yes. We'll go off the record.
4 (Discussion off the record.)

5 BY MR. MOOT:

6 Q Other than the corrected page that I handed
7 you, do you have any other corrections?

8 A Yes. I have a correction on Page 1 of
9 Exhibit MMS-6 to Statement 3-R.

10 Q Would you please explain for the record
11 what that correction is?

12 A Yes. Exhibit MMS-6 does not have line
13 numbers, so it's on Page 1, the second bullet on Page
14 1. There should be a period after the word "price,"
15 and the second line of that bullet should be
16 stricken.

17 Q That is, on a textual basis, the term
18 Overview. Then if you count down, the fifth line
19 under that would be deleted; is that correct?

20 A That is correct.

21 Q With those corrections, is the testimony
22 and are the exhibits provided true and correct to the
23 best of your knowledge, information, and belief?

24 A Yes, they are.

25 MR. MOOT: I would move Mr. Schnitzer's

1 Statements 3 and 3-R and the accompanying exhibits as
2 corrected into evidence subject to appropriate
3 motions.

4 JUDGE CORBETT: They will be so admitted.

5 (Duquesne Statement Numbers 3 and 3-R were
6 marked and admitted into evidence.)

7 (Duquesne Exhibit Numbers MMS-1 through MMS-7,
8 inclusive, were marked and admitted into
9 evidence.)

10 MR. DOUGHERTY: Your Honor, this revised
11 statement represents significant modification to the
12 company's original rebuttal testimony. I'm wondering
13 if Your Honor would allow supplemental surrebuttal
14 due to the nature of the revisions.

15 MR. MOOT: Your Honor, I think that on this
16 issue it would probably be helpful to have some
17 discussions at the break and to respond to
18 Mr. Dougherty either at that time or after.

19 It is my recollection that when we sent out
20 this data request we explained that these changes
21 were small errors that had no effect, or no material
22 effect. But this is a matter that will have to be
23 discussed. I think it's probably better done
24 informally.

25 If there is a dispute or Mr. Dougherty wants
to renew his request after the break, he's,

1 obviously, free to do so.

2 MR. DOUGHERTY: I'd be happy to discuss it
3 with Mr. Moot at the break, Your Honor.

4 But you said they're small?

5 MR. MOOT: This is subject to check, my
6 recollection of what the data response to that is. I
7 think we'd probably be well-served to see what we can
8 do at the break.

9 MR. DOUGHERTY: I would be glad to do that,
10 Your Honor, at the break.

11 JUDGE CORBETT: All right. Let me know later.

12 BY MR. MOOT:

13 Q Mr. Schnitzer, have you reviewed the
14 surrebuttal testimony of Mr. Weisenmiller?

15 A Yes, I have.

16 Q Does Mr. Weisenmiller discuss certain
17 auctions of generating assets and, specifically,
18 auctions by New England Power, Pacific Gas and
19 Electric, and Southern California Edison Company?

20 A Yes, he does.

21 Q Does he, to your recollection, testify that
22 those auctions receive values at a premium to book?

23 A He does.

24 Q And does he suggest that those results are
25 relevant to this case?

1 A I believe he does, yes.

2 Q Do you have an opinion on whether they are?

3 A Yes, I do.

4 Q Could you please explain?

5 A Yes. I don't believe they are specifically
6 relevant to this case. I think, as a general matter,
7 we need to be cautious about generalizing from
8 auction results elsewhere in the country to make sure
9 that they are comparable both with respect to the
10 underlying power markets as well as the assets that
11 are involved in the auction, and that unless there's
12 comparability in both those respects, the
13 applicability of the results are of limited use to us
14 here.

15 Q Are you familiar with the power markets in
16 either New England or California or both?

17 A Yes. I have a fairly detailed familiarity
18 of the power market in New England and a lesser, but
19 I think still sufficient, familiarity with the
20 relevant California power markets for these
21 particular assets.

22 Q Do you have an opinion with regard to
23 whether the market in New England is representative
24 of the market in Duquesne's area?

25 A I do. I don't believe that it is

1 representative at all. Prices currently obtained in
2 New England are well above prices in Duquesne's area,
3 and the prospects in the near term are much different
4 in terms of the need for new generating capacity in
5 New England than in the Duquesne area.

6 So, in both those respects, the New England
7 market is better, if you will, than Duquesne's
8 market.

9 Q Does the New England market have a system
10 where the utilities are required to maintain a
11 certain level of reserves?

12 A Yes. Under the New England Power Pool
13 rules and still to be maintained under the NEPOOL ISO
14 approved by the FERC, there is a capability
15 responsibility or installed reserve requirement that
16 all suppliers need to meet.

17 Q And would that, in your opinion, have an
18 effect on market prices and market values of
19 generation?

20 A It could, yes. It ensures that there's a
21 separate market for capacity within New England for
22 the purpose of meeting that capability responsibility
23 for installed reserve obligation.

24 Q And do you have any opinion on whether the
25 New England market is a constrained market in terms

1 of transmission availability?

2 A Yes, it is. New England electrically has a
3 set of defined interconnections to Canada and to New
4 York state which cannot satisfy anywhere near all of
5 the demand within New England. So that electrically
6 New England is a bit of an island, and a lot of the
7 generation must come from within the New England
8 region. There are further constraints within New
9 England, but that's the big constraint that affects
10 the region as a whole.

11 Q Do you have any opinion regarding whether
12 there are comparable constraints in the Duquesne
13 area?

14 A For the most part, there are not.

15 Q Do you have any opinion with regard to
16 whether the California market or any sub-markets
17 within California are similar in nature to those in
18 the Duquesne area?

19 A Yes. The sub-portions of the California
20 market the divestiture implicates are, in PG&E's
21 instance, the so-called bay area generation close to
22 the load and likewise for Southern California Edison.

23 So the relevant market there is the, if you
24 will, in-city or near-metropolitan market, as opposed
25 to California-Oregon border or Palo Verde boundary of

1 California's market. That market, also, by virtue of
2 transmission constraints and the nature of the
3 generating capacity, is different than Duquesne's
4 market.

5 Q Do you have any opinion with regard to
6 whether any of the units that were auctioned in
7 California could be characterized as "must run"
8 units?

9 A Yes. My understanding is that for PG&E all
10 but one of the divested units are "must run" units
11 and that for Southern California Edison the bulk of
12 the megawatts were from "must run" units. So, in
13 both cases, the answer is yes.

14 Q Do you have any opinion with regard to
15 whether that would affect the market price or market
16 value of those units?

17 A Yes, it would. A unit is denoted "must
18 run" typically when transmission or system
19 considerations require that that unit at least be
20 available to generate electricity under certain
21 conditions, independent of what would be ordinary
22 dispatch economics, and their provisions to provide
23 additional support payments to those units if that is
24 required to ensure their availability for reliability
25 purposes.

1 Q I believe in response to one of my earlier
2 questions that you stated--and I'm paraphrasing--that
3 one needs to be careful to ensure that the plants
4 sold in any auction that is being described is
5 comparable, similar with plants one is undertaking to
6 value. Do you have any opinion with regard to the
7 comparability of the plants auctioned or the
8 contracts involved in that auction in New England?

9 A Yes, I do. The New England results are not
10 comparable. In fact, what was sold by New England
11 Power was a mixture of fossil plants, hydroelectric
12 facilities and entitlements, and the obligation to
13 assume certain purchase power obligations, coupled
14 with the right to receive payments from NEP to offset
15 those payments.

16 So it was a package deal, if you will,
17 reflecting hydro and fossil assets and the
18 renegotiation opportunity in above market purchase
19 power contracts.

20 While the results are often reported as a
21 certain premium to book value and to fossil book
22 value, in particular, the bid does not allow one to
23 separate out how much was paid for each of the
24 constituent parts, and the mix of assets is not
25 comparable to what we're talking about here.

1 Q Do you have any knowledge of whether the
2 three companies I mentioned--Pacific Gas and
3 Electric, Southern California Edison, and New England
4 Power--own shares or, in their entirety, nuclear
5 units?

6 A Yes. All three either own entitlements or
7 operate nuclear plants.

8 Q Do you have any knowledge of whether any of
9 those companies offered to sell those shares or those
10 nuclear units?

11 A Yes. In the so-called first phase of the
12 New England Power solicitation, they let it be known
13 that they would be interested in anybody who was
14 interested in nuclear plants.

15 My understanding is that there was no such
16 interest expressed, and so the second phase of their
17 solicitation was limited to the fossil and to the NUG
18 solicitations.

19 I might add that Boston Edison is in the
20 process of completing itself an auction process.
21 They, also, in the first phase have made it clear
22 that if there was interest in purchasing nuclear they
23 would make that available for sale. My understanding
24 is, again, that no such interest was expressed.

25 Q Are you aware of whether a number of

1 witnesses in surrebuttal testimony have criticized
2 Duquesne's estimate of costs independent of
3 operation?

4 A Yes.

5 Q Do you have any opinion with regard to
6 whether considering -- Scratch that.

7 Do you have any opinion regarding whether
8 costs independent of operation is a novel concept as
9 it relates to stranded costs or a concept without
10 foundation or precedent in any other states?

11 A Yes. The concept of including costs
12 independent of operation as an element to stranded
13 costs is neither a new idea nor a novel idea nor
14 without precedent in other jurisdictions.

15 Q Are you aware of any jurisdictions where
16 costs independent of operation have been approved?

17 A Yes, I am. There are two settlement
18 agreements, for instance, in Massachusetts, including
19 Massachusetts Electric Company on the one hand and
20 Boston Edison Company on the other.

21 The stranded cost elements of the owned
22 generating assets in both of those settlements are
23 comprised of three elements--the net plant stranded
24 costs, the unfunded decommissioning liability, and a
25 category known as costs independent of operation.

1 The settlements in both of those instances reflect
2 that category and have dollars of stranded costs in
3 that category for those two companies.

4 Q Mr. Schnitzer, have you reviewed the
5 surrebuttal testimony of Mr. Biewald?

6 A I have.

7 Q Have you reviewed his calculations
8 regarding what he believes is an economic analysis of
9 Perry and Beaver Valley?

10 A I have.

11 Q Do you have any opinion regarding whether
12 that is a valid analysis?

13 A I do.

14 Q Could you please explain?

15 A Yes. As an economic analysis, I think
16 Mr. Biewald's calculations are not valid. An
17 economic analysis once a unit has already been
18 constructed and comes into service, which is the
19 period of time his analysis covers, an economic
20 analysis from that period forward should properly
21 focus on the value of the output that the unit could
22 produce on the one hand and the avoidable costs to be
23 incurred by operating the unit on the other.

24 Mr. Biewald's analysis comports with neither
25 of those. He does not focus on the value of the

1 output as it would have been determined from time to
2 time from the date of operation forward, nor does he
3 include in his analysis avoidable operating costs.
4 In fact, he explicitly sunk costs, let alone
5 unavoidable operating costs.

6 Other than not getting the value right and not
7 looking at the costs, his analysis is fine. But, of
8 course, those are the two major points of the
9 analysis.

10 Q Mr. Schnitzer, does Mr. Biewald project
11 prices that he believes Duquesne -- Scratch that.

12 Does Mr. Biewald compare the costs of Beaver
13 Valley and Perry to any prices from other generation
14 in the 1986 to 1997 time frame?

15 A Yes, he does.

16 Q And do you have any opinion regarding
17 whether, as to those specific years, the prices that
18 he compares Beaver Valley and Perry to are valid?

19 A Yes. To the extent that those prices
20 should reflect the expectation at the time of what a
21 reasonable value of the output would be, they are
22 seriously understated, what would have been more
23 reasonable at the time.

24 I believe Mr. Biewald uses \$40 a kilowatt year
25 for capacity, plus coal-based energy, plus a markup

1 of about five mills for O & M. More appropriate
2 indicators of value at the 1987 time frame, for
3 instance, would have been a recently approved long-
4 term purchase power contract by this Commission as
5 indicative of the Commission's belief of long-run
6 avoided costs.

7 There were other long-term wholesale
8 transactions in that time period. One between Ohio
9 Edison and Potomac Edison, PEPCO, comes to mind.
10 Those prices would have been much higher than the
11 prices Mr. Biewald uses.

12 Even later in the game in the early 1990s, for
13 instance, Duquesne's sale to GPU would have been an
14 indicator of wholesale market prices at that time,
15 the value of the output, if you will. Those prices,
16 too, would be well above what Mr. Biewald assumed in
17 his analysis.

18 MR. MOOT: I have nothing further, Your Honor.

19 JUDGE CORBETT: Let's take a short break.

20 We'll be back -- Let's make it 11:25.

21 (Recess taken.)

22 (Transcript continues on Page 389.)

23

24

25

1 JUDGE CORBETT: We are back on the record. Mr.
2 Moot, you had a few more questions.

3 MR. MOOT: Yes.

4 BY MR. MOOT:

5 Q Mr. Schnitzer, could you just briefly describe
6 the nature of the corrections on page 46 of 3-R and whether
7 they affect your conclusions?

8 A Yes. The table on page 46 is results of analysis
9 accepting DII's assumptions about market price and other
10 factors asking the question of the company's proposal.
11 Even if DII is right about those factors, including market
12 price, how long of a price cap will it take until the book
13 value and the market value are in balance and hence the
14 price cap put in. That's the purpose of that table and the
15 analysis which underlies it.

16 We did make an arithmetic mistake in calculating the
17 numbers in that table and so the corrected version of page
18 46 shows the new numbers for generation book value,
19 generation market value and hence, remaining stranded costs
20 as of each of the dates in the table.

21 The numbers do change but the conclusion that I
22 reached is still valid which is that there is still
23 positive stranded costs remaining as of the end of 2005 and
24 therefore, even accepting the industrial's market price
25 assumptions, that the company would be entitled to a price

1 cap for 2005. While the numbers changed, the conclusion
2 did not.

3 Q Could you just briefly indicate what the
4 calculational error related to?

5 A Yes. To make the industrials' analysis
6 comparable to the company's analysis we have to reclassify
7 the Beaver Valley 2 lease expense between 1999 and 2005
8 which DII's consultants tried as part of the operating
9 expense and we treat as part of the net plant, capitalized
10 net plant.

11 In making that adjustment pulling it out of the
12 operating expense and putting it into the net plant for
13 this purpose only we made an arithmetic error which
14 affected almost every number in the table and it was that
15 error which was found.

16 Q Thank you. I have nothing further?

17 JUDGE CORBETT: All right. Ms. Melillo, we'll begin
18 with you. I would ask both of you try to keep your voices
19 up so you don't make it a private conversation. Okay?

20 MS. MELILLO: Good morning Mr. Schnitzer.

21 THE WITNESS: Good morning.

22 BY MS. MELILLO:

23 Q First of all, I'd like you to take a look at page
24 18 of your rebuttal testimony?

25 A Yes.

1 Q Do you have an additional correction to make to
2 your testimony thereon at line 18?

3 A Thank you, yes, I do. The reference on line 18
4 of page 18, Exhibit 3-R to OTS is incorrect. That
5 reference should be to OCA. I appreciate your calling that
6 to my attention.

7 Q Please turn to your Exhibit MMS-5 in your direct
8 testimony, the last page of your direct testimony.

9 A I am sorry. I am having trouble finding that.

10 (Pause.)

11 A Yes. I have that.

12 Q I'd like to direct your attention to the fourth
13 column over from the left column which shows the years. Do
14 you see that fourth column it is headed real levelized
15 equivalent to spot price ramp up from the spot price exit?

16 A Yes.

17 Q And also if you would look to column 8, the
18 eighth column from the left-hand side which specifies the
19 years. Do you see the column headed real levelized
20 equivalent to spot price ramp up?

21 A Yes.

22 Q Do those columns show, well, first of all, does
23 column 8 show the low market rates which you developed
24 under the delayed entry portfolio?

25 A The column 8 shows the real levelized equivalent

1 of column 6 which is a continued ramp up from the spot
2 price exit, if you will, in 2005 to a delayed entry
3 equilibrium price in 2010. So the actual ramp that's shown
4 in column 6 and realize the equivalent of that particular
5 case is shown in column 8.

6 Q But those represent your delayed entry scenarios?

7 A Delayed entry to the low case and column 4 is
8 delayed entry to the high case.

9 Q And do those delayed entry numbers relate to Mr.
10 Clayton's DJC-20, page 1 of 49 where he shows market value
11 generation portfolio delayed entry?

12 A Sorry. I am going to have to have that exhibit
13 in front of me.

14 Q Sure. Could I show him the exhibit? Would that
15 be acceptable?

16 MR. MOOT: Sure.

17 THE WITNESS: I have that exhibit, I am sure. Your
18 question again?

19 BY MS. MELILLO:

20 Q Do the numbers that you show on Exhibit MMS-5 for
21 the delayed entry portfolio, were those used to develop Mr.
22 Clayton's numbers that he shows on DJC-20 for the delayed
23 entry?

24 A I believe the delayed entry reference shown on
25 page 1 of 49 of DJC-20 would have been using the delayed

1 entry to high end case to rather than to the low end case
2 and whether that was based on column 2 or column 4, I can't
3 tell you. But it would have been the delayed entry to the
4 high case rather than to the low case.

5 Q The delayed entry number column 2 in your MMS-5,
6 that would equate to what you previously describe as column
7 6 on the low side. The column 2 that you reference is that
8 on the high side of the portfolio entry?

9 A That is correct.

10 Q So you are saying the numbers reflected in DJC-20
11 for delayed entry, those numbers reflect the high end of
12 your --

13 A Delayed entry to the high end of the ceiling
14 price range, yes.

15 Q Mr. Schnitzer, can you tell us why you perceived
16 it to be necessary to project market rates under the
17 delayed entry scenario?

18 A Yes. As my direct testimony spelled out, I
19 prepared ceiling price estimates based on the assumption
20 that the power markets would be in equilibrium such that a
21 new combined cycle would be economic as of 2006 and the
22 ceiling price range is predicated on that assumption,
23 although I acknowledge that it may not, in fact, prove to
24 be the case.

25 We then have the results of the forward RFP that the

1 company conducted over the summer and as my testimony
2 describes we are able to turn those RFP results into a spot
3 equivalent price trajectory through the year 2005 which is
4 our best estimate of what the market is telling us about
5 the program is between now and 2005.

6 What we have found is that the 2005 value that came
7 out of that RFP there was a cap between that and either the
8 low end of the ceiling price range that Mr. Rubin was
9 discussing with Mr. Clayton earlier this morning and
10 certainly with the high end which would seem to indicate
11 that the market wasn't thinking that it was going to be in
12 equilibrium by 2006.

13 Particularly, at the high end of the range. So at
14 that point to kind of have a smoother transition from the
15 market data that we have from the RFP to the ceiling price
16 range we could study these delayed entry cases to be more
17 in accord with what the market evidence was telling us.

18 Q And under the delayed entry portfolio, the
19 assumption would be that the combined cycle would not be
20 economic until after the year 2006.

21 A That's correct. I believe the number cited there
22 is 2010 would be the equilibrium date, under those cases.

23 Q Now, you have projected a range of market rates
24 at a high and low and delayed entry. So you actually have
25 three different scenarios. Is that correct?

1 A Three different ceiling price scenarios, yes.

2 Q And would you agree that all three of these
3 ceiling price scenarios are based on projections?

4 A Yes.

5 Q And would you agree that these projections would
6 not be as accurate at actual market rates?

7 A I believe I have so stated.

8 Q Under the company's scenario that they presented
9 as an alternative, wherein the Commission would not accept
10 the company's preferred approach of deferring the final
11 valuation until the year 2003, would you agree that as this
12 alternative position that the company is using the market
13 rate projection based on the low market rates to develop
14 their 1.9 billion stranded cost level?

15 A I believe the -- your question is is the 1.9
16 billion figure predicated on the low ceiling price range
17 after 2005, the answer is yes. That's my understanding as
18 well. Not the trended to the low but the actual low case
19 with the jump between the 2005 price and the 2006 price.
20 That's my understanding.

21 Q So it's not based on the delayed entry scenario.
22 It's based on the low market price?

23 A That is correct.

24 Q Now, would you agree that the low market rate
25 portfolio would provide to the company the highest stranded

1 cost level versus using the delayed entry or using the high
2 market rate?

3 A It would provide a higher stranded cost level,
4 not the highest compared to the other cases that we might
5 think about or talk about. The delayed entry, the low
6 case, for instance, would yield a higher still stranded
7 cost estimate.

8 But relative to the delayed entry to the high, the
9 answer to your question is yes and I believe the Clayton
10 exhibit to which you referred quantifies that difference.
11 Right on that date.

12 Q Yes. And if we would look back at DJC-20 that
13 you just mentioned that would be page 1 of 49?

14 A Yes.

15 Q That if you would -- let me show you that again.
16 In fact, if you would look at the last three numbers shown
17 thereon, you have the \$1.9 billion number based on the low
18 market rate scenario. Is that correct?

19 A Yes.

20 Q And the other two numbers result in a lower
21 stranded cost?

22 A Yes. That's approximately a \$250 million
23 difference between a low case and the delayed entry high
24 case as Mr. Clayton's exhibit shows.

25 MS. MELILLO: That's all we have. Thank you, Mr.

1 Schnitzer.

2 JUDGE CORBETT: All right. Mr. Berger?

3 MR. BERGER: Thank you, Your Honor. Good morning,
4 Mr. Schnitzer.

5 THE WITNESS? Good morning.

6 BY MR. BERGER:

7 Q Just touching briefly on the points you made on
8 rejoinder, you referred to the present value costs
9 independent of operations. Do you recall that?

10 A I spoke generically about costs independent of
11 the operations, yes.

12 Q And you mentioned that there were some utilities
13 that had received stranded cost recognition on the basis of
14 those costs?

15 A That is correct.

16 Q Do you know of any utilities in Pennsylvania that
17 have submitted a claim for PV costs independent of
18 operation?

19 A I have not reviewed in detail any other claims of
20 other utilities in Pennsylvania, so I, to my knowledge, no,
21 but that's not based on any particular expertise or --

22 Q And Penn Power, which jointly owns a share of
23 interest in some of the plants that Duquesne also has a
24 share of interest in, they haven't made a claim for those
25 costs, have they?

1 A I am not familiar with their claim so I can't
2 answer your question.

3 Q Now, on page 7 of your direct testimony, you
4 begin a section entitled administrative approaches are
5 inferior to market based approaches.

6 A Yes.

7 Q And on line 16 of that page you state that in an
8 administrative determination, the critical component is a
9 forecast of future market price. This requirement of
10 forecast market price makes an administrative determination
11 inferior to a market based determination. Do you see that?

12 A I do.

13 Q Now, on the next page you list several factors
14 about which predictions must be made in order to make an
15 administrative determination of market prices? And they
16 include the technology of new supply entrants, new supply
17 timing and market equilibrium and fuel prices. Would you
18 agree with that?

19 A Yes.

20 Q And you state on page 9, line 1, that forecasts
21 are highly sensitive to the initial assumptions chosen by
22 the analyst making the forecast.

23 A I do so state.

24 Q Your alternative to an administrative
25 determination as described on page 5 line 7?

1 A I am sorry. Page 5?

2 Q Page 5, line 7?

3 A Thank you.

4 Q Where you state that the market based valuation
5 will be conducted in 2003 by an unbiased arbitration
6 panel. Do you see that?

7 A Yes.

8 Q Would you agree that the value of a generating
9 station depends largely on the expected costs of which
10 we'll be able to produce electricity in the future and how
11 that cost compares to expanded generation market prices?

12 A Yes. I think I would agree with that statement.

13 Q I assume next year that you are representing a
14 client that is considering purchasing generating assets,
15 one or more generating units or stations. When those
16 purchasers go about determining how much they are willing
17 to pay for a generating unit is there their evaluation
18 going to include the same types of criticism, the reasons
19 an administrative determination is flawed and I'll go
20 through those one at a time?

21 A For example? Are you asking me collectively or
22 are you going to ask me individually.

23 Q I'll ask you individually. Will they include
24 forecasts of future operating costs for the unit in
25 question?

1 A Potential buyer of a generating asset will
2 consider a number of factors, including what they think the
3 costs of operating that facility are. The critical
4 difference is that the purpose of that assessment will be
5 to determine how much money of their own they want to spend
6 and for which they will bear the consequences.

7 And it's that accountability that goes with making
8 these calculations that is fundamentally different from the
9 type of process in which we would otherwise be engaged in
10 an administrative proceeding before this Commission.

11 Q So the accountability in terms of the purchaser
12 versus the administrative board making the determination is
13 your viewpoint of the fundamental difference between the
14 validity of market price, based upon bids versus the
15 validity --

16 MR. MOOT: Objection. There's no foundation. He
17 was previously talking about the estimates that Mr.
18 Schnitzer was criticizing, not the board which was not
19 supposed to be doing estimates.

20 MR. BERGER: Okay. Well, then, I think he was
21 comparing an administrative determination. But I asked him
22 to compare an administrative determination to a market
23 based price based on a bid. And I am just trying, and I
24 think he said that the accountabilities of the purchaser
25 versus the administrative board making such a determination

1 is the fundamental difference. Is that correct?

2 THE WITNESS: Fundamental difference in the manner
3 in which they would go about those considerations.

4 BY MR. BERGER:

5 Q Okay. Would you agree with me that the resources
6 that might be brought to bear by an administrative board in
7 making a determination may be more or less than what a
8 purchaser might bring to bear in trying to make the same
9 type of determination?

10 A Again. This administrative board as Duquesne has
11 proposed, is charged not to conduct their own determi-
12 nation, but to rely on the market evidence that exists.
13 That's the essential difference. There's no need for the
14 board to engage in modeling exercises and the like to
15 determine what market prices are going to be.

16 MR. MOOT: Can I ask for a clarification? I think
17 it's fair and will help the record. Is Mr. Berger, by
18 administrative board does he mean to refer to the
19 arbitration panel proposed by Duquesne or an administrative
20 agency such as this Commission.

21 MR. BERGER: An administrative agency such as this
22 Commission that will review the arbitration panel's
23 recommendation.

24 MR. MOOT: You want to ask him the question again?

25 THE WITNESS: I understood your question to be

1 referring to the arbitration panel, itself.

2 MR. BERGER: Okay. My question simply went to the
3 resources that are brought to bear maybe more or less by
4 the administrative board such as the PUC, versus a
5 purchaser in the market place.

6 BY MR. BERGER:

7 Q Would you agree with that?

8 A So your question is they could be more or less?

9 Q Yes. They could be more or less. The
10 administrative board may commit more financial resources to
11 its assessment or the bidder may commit more financial
12 resources in trying to make the assessment. Would you
13 agree on that?

14 A I think we don't know who would devote more
15 resources by I don't think that's particularly relevant to
16 my preference for the market determination.

17 Q Okay. So your answer would be yes. They may be
18 more or less?

19 A Yes. And that that distinction is not relevant
20 to a preference for market determination vis-a-vis
21 administrative determination.

22 Q When you began your response about
23 accountability, I was attempting to ask you about a number
24 of the items that are considered by analysts both for a
25 purchaser and for the administrative board. Would you

1 agree with me in general that they would typically consider
2 the same factors? Or should I continue to go through them
3 one at a time?

4 A You know. Each purchaser will consider what they
5 think is important, but generically I would agree that they
6 would consider the same factors. But that, in my mind, is
7 not the issue. The issue --

8 Q I understand, and you stated what you your
9 position is on that. Would they consider forecasts of
10 generation market prices in both contexts?

11 A They would consider market price estimates in
12 both instances and in the instance of a buyer actually
13 offering money for an asset or purchasing the power --

14 MR. BERGER: Your Honor, I would ask that the
15 witness hold his response to the questions. He has already
16 stated his explanation that he thinks that in the context
17 of an actual bid the accountability of the purchaser is
18 different and therefore, has a different -- he thinks that
19 it provides a better result.

20 MR. MOOT: Your Honor, I don't agree.

21 MR. BERGER: I don't think he has to repeat that
22 with every reference I am making to each input assumption
23 in the analysis that the purchaser versus administrative
24 board meant.

25 MR. MOOT: If Mr. Berger is willing to stipulate

1 that unless Mr. Schnitzer so states, the record can assume
2 that Mr. Schnitzer assumes that Mr. Berger's question is
3 irrelevant to this case, we are fine. If not, Mr.
4 Schnitzer has a right to explain.

5 JUDGE CORBETT: Wait a minute.

6 MR. BERGER: I think we can agree that he has the
7 same explanation with respect to qualifying his answer for
8 each of the items that I am trying to list.

9 MR. MOOT: Far enough. For those items, that's far
10 enough.

11 JUDGE CORBETT: I think he's agreeable. I think
12 that will help move things along.

13 BY MR. BERGER:

14 Q Would you agree that in both contexts there would
15 be a forecast of unit's output and its part operating
16 margins?

17 A There would likely be.

18 Q Would you agree that in both contexts there would
19 be portions of fossil fuel prices?

20 A There may be circumstances in which there
21 wouldn't but in most cases there likely would be.

22 Q Would you agree that there would be in both
23 contexts that there would be forecasts of electricity
24 demand?

25 A Not necessarily.

1 Q Why do you think there may not be in that
2 particular instance, forecasts of electricity?

3 A What a buyer of a power plant is interested in or
4 a purchaser of power is interested in is that price
5 vis-a-vis the market price. And when I, for instance,
6 right now might think about a natural gas price purchase or
7 a reserve purchase it doesn't have to forecast the national
8 demand.

9 Now, do I buy this reserve or do I not? There may
10 be sufficient market price information available that I
11 wouldn't have to inquire behind the market price to the
12 load, load growth or other issue. And better developed
13 markets get the lease people are going to worry about those
14 issues.

15 Q So what you are saying is in the context of an
16 actual bidder they may not need to look behind the actual
17 market price to determine the basis or whether there --
18 what the expectation for demand is?

19 A They might. They might not.

20 Q Would you agree that in both contexts that the
21 analysts would consider the type costs and type timing of
22 market competitors?

23 A When you say type are we talking about entity or
24 technology.

25 Q I am talking about entities.

1 A Then I am not sure I understand the question.

2 Q I'll move on. Do I take it from your proposal on
3 page 5 of your direct testimony that the rule of the
4 unbiased arbitration panel would be to review the results
5 of other assets sales that have occurred and to translate
6 the prices found in those transactions to evaluation of
7 Duquesne's generating assets?

8 A No.

9 MR. BERGER: May I just have a minute, Your Honor?

10 JUDGE CORBETT: Yes.

11 (Pause.)

12 BY MR. BERGER:

13 Q You are referring on lines 7 to 9 about
14 consummated market transaction in the relevant market?

15 A Sorry. What pages are you on, Mr. Berger?

16 MR. BERGER: Page 5 line 7 to 9. When you are
17 talking about consummated market transactions in the
18 relevant market you are not talking about the results of
19 other assets sales that have occurred. You are talking
20 about the actual sales per kilowatt in a -- in the
21 marketplace. Is that correct?

22 A That statement isn't correct, either.

23 Q Okay. Can you tell me what you are talking about
24 consummated market transaction?

25 A Yes. They would include both of the types of

1 transactions to which you are referring but not either
2 exclusive of the other so he would include power sales
3 transactions and assets sales transactions so long as they
4 were market based and arms length.

5 Q Would you agree that the value of a generating
6 station also reflects the additional value of
7 characteristics such as market to unit is located in the
8 size of the site and the nature of existing electrical
9 interconnections and fuel infrastructure?

10 A Those type of characteristics can have an effect
11 on the value of a generating asset.

12 Q Would it be fair to say that observed prices for
13 future sales of other generating assets would not
14 necessarily apply to Duquesne's generating assets? And
15 that the unbiased arbitration panel would need to review
16 the observed prices and apply its own judgment regarding
17 what they tell about the value of Duquesne's assets?

18 A Certainly. As I discussed earlier with Mr. Moot
19 that the key to using any asset transactions for valuing
20 other assets revolves around competition with respect to
21 the future market comparability with respect to the assets
22 in question.

23 Those are judgments that the appraisers of the
24 arbitrators would have to make and they are not different
25 than the types of judgments about comparables that

1 valuation experts place routinely in these matters but the
2 basis is actual market transactions, not some other
3 administrative derived number.

4 Q Would you agree with me that in the later years
5 of your analysis, you simply assumed an inflation factor
6 associated with market price? Do you recall ceiling
7 prices?

8 A I'm sorry. I'm going to need that question to be
9 much more specific before I can answer it.

10 Q While your proposal to value the assets in 2003
11 would reflect available information about other generating
12 assets sales and the rules of the market would be better
13 known, a valuation in 2003 would still depend on input
14 assumptions and forecasts about the long term future and
15 will require judgment on the part of the valuation of the
16 arbitration panel. Is that correct?

17 A I can't answer yes to all the parts of that
18 question.

19 Q Well, will it still depend on input assumptions
20 and forecasts about the long term future?

21 A Not necessarily.

22 Q Okay. I think you already indicated that it
23 would require judgment on the part of the panel?

24 A Yes, it would.

25 Q So when you say not necessarily, are you saying

1 that you think that sufficient market data may exist at
2 that point in time but no judgment about -- no forecasts
3 would need to be utilized?

4 A Certainly with respect to market price it's
5 entirely possible to have a sufficient market price. The
6 evidence did not require judgment in that respect. It's
7 also possible that if there are truly comparable sales for
8 each of the company's generating assets, at a point in time
9 that those, too, would require comparable times which would
10 apply a lot less assumption about the future other than to
11 just establish the comparability.

12 So depending on how things turned out, the answer
13 may be different.

14 Q Okay. When a valuation I made in 2003, I think
15 the forecast is being made with respect to the life of the
16 plant in question and I think that's through 2027. Is that
17 correct?

18 A For the company's nuclear assets, the last two
19 are 2025, 2026, I think collectively that's less than 300
20 megawatts of the company's capacity but those two are the
21 longest lives. The rest are shorter.

22 Q So you think sufficient market data may exist at
23 that point in time with regard to prices in 2025 and 2026?

24 A I didn't say that.

25 Q No. I am asking. Yes or no?

1 A It may be, but what may be more likely at that
2 point between now and 2003 is a demonstration through the
3 repeated attempts to sell comparable nuclear facilities
4 that we can infer what their value is and not have to
5 engage in the process of estimation as for 2025 and 2026.

6 Q Now, would you turn to Exhibit MMS-2.

7 A Yes.

8 Q And there you present a range of estimates for
9 the potential cost of power from market entrants to
10 competition.

11 A Ceiling price estimates, yes.

12 Q Now, in which the potential profitabilities of a
13 generation asset investment a potential market entrant
14 would try to determine whether generation market price will
15 be sufficient to cover the costs and provide profit. Is
16 that correct?

17 A Yes.

18 Q In doing that, am I correct that the market
19 participants would presumably include in their costs each
20 of the items you presented on these exhibits? On this
21 exhibit?

22 A Yes. I think so.

23 Q Now, the line item in the 11th row is entitled CC
24 A&G combined cycle A & G, administration and general
25 expense.

1 A Yes.

2 Q Can you provide me the detail of what that item
3 represents?

4 A The character of what's in it or the specific
5 derivation of the number?

6 Q Well, let's begin with the character of what's in
7 it?

8 A I think it's a fair assumption that a new entrant
9 will have beyond plant level costs will have some
10 administrative and general expense associated with managing
11 the generation, administering benefits of employees that
12 are employed at the station and the like; which would not
13 typically be included in direct O&M estimates that are
14 often provided for these units.

15 So the purpose of the A&G figure there is to include
16 an allowance for those incremental costs of A&G that would
17 be incurred by virtue of having this additional facility,
18 the employees that are associated with that facility.

19 Q So we might call that something like corporate
20 overhead. Would that be overhead?

21 A Well, it's the kind of activities that I just
22 described. You can call it what you will but the key is
23 the incremental one is occasioned by the particular
24 investment in this facility for the construction of this
25 facility. It's not an allocation.

1 Q Okay. Do you have a schedule or work paper
2 breaking that particular item down further?

3 A I believe that there's an interrogatory response
4 which references the derivation of that. But I could tell
5 you what the derivation is. It's basically 50 percent of
6 the fixed O&M level is what we have assumed to be the A&G
7 adder.

8 Q So you just take the line above and divide it by
9 two?

10 A Yes, sir.

11 Q Would you provide me with that reference in an
12 interrogatory response at a break?

13 A Yes.

14 MR. MOOT: I'll just note for the record that that
15 may or may not be possible at the first break.

16 MR. BERGER: Okay.

17 BY MR. BERGER:

18 Q On Exhibit MMS-3 if you turn there, there you
19 present an estimate of natural gas prices for the purpose
20 of your market price bounding analysis. Is that correct?

21 A Yes.

22 Q And where you refer to that TCO pool, does that
23 refer, what is the TCO pool?

24 A T-C-O is an acronym for the pipeline subsidiary
25 of Columbia and so that the TCO pool is in the market area

1 of Columbia Transmission.

2 Q Okay. What was the basis for the historical TCO
3 pool prices you used to develop the basis price
4 differential in that exhibit?

5 A We didn't rely on historical base price
6 information. We relied on a four year forward quote basis
7 differential which we obtained I believe either from TCO or
8 a TCO marketing affiliate.

9 Q Do the natural gas prices at the bottom of this
10 exhibit which are labeled estimates of delivered natural
11 gas spot price represent delivered prices to an electric
12 generator in ECAR?

13 A Yes.

14 Q Is it possible that new generating plants would
15 also require some additional pipeline or LDC transmission
16 to deliver gas from the TCO pool to their particular
17 sites?

18 A Excuse me. The particular interconnection
19 requirements could well vary from site to site, but this is
20 the cost of delivered off of the pipeline in the ECAR
21 area.

22 Q Now, when you earlier indicated you got the four
23 year forward quote of the TCO pool prices, that included
24 the price of Henry Hub as well as the basis differential?

25 A The Henry Hub data was on that. We didn't use

1 that particular source of Henry Hub data but ultimately did
2 corroborate our other source for Henry Hub.

3 Q What was the other source for Henry Hub?

4 A We had done a swap for yearly Henry Hub data from
5 Merrill Lynch 1998, 1999 and the 2000 figure from the
6 Merrill quote were very close to the NYMEX Henry Hub
7 portion of the T-C-O quote. But the Merrill quote was for
8 an eight-year duration so we used that.

9 Q Now, Exhibit MMS-4 summarizes the results of
10 solicitation to sell power that Duquesne conducted in June,
11 1997. Is that correct?

12 A Well, it presents the calculation from the
13 forward prices, the present value of the forward prices
14 received to other forms in which that data is used by
15 myself and other witnesses.

16 Q Did that solicitation offer to sell fully
17 dispatchable power to be dispatched however the buyer saw
18 fit or were there limits on its energy utilization?

19 A The power that was sold was at any moment had to
20 be between 50 and 100 percent capacity factor and on an
21 average basis, 75 percent capacity factor but within other
22 than those constraints there was a fair bit of dispatch
23 flexibility available to the buyer.

24 Q And the annual prices presented on the third line
25 of this exhibit, do they represent all hours equivalent

1 prices which you calculated from the bids?

2 A I believe the --

3 Q There's a line that reads equivalent spot price
4 estimates escalates inflated rate?

5 A Yes. There is a translation from the 75 percent
6 factor to an all hours basis.

7 Q Would you agree that that means that the actual
8 bid prices were a bit higher because the bidder has some
9 ability to shape his energy purchase under the contract?

10 A Absolutely. We would expect that the average
11 price for the 75 percent of the year that is most valuable
12 will be a higher average price than the price averaged over
13 all the hours.

14 Q Is there a second adjustment on that line of this
15 exhibit?

16 A There is a translation from the forward price to
17 a spot price equivalent that is also implicit in this
18 exhibit or contained in this exhibit.

19 Q Is that a risk type of adjustment would you
20 characterize it?

21 A Well, I'd prefer to characterize it as a
22 translation from a forward to a spot.

23 Q Does that adjustment reflected on there indicate
24 that the buyer intends to offer bid prices for future years
25 that are a bit lower than their current expectation for

1 spot prices in the same future years?

2 A It reflects the belief in the market evidence
3 that a forward commitment that is a commitment I make today
4 to buy two years from now will be at some small, he -- some
5 lower price than what I would actually expect the spot
6 price to be if I didn't make any commitment and waited to
7 make my purchase two years hence and there's evidence in
8 natural gas markets and heating O&M markets and other
9 energy markets to support that proposition.

10 Q Would you turn to your direct testimony at page
11 19.

12 A Yes.

13 Q At line 14, you say uncertainty regarding the
14 details of deregulated market structure is a reason why it
15 is viable to value Duquesne's assets at 2003? Do you see
16 that?

17 A Yes. I see those lines.

18 Q Would you agree with me that potential purchasers
19 of power under Duquesne's June, 1997 solicitation face the
20 same uncertainties in addition to the uncertainty about
21 when they might be able to sell power to retail customers
22 in the ECAR region?

23 MR. MOOT: I would ask that the questioner clarify
24 whether he's talking about the RFP for the one year sale or
25 the RFP for the eight year sale.

1 MR. BERGER: Okay. I'll ask him one at a time. Let
2 me refer to the RFP for the one year sale.

3 BY MR. BERGER:

4 Q Did potential purchasers of power under the 1997,
5 June 1997 solicitation face the same uncertainty regarding
6 the details of the deregulated power market?

7 A No.

8 Q Now, with respect to the eight year solicitation,
9 would you agree with that?

10 A They would have reflected whatever expectation
11 they had about how deregulation was going to proceed. Your
12 earlier question had a number of compound pieces to it but
13 with respect to the retail market they would have the
14 expectation that at least the retail markets called for
15 deregulation of the Pennsylvania statute where someone
16 could take the breaks they expect on a schedule that I
17 could explain.

18 And that is one of the reasons for solicitation to
19 start 1, 1/9 to offer people who payment the a power supply
20 contemporaneous with the pay lease in Pennsylvania to be
21 able to procure a resource not just there, you know, but
22 also the transition from the full competitive role.

23 So it would be at least an indication that there
24 would be a pilot and opening up a Pennsylvania retail
25 market that was contemporaneous with this particular

1 solicitation.

2 Q But you would agree that there sill it's a
3 significant amount of the uncertainty about the details of
4 how the power market will operate with using the eight year
5 time horizon?

6 A Absolutely and I think we have been clear
7 Duquesne's first choice is not an immediate value.
8 Duquesne second choice is not an immediate value. But if
9 you ask what's the best evidence of the market right now,
10 we would say the best evidence is the RFP that was
11 conducted.

12 Will there be better evidence in 2003? Yes, there
13 will, but this RFP is the best evidence available today.

14 MR. BERGER: Thank you. That's all I have.

15 JUDGE CORBETT: I take it the OSBA does not have any
16 questions.

17 MS. JONES: No, Your Honor.

18 JUDGE CORBETT: And the same for the City of
19 Pittsburgh?

20 MR. AMERICUS: No questions.

21 JUDGE CORBETT: Mr. Dougherty, you are up next and
22 you are listed as having heavy cross for the witness I
23 wonder if you can be up first after lunch.

24 MR. DOUGHERTY: That would be fine. I would request
25 that we go last among the interrogators for this witness in

1 any regard so that we can resolve the matter we discussed
2 before the break.

3 JUDGE CORBETT: Okay. Then first thing after lunch
4 would be HSS and Mr. Wiseman. Okay. We'll take a luncheon
5 recess and we'll reconvene at 1:15.

6 (Whereupon, at 12:17 p.m., the hearing recessed, to
7 reconvene at 1:15 p.m., the same day.)

8 AFTERNOON SESSION.

9 JUDGE CORBETT: Let's get started. We are back on
10 the record, and Mr. Wiseman, you are up.

11 MR. WISEMAN: Thank you, Your Honor. Good
12 afternoon, Mr. Schnitzer. Good afternoon.

13 BY MR. WISEMAN:

14 Q I want to start with something that you went over
15 very briefly this morning. Could you refer to Exhibit
16 MMS-4, please.

17 A Yes, I have it.

18 Q Do you recall a question from OCA that used the
19 term risk adjustment?

20 A I remember this question, yes.

21 Q And that question was in the context of a
22 discussion of the line that is almost at the bottom of the
23 page that says alternative spot price estimate using one
24 year results in 1998. Is that correct?

25 A I am sorry. Which line are you referring to?

1 Q There's a line that has prices from 1998 to 2005.
2 It's the lower of those two lines. It's one that has the
3 alternative spot price estimate using one year results in
4 1998?

5 A I see that line.

6 Q That's the line that the discussion was about
7 when the recommendation for adjustment came in. Is that
8 right?

9 A I am not sure if it was that specific line or one
10 of the earlier lines.

11 Q That's fine. Can you turn to page 34 of your
12 draft testimony, and I would refer you to the discussion
13 that's at line, starts at line 2 and actually runs over on
14 to page 35, line 1. Could you review that discussion,
15 please.

16 A Yes, I will.

17 (Pause.)

18 A Yes, I have reviewed it.

19 Q All right. Now, if you look at page 34, line 6,
20 you discuss there a 200 basis point risk premium. Do you
21 see that?

22 A I do.

23 Q Can you tell me what relationship does that 200
24 basis point risk premium have to the line in MMS-4 that we
25 are discussing alternative spot price using one year

1 results in 1998?

2 A The use of the 200 basis point risk premium comes
3 into play in calculating the present value equivalent spot
4 numbers, spot price streams of which there are two on
5 MMS-4, to get the same 116.1 present value shown in the
6 first column.

7 So the 116.1 comes from the actual forward prices
8 from the solicitation discounted at the risk free rate to
9 then calculate a spot equivalent we derive a stream
10 starting in 1998 which, when discounted at the risk free
11 rate plus the 200 basis point risk premium yields the same
12 116.1 present value that is shown.

13 That calculation is actually done twice on MMS-4.
14 Each of the two instances where there's figures shown for
15 the two year period '98 to 2000.

16 Q Well, am I correct that the top line, the one
17 that says equivalent spot price estimate escalated at
18 inflation rate, that line does not conform -- well, that's
19 the risk free adjustment. Is that correct?

20 A You are referring to the second --

21 Q The second?

22 A I am sorry? The second row in that table?

23 Q Yes. That's a little ambiguous, actually. There
24 is a caption over on the side that says equivalent spot
25 price escalated at inflation rate and actually it's the

1 third title down on the left side?

2 A Yes. I see that one.

3 Q That line, that's risk free adjustment. Is that
4 correct?

5 A No. That basically derives with the risk premium
6 adjustment, an equivalent spot price trajectory which
7 itself grows at the rate of inflation. That spot price
8 trajectory. What we then find, the first year of that 19.4
9 shown on that line is above the one year forward spot
10 equivalent of the forward.

11 The second one we'll say well, we'd better retrieve
12 the streams that the first year matches with the one year
13 and then retrieve an escalated stream so that we are tied
14 into one year results as well as being consistent with the
15 eight year results. But those two illustrations reflect
16 the risk premium adjustment described on page 34 of the
17 testimony.

18 Q All right. And if we could refer back to the
19 infamous Exhibit DJC-20?

20 A If someone could --

21 Q Do you have a copy?

22 A I do not.

23 MS. MELILLO: I can give him mine.

24 BY MR. WISEMAN:

25 Q Again, let's use page 3 in that exhibit. That's

1 a good example of one, first page. Do you have that?

2 A I do.

3 Q Would I be correct, then, that the prices that
4 are reflected here for the period 2000 through -- I am
5 sorry, 1999 through 2005, in Exhibit DJC-20, page 3, are
6 identical to the alternative spot price estimate using one
7 year's results of 1998 which is in your Exhibit MMS-4?

8 A That's my understanding, yes.

9 Q Now, why did you select a 200 basis point risk
10 premium?

11 A As I mentioned this morning, in conversations
12 with Mr. Berger, the question arises as to whether forward
13 commitments, that is commitments made today for delivery
14 tomorrow, are actually at a discount ROA premium to the
15 extension prices if you don't make a commitment today and
16 just wait to buy till tomorrow.

17 That's an empirical issue and the way that that
18 issue is analyzed by traders and by financial practitioners
19 is to look at what happens if you buy a forward
20 commitment. Hold it to maturity depends the spot price and
21 look at the results.

22 Did you earn a risk free return if you took your
23 forward commitment and resold it or liquidated it? Did you
24 suffer a penalty or did you earn a risk premium?

25 And there's empirical research on a variety of

1 energy product including natural gas futures, home heating
2 oil futures and those analyses suggest that the spot price
3 is actually on average, above the forward price, which is
4 to say that if you make a forward commitment and hold it to
5 maturity, you earn above the risk free rate by doing so, if
6 the spot price that actually materializes is more often
7 than not higher than the spot price, excuse me, than the
8 forward pricing and the average risk premium is somewhere
9 between 150 and 300 basis points, depending on what time
10 period you use.

11 Q Well, actually, it's the very last part of your
12 answer which I had wanted to focus on, is why did you
13 select 200 basis points as opposed to 150 or 300 basis
14 points?

15 A I think that the data I had available to me on
16 natural gas was of a shorter duration which is to say those
17 instruments had not been traded for as long and so the data
18 base, if you will, from which to calibrate this was much
19 shorter than a comparable set of data for heating oil
20 futures.

21 And I believe that what we found is that we looked
22 at heating oil and natural gas side by side for the same
23 historical periods that is the period for which the gas
24 data were available, we found a higher risk premium. I
25 don't recollect the number but it was higher than 200 basis

1 points but that held on over a longer term was actually, I
2 think, 180 basis points over 11 or 17 years time after
3 period.

4 I forget the specifics. And so we thought that the
5 longer historical calibration period was likely to be the
6 more reliable and therefore, used a figure consistent with
7 that longer calibration period.

8 Q So it was a very brief summary of that answer is
9 your judgment to use 200 basis points as opposed to using
10 some other amount of basis points?

11 A Judgment based on analysis of the empirical data
12 I have just described.

13 Q All right. Had you used let's say 300 basis
14 points as an adjustment. Would I be correct that let's
15 take the price of electricity in the year 2005 in Exhibit
16 DJC-20. It would have been higher than the 2.56 that's
17 currently in the exhibit.

18 A Yes. That's correct. The higher the risk
19 premium, the higher the spot price would be.

20 Q All right. Thank you. Now, could you refer to
21 page 4 of your rebuttal?

22 A Are we done with DJC-20 for now?

23 Q We are not quite done with DJC-20.

24 A I'll hold onto it.

25 Q Almost. Not quite.

1 A Okay.

2 Q Page 4 of your rebuttal.

3 A Of my rebuttal. I have it.

4 Q There is a sentence at the bottom of that page
5 lines 17 through 20 where you say that the company has put
6 forth adequate supports for stranded cost determination of
7 approximately \$1.9 billion. Is that a fair
8 characterization of that testimony?

9 A I believe the testimony has the word evidence in
10 there, but that's what it says.

11 Q Could you take a look at DJC-20, page 1?

12 A Yes.

13 Q In particular, at the top of the page -- well,
14 how would I -- looking at the data that are on this page,
15 how would I determine the -- what numbers would I have to
16 add up to get to the \$1.9 billion figure for the low case
17 stranded cost?

18 A Well, this is Mr. Clayton's exhibit. If you
19 like, I can take a look and see if I can construct the
20 numbers which when added together equal 1916, if you'd
21 like.

22 Q The reason I am asking the question is since you
23 say it's adequately supported, I am assuming that you are
24 familiar with these calculations?

25 A I am familiar with the calculations. I am not

1 familiar with Mr. Clayton's particular exposition here on
2 DJC-20.

3 Q Well, could I -- let me guide you through it.
4 Maybe that will be the fastest way to do it. Would, if I
5 added the \$1,600,000,000.00 figure where it says total net
6 book value and then add the \$208 million where it says cost
7 of independent operation low, and then added as a positive
8 market value of general portfolio low decommissioning?

9 Will you accept, subject to check, that that, the
10 combination of those three numbers would add up to
11 \$1,960,000,000.00?

12 A So you are adding 1611, 208?

13 Q I am sorry. I misspoke. I am adding 1611, 208
14 and actually it's the \$97 million negative figure that's
15 under market value generation portfolio.

16 A Those three numbers, when added together, yield
17 19166.

18 Q Now. Going up to the very top line of the page
19 it says generation plant assets \$918 million. Do you see
20 that?

21 A I do.

22 Q Can you tell me, based on your understanding of
23 DJC-20, how that number was derived?

24 A Yes. I believe that is the 12/31/98 plant
25 balances for the company's generation net of deferred tax

1 liabilities.

2 Q And that's determined from a -- by essentially
3 taking the assumed revenue stream based upon the RFP
4 results and the -- and your price projections and comparing
5 that to Duquesne's revenue requirement and then taking a
6 the difference and making a net present value
7 determination?

8 A No.

9 Q How do you determine that, then? Specifically
10 what I am interested in is the relationship of the revenues
11 that are projected in DJC-20 to the calculation of
12 generation plant assets stranded costs.

13 A The revenues that you are inquiring about and the
14 prices that you are inquiring about have, are not input to
15 any of the constituent pieces of the 1611 figure.

16 Q Well, what is the -- what relationship, in your
17 price projections, and the RFP results that are reflected
18 in DJC-20 have to the stranded cost calculation that's
19 consists of \$1.9 billion claim quantification?

20 A Those figure are inputs to the calculation of the
21 plant margin line items shown later in the exhibit and
22 that's where they enter the calculation, if you will. But
23 not with respect to the net book value inquiring of a few
24 moments ago.

25 Q And explain how the plant margin, then,

1 translates into the calculation specifically of the \$918
2 million in claimed stranded costs relating to generation
3 and assets?

4 A I think you are misreading this table. The
5 stranded -- the only number on this page which is a
6 stranded cost number at the bottom of the page. The other
7 numbers in the exhibit are to show the calculation or the
8 derivation of that number, but they are each, in each
9 individual piece of the net book value is not a stranded
10 cost claim per se. It's not my understanding.

11 Q So they just coincidentally add up to the
12 stranded cost claim?

13 A No. Stranded costs represent a comparison of the
14 book value of a set of assets and the market value of a set
15 of assets. So this sets out the book value on one hand and
16 the market value on the other and when you combine those
17 things you get the difference between the old market value
18 and get stranded costs.

19 The net number is stranded costs. That's my
20 understanding of what's set out in this exhibit.

21 Q Only thing I am trying to determine is what role
22 the price projections that are in DJC-20 play in the
23 calculation of this number.

24 A I thought I answered that question a couple
25 moments ago.

1 Q I heard an answer about how plant margins but I
2 didn't hear you tie it back to this number?

3 A Well, the market prices are part of calculation
4 of the plant margin which is, in turn, part of the
5 calculation of the market value of the generation
6 portfolio. And then this exhibit shows how that number, in
7 combination with the net book value and the cost of
8 independent operation give the strained cost number.

9 So if I have not fully explained it, you'll have to
10 tell me how I have not.

11 MR. MOOT: Kit -- is there something missing here?
12 I see plant margin on this page and I thought that was what
13 his answer was.

14 MR. WISEMAN: All right. We'll go forward we'll go
15 to the next subject. I apologize but do stay with DJC for
16 one moment.

17 BY MR. WISEMAN:

18 Q This is actually a -- again, let's use page 3 as
19 an example?

20 A Yes. I have it.

21 Q All right. Do you see at the top of the page it
22 says \$33.8 per megawatt in 2006 with escalation at three
23 and a half percent?

24 A Yes, I do.

25 Q And can you explain what that number is?

1 A Yes. My understanding is that that is the 2006
2 value for the low ceiling price case which escalates at two
3 and a half percent a year thereafter. So that heading
4 denotes that this case from 2006 on, is using in the low
5 ceiling price estimate.

6 Q Yeah. And that -- is that -- well, as part your
7 process in reaching that low ceiling price, did you take
8 into consideration the cost off -- the capital cost effort
9 gas fired combined cycled units?

10 A That's what the ceiling price estimates are based
11 on. The cost to construct and operate compound cycle --

12 Q Your estimates on the capita cost am I correct.
13 Are in your low cause, \$39.52 per kilowatt and your high
14 case, \$500.00 per kilowatt, two thousand fifty dollars?

15 A That is correct.

16 Q All right. Are those installed costs or are
17 those equipment procurement and construction costs? In
18 other words, what it costs without soft costs, if you
19 will.

20 A They are -- they are not basically, as installed
21 fallen costs.

22 Q Does the term soft costs have a meaning to you?

23 A Well, no. If you care to define it I'll be happy
24 to use it in that context.

25 Q Let me ask you the question this way. Aside from

1 paying for a unit, itself, a combined cycle unit, what
2 other costs would you expect to be included in calculating
3 installed costs? Categories of costs?

4 A Well, the installed costs here include the costs
5 of all the major components of the facility, the actual
6 physical erection and construction of it, interconnection
7 with the electric grid, an initial stocking of spares and
8 materials and supplies and a fuel supply interconnection
9 and I think that those costs are all included in the
10 installed cost estimates.

11 Q Wouldn't you also need to include a cost for cost
12 of the land or cost of lease on land.

13 A Yes, you would.

14 Q And would you include development fees? Isn't
15 that part of an installed cost?

16 A No, I think the way that's handled basically is
17 the return on the capital -- return on the investment
18 that's got to be compensatory for the developer,
19 constructor, if you will. So that that's in that portion
20 of the analysis.

21 Q What about design fees? Would you chose those as
22 installed costs?

23 A Yes.

24 Q How about AFUDC. Would you include that?

25 A Not necessarily. You know, the types of

1 arrangements which are possible here are sometimes referred
2 to as turnkey costs which is, you know, payment upon
3 delivery, if you will for a commercial operation in which
4 case any financing costs are really the architect engineer
5 and the constructor's business and parts of their bid, if
6 you will, then it becomes a fixed price bid upon the
7 commercial operation of the facilities rather than as a
8 pay-as-you-go, finance-as-you-go type of arrangement from
9 the owner's perspective.

10 Q All right. Let's talk about the categories and
11 costs that you would include. How much did you include for
12 interconnection costs?

13 A I don't have a specific breakout of those
14 figures. We relied on the number of sources which quote,
15 fundamentally installed costs on the basis that you have
16 described and that's -- they don't include a line item by
17 line item delineation of what allowance was in there for
18 the particular item.

19 Q So the costs that you have just described are in
20 essence, in your calculation in the instance of a low case,
21 your calculation of \$395.00. Is that correct?

22 A Yes, sir.

23 Q Let's talk about land costs. Aren't land costs
24 going to vary, possibly vary dramatically depending upon
25 the particular location of they are --

1 A There could be well be differences in real the
2 state cost from one region to another or from one area to
3 another. That's certainly possible.

4 Q Have you taken into account those differences in
5 determining your \$395.00 estimate?

6 A No, I haven't. Explicitly, the basic underlying
7 consent here is that we have a very broad market area here
8 in the ECAR region. And that if and as new combined cycle
9 construction is required on a competitive market basis,
10 that developers and profit making entities will see to
11 finding the cheapest ways and the cheapest the locations at
12 which capacity can be added. They will trade off after a
13 number of facts and features, including costs, to try and
14 find the lowest combination of circumstances available to
15 them.

16 Q If I could have marked as the next exhibit in
17 order, this is in response to Duquesne supply so to an HSS
18 interrogatory. It's interrogatory HSS-97 and I am
19 providing to the Court Reporter one for Your Honor, one for
20 the witness?

21 JUDGE CORBETT: All right. We'll have this document
22 marked and identified as HSS Cross Examination Exhibit 3.

23 **(HSS Cross Examination Exhibit No. 3 was produced**
24 **and marked for identification.)**

25

1 BY MR. WISEMAN:

2 Q Mr. Schnitzer, could you please review the
3 documents that's been marked for identification as HSS --
4 1/97, I'm sorry. HSS cross dash three.

5 A Yes, I have had a chance to review that.

6 Q Is it ever all, is this interrogatory answer
7 prepared by you or under your supervision?

8 A Yes, it was.

9 Q Now, in the interrogatory HSS asked Duquesne to
10 provide estimates and underlying documents of costs and
11 performance assumptions for combined cycle units and am I
12 correct that you attached certain documents in response to
13 that interrogatory?

14 A Yes. My recollection is that the complete answer
15 was considerably more voluminous than the exhibit that you
16 passed out.

17 Q I agree. But the page that is attached to the
18 narrative response is one of the pages from the response
19 that we provided. Is that correct?

20 A I think that's right, yes.

21 Q Now, could you -- would you agree that the costs
22 that are set forth on this page reflect average
23 standardized turnkey compound cycle power plants prices in
24 1996 U.S. dollars for a basic natural gas fired combined
25 cycle in-gas carbon generator?

1 A Yes.

2 Q Let's start at -- well, let's take the second
3 column from the left. Just from eyeballing this, it
4 appears that these blocks on the page are organized by net
5 plant output with the smaller plant outputs being at the
6 top and the larger one as the bottom. Is that correct?

7 A Yes, it is. They are different systems, and just
8 referring to the larger ones toward the bottom of the
9 page.

10 Q Am I correct in determining from reviewing these
11 data that smaller unit comes with a higher price per
12 kilowatt than does a unit that provides greater output?

13 A Yes, sir. You are correct.

14 Q And there's consistent with your understanding as
15 well. Is that correct?

16 A Yes, it is.

17 Q Now, will you accept, subject to check, that if I
18 were to recast your capital cost calculations in 1996
19 dollars, using a two and a half inflation rate that your
20 low case would be approximately \$233.00 and your high case
21 would be approximately \$400.00?

22 A Well, I would want to check those numbers and I
23 would also want to compare them with the 1997 page of the
24 same book which shows markedly lower costs in 1997 dollars
25 than for the same configuration, many of the same

1 configurations that you have shown here.

2 Q Your Honor I am going to ask that the last answer
3 be stricken. The reason is this comes from a data
4 request. This 1997 data, whatever it is that Mr. Schnitzer
5 I referring to was not in this data request and data
6 request asked for all don't. So if there is such a
7 document out there, it has not been provided to HSS.

8 MR. MOOT: Your Honor, if my recollection serves me,
9 and I am sure my witness will correct me if I'm wrong --
10 this was in the first the batch of HSS requests and was
11 responded thereto in October. And since that time there is
12 a new volume and in actuality that new value is not only
13 referenced by Mr. Schnitzer, in his direct, it's referenced
14 by Mr. Falkenberg in surrebuttal and this is no surprise
15 and it's nothing new and it's relevant to the question.

16 JUDGE CORBETT: The motion is denied.

17 BY MR. WISEMAN:

18 Q Mr. Schnitzer, in any event, let's look at the
19 1996 data and I have asked simply so that to speed up the
20 process, if you will accept the number subject to check and
21 if there's a direction, you can make that for the record.
22 Is satisfactory acceptable to Duquesne.

23 MR. MOOT: That's not acceptable to counsel. I
24 think if we are going to make them an issue they are not
25 all that complicated we'll give the witness a moment to

1 make them.

2 MR. WISEMAN: We would --

3 THE WITNESS: My recollection is that 1997 document
4 may well have been provided as work paper to my rebuttal
5 testimony. I could also seek to confirm that.

6 BY MR. WISEMAN:

7 Q Will you perform a calculation to the determine
8 your capital costs will be in 1996 dollars?

9 A I you want me to take the 395 to 500 figure and
10 to basically restate that in 1996 dollars.

11 Q Right and can you tell me what inflation
12 assumptions utilities over that time period --

13 A Two and a half percent that's the that's the
14 rates you used; correct.

15 Q For 1997 dollars forward, yes. These rights?

16 A You'd like me to apply that to 1996?

17 Q To 1996.

18 MR. WISEMAN: Your Honor, while the witness is
19 calculating that number, could I request of counsel, I
20 would look if counsel says that it gave this document to
21 us, and I would like counsel to see if he can confirm
22 that.

23 MR. MOOT: That was not my statement. If you would
24 like a copy of the document. I will get that. There's no
25 problem. We'll get you one.

1 MR. WISEMAN: I am not sure what your statement was
2 because we had requested all documents and we also asked
3 for all work papers.

4 MR. MOOT: We can have it read back, and I did not
5 state that and there's -- on the basis of what I said, not
6 what you said.

7 JUDGE CORBETT: All right. Let's direct it to me
8 and not between yourselves. I believe that the witness is
9 the one who indicated that he thought he included the 1997
10 page with his rebuttal testimony as parts of his work
11 papers. So it was the witness who said that after the
12 motion was denied. Okay. So you can check this. If it's
13 a data request, you know, the company's already indicated
14 that they'll supply it to you.

15 MR. MOOT: That's correct.

16 MR. WISEMAN: Thank you, Your Honor.

17 JUDGE CHESTNUT: Sure.

18 THE WITNESS: What were the numbers you are asking
19 me to confirm?

20 MR. WISEMAN: That low number was approximately
21 \$316.00 in 1996 dollars and the high number was approximate
22 \$400.00 in 1999 dollars.

23 THE WITNESS: Yep. Those are correct.

24 BY MR. WISEMAN:

25 Q Would you agree that using your high number of

1 \$400.00 per kilowatt that that is higher than the price per
2 kilowatt of every unit on this page?

3 A On the 1996 sheet, that is correct and that would
4 be, not be correct for the 1996 equivalent sheet. As
5 referenced in my rebuttal testimony on pages -- yes. On
6 page 22 of my rebuttal testimony, lines 6 through 11, I
7 cite the data from the 1997 Gas Suburban World and I cite
8 the figures that installed costs are now quoted as 318 to
9 380 per KW.

10 That was in 1997 dollars and so we would have to
11 inflate the 316 and the 400 by another two and a half
12 percent, to have numbers that are comparable with the 1997
13 values cited on pages 22, line 11 of my rebuttal
14 testimony.

15 Q So in other words, you are saying that your
16 testimony on page 22 of the rebuttal there is a sentence
17 that refers there to Gas Turbine World?

18 A Yes.

19 Q There's a reference to the 1997 edition?

20 A Yes, sir.

21 Q Lines up from the bottom, if we look at I think
22 it's the middle column here, there's a reference that says
23 two times F-R, F-A. Do you see that in the middle column?

24 A Yes, I do.

25 Q Do you know what that's in reference to?

1 A Yes. That is saying that in this particular 695
2 megawatt unit that would be 2 frame 9 FA and it's a steam
3 generation of 265 megawatts shown in there. So the
4 community two frame 9(f)(fv) if I believe those are
5 measures, though I am not certain that would drive the heat
6 recovery stream.

7 Q Is that state of the art technology, to your
8 knowledge?

9 A My understanding is that it is, yes.

10 Q Now, I'd like to refer to page 3 of your direct
11 testimony, specifically lines 16 through 18?

12 A Yes.

13 Q You said there that an administrative
14 determination of future market prices based on inherently
15 uncertain predictions about producer and consumer behavior
16 and forecasts of future events or trends cannot, by
17 definition, establish known stranded costs. Is that still
18 your testimony?

19 A Yes, it is.

20 Q Would you explain what you mean by administrative
21 determination?

22 A Yes, I will. I am just trying to recollect in
23 this testimony if I give a definition here. That's what I
24 would refer to. But if not, I would be happy to provide
25 it. I don't see a definition all in one place. By

1 administrative determination, I am referring to a process
2 by which the Commission would hear evidence of what market
3 prices are based on computer models projecting supply and
4 demand and technology and fuel and all the rest as the
5 basis for selecting administratively market priced forecast
6 which would then be used to determine stranded costs and so
7 it's in particular the fact that the market price in put to
8 the stranded cost a calculation would result from computer
9 model and administrative process rather than from actual
10 market data.

11 Q Am I correct that in fact pages 40 through 41 of
12 your direct testimony you criticize PECO for using the
13 computer model in its restructuring proceeding. Is that
14 correct?

15 A I'm sorry. Pages 40?

16 Q 40 through 41.

17 A I think the criticism on pages 40 and 41 is in a
18 different vein. It's a criticism of using a predetermined
19 market price forecast for purposes of CGC calculation
20 during the transition period. That's the -- I believe the
21 particular criticism on pages 40 and 41.

22 Q When you refer to computer modeling are you
23 referring to the type that were used in the PECO
24 proceeding?

25 A I don't have a detailed familiarity with those

1 models but if they are similar to the types of efforts that
2 witness on behalf of OCA and industrials used in this
3 proceeding, then my answer would be yes.

4 Q So you are critical of I think OCA uses La Capra,
5 I am not sure what the specific. That's that it is
6 following your La Capra model?

7 A Administrative forecast which is unnecessary in
8 light of availability of market based options.

9 Q Would it be a fair characterization of your, for
10 lack of a better word model for calculation, stranded costs
11 would use the spread sheet model?

12 A No.

13 Q You did use a computer to some extent in
14 performing your calculations, didn't you?

15 A Yes.

16 Q And you have built certain assumptions into your
17 use of the computer. Is that correct?

18 A Yes.

19 Q And would one big difference between, say the
20 La Capra model and your use of the computer be that you
21 just use a lot less assumptions than La Capra uses?

22 A It's not a difference between the approach but
23 the big difference in the approach is I am not proposing
24 that any numbers be used for a one time determination of
25 the stranded costs and they are. That's the big.

1 difference.

2 Q Mr. Schnitzer, that was not my question. My
3 question wasn't about the result. My question was about
4 the two different types of models?

5 A You yes, three questions ago asked about my
6 calculation of stranded costs and then followed from that
7 and I just wants to point out the purpose of my analysis
8 was not to calculate --

9 Q That's fine. I'll accept this and I'd like an
10 answer to the question that I posed, which was is it
11 correct that one difference between your use of a computer
12 and the La Capra model is that there are a lot more
13 assumptions.

14 A La Capra model you included I thought I had
15 answered.

16 Q I'm sorry. I didn't get that answer.

17 I take it that you don't claim to be able to predict
18 with accuracy producer consumer behavior. Is that true?

19 A That is correct.

20 Q Would I also be correct that you don't claim to
21 be able to predict that accuracy of future events are
22 trends?

23 A Not in any absolute sense. Relative to some of
24 the other predictions in this particular proceeding, given
25 that I actually rely on some market data for the period

1 1998 to 2005, I think that that helps my projections
2 ceiling price projections be more reasonable because they
3 are based on a market priced front end.

4 Q Can the weather affect energy prices?

5 A On a short term or retail basis, absolutely.

6 Q Well, in fact, take just take events like hurri
7 canes, blizzards, heat waves, can't those effects have a
8 dramatic impact on spots energy prices?

9 A Weather as a dramatic impact on spot energy
10 prices several days a year or portions of several days a
11 year. Prices can spike up a lot on a very hot day,
12 particularly when equipment is unavailable and six hours
13 later they can have fallen dramatically when load has been
14 reduced. So the weather volatility for electricity prices
15 is really focused on relatively short intervals during the
16 year, most often.

17 Q Are you familiar with the effect that Hurricane
18 Andrew, as an example had on natural gas prices? Spot
19 prices I think in 1992, I believe?

20 A I have a recollection that there was an effect,
21 given some of the damage that was caused in from the
22 producing end of the natural gas cycle.

23 Q And the effect lasted significantly longer than a
24 day or so two, did it not?

25 A It did. I couldn't translate dollars for the --

1 Q It did affect electricity prices, didn't it?

2 A It probably had some effect. It would depend on
3 what region we are talking about. I would expect it had
4 very little effect on electricity prices in this region for
5 instance, where gas does not set market prices but a few
6 hours of the year.

7 Q But I take it you haven't, in your calculations,
8 you haven't made any attention to calculation for effects
9 of weather, have you?

10 A I don't think it's relevant to make that or
11 necessary to make that kind of calculations for these type
12 of purposes. Those are -- weather is inherently a
13 symmetric event. You can have calculations. You can have
14 unusually hot summers or you can have harsh winters in
15 which electricity prices will be reversed.

16 As long as those types of large symmetrical
17 difference to systematically predict whether it's going to
18 one side of the average or the other are for these types of
19 preferences it's not necessarily appropriate to try to
20 incorporate those documents.

21 Q Could you refer to page 8 of your direct
22 testimony, please.

23 A Yes, sir.

24 Q You may have gone over this this morning very
25 briefly. There are three sets of -- at that page you are

1 discussing three sets of assumptions that you say are
2 critical to estimating market prices. Is that correct?

3 A Well, I think a better statement would be I am
4 discussing three sets of assumptions or issues which have
5 primarily been responsible for the inaccuracies of past
6 such administrative forecasting efforts.

7 Q I don't want to put words in your mouth, but line
8 2 you say, quote, three sets of assumptions are critical,
9 unquote. Is that correct?

10 A Yes.

11 Q And the three sets of assumptions are very
12 clearly what the technology will be, when the technology is
13 needed and when there's a need for new technology. The
14 last one is fuel prices. Is that correct?

15 A Yes. The second is a set of assumptions made
16 about new supply timing and whether the market stays in
17 equilibrium thereafter. So it's timing. That I believe is
18 the way I characterized it.

19 Q You made assumptions about those three categories
20 in your testimony. Is that correct?

21 A For the purpose of calculating a ceiling price,
22 yes.

23 Q The technology of choice you referred choice was
24 gas versus non --

25 A Yes.

1 Q I believe that you also have a quote, unquote
2 need date for those new clients. Is that 2006?

3 A I don't believe I have characterized it as a
4 need. But for ceiling price purposes I made an assumption
5 that prices would have risen to --

6 Q You made the assumption regarding natural gas
7 prices, didn't you?

8 A Yes. Based to the maximum extent possible on
9 market evidence.

10 Q And because of that would you agree that price of
11 natural gas is an important factor?

12 A I would agree.

13 Q Do you follow natural gas markets, generally?

14 A I don't follow the short term markets,
15 particularly but I follow the term markets periodically.

16 Q You are familiar with the number of organizations
17 that forecast the gas prices.

18 A I am familiar that there are a number of them,
19 yes.

20 Q You say to you that the following organizations
21 forecast natural gas prices would you agree that some of
22 these organizations are EIA, ALGA, DRI, GRI and REFA?

23 A Yes. All of them.

24 Q Do you have an opinion regarding the accuracy
25 their price forecasts?

1 A I have had occasion to analyze the accuracy of
2 EIA's natural gas forecasts over time since 1982 or '85, I
3 forget the date. And EIA has been universally and
4 significantly high over that entire time period from either
5 1992 or 1995 to the current time.

6 I have a recollection that with respect to both REFA
7 and DRI that in the early, right around 1990 to 1992, that
8 they made some fairly wholesale revisions in their
9 forecasts because they were way high at that point. But I
10 have not done any analysis beyond that date of those
11 two --

12 Q Would it be a fair characterization that
13 forecasts of natural gas over time have been fairly
14 miserable?

15 A I think that's a fair characterization.

16 Q Did you review Public Utilities Fortnightly?

17 A Review is a strong word. From time to time I
18 skim that magazine. With no disparagement to the editor.
19 It is referred to as PUF.

20 Q Well, I won't comment. Your Honor, if I could
21 mark as the next exhibit in order this is a graph from
22 Public Utility Fortnightly January 1, 1996.

23 JUDGE CORBETT: The document will be marked as HSS
24 Cross Examination Exhibit 4

25 **(HSS Cross Examination Exhibit No. 4 was produced
and marked for identification.)**

1 MR. MOOT: Before any questions I'd like to ask
2 counsel whether he could please furnish the witness the
3 entire copy of the publication. In answering questions
4 there may well be an article that describes this and talks
5 about it that might be relevant. If there is no such
6 thing --

7 MR. WISEMAN: I don't have the article. I'd be
8 happy to if I did. I don't have it. I only have one
9 question for the witness on this graph, actually.

10 MR. MOOT: Are you going to offer this into
11 evidence.

12 MR. WISEMAN: I guess it depends on his answer.

13 MR. MOOT: Okay. We can address it.

14 BY MR. WISEMAN:

15 Q I might ask two questions. To your knowledge,
16 have you ever seen this graph before?

17 A I may have seen it. I have not studied it or the
18 article that it's drawn from.

19 Q Just observing it, does this appear as a
20 reasonable graph in the performance of natural gas
21 forecasts over time consistent with your understanding of
22 those forecasts? . Till, to the extent that this graph
23 shows that the volume of forecast to actual. Further in
24 advance we're evaluating the forecast perform that would be
25 consistent with my knowledge and experience.

1 MR. WISEMAN: Thank you. Your Honor, if I could
2 have marked as the next exhibit in order, this is actually
3 Duquesne's responses to two HSS interrogatories.

4 JUDGE CORBETT: This is one document?

5 MR. WISEMAN: One document. I put them together
6 into one exhibit.

7 JUDGE CORBETT: This will be marked and identified
8 as HSS Cross Examination Exhibit Number 5.

9 (HSS Cross Examination Exhibit No. 5 was produced
10 and marked for identification.)

11 BY MR. WISEMAN:

12 Q Mr. Schnitzer could you take a moment to review
13 HSS Cross 5, please.

14 A Yes, I will.

15 Q And actually while you are looking, I apologize.
16 Can you look at HSS-1, the one which is the second document
17 in this exhibit as well?

18 A I'm just looking, mine is -- there are three
19 pages.

20 Q Yes.

21 A Yes, I have reviewed these two pages.

22 Q Were these two interrogatory responses prepared
23 by your or under your supervision?

24 A Yes.

25 Q In the first one you say your gas price forecast

1 is derived from a Henry Hub forward quote. Is that
2 correct?

3 A Yes.

4 Q Then if we turn to the last page, there's a page
5 on Merrill Lynch letterhead. Is this the quote that you
6 relied upon?

7 A Yes, it is.

8 Q Are there any other materials you relied upon for
9 the quote?

10 A As I mentioned earlier, this document that you
11 quote from included three years Henry Hub data.

12 Q Did you make any attempt to go to review the data
13 to determine how on a current basis the quoted prices
14 compared to current Henry Hub prices?

15 A No. It was not -- I am sorry. At the time we
16 got this quote or subsequent --

17 Q No. From the time you received this quote and
18 you tabulated it in your testimony, did you make any
19 analysis regarding Henry Hub prices?

20 A No. I didn't feel that was necessary to do.

21 Q Did you make any attempt to repair the historic
22 record of the futures markets to see how often, on a
23 historic basis versus actual prices that occurred at Henry
24 Hub?

25 A We were speaking earlier this afternoon in the

1 context of the gas convention. I did review some
2 analysis. I have seen forward contracts held to maturity
3 for natural gas. And so yes, I am familiar with and have
4 done analysis of material for natural gas vis-a-vis actual
5 spot prices.

6 Q Those are actual spot prices at Henry Hub?

7 A Yes, they are.

8 MR. WISEMAN: Could I have marked as the next
9 exhibit in order the three pages of excerpts from Gas
10 Daily.

11 JUDGE CORBETT: All right. This will be marked as
12 HSS Cross Examination Exhibit 6.

13 **(HSS Cross Examination Exhibit No. 6 was produced
14 and marked for identification.)**

15
16 BY MR. WISEMAN:

17 Q Mr. Schnitzer, have you had an opportunity to
18 review this document?

19 A Well, I haven't. There's a lot of numbers and a
20 lot of text on it. So I have skimmed it but if there are
21 particular portions you can ask questions about it. I
22 would appreciate your directing them, sir.

23 Q Let me ask you one question. Do you read Gas
24 Daily in the course of your business?

25 A From time to time, but as I said earlier, more

1 concerned with the forward, longer term forward markets
2 than with the spot markets and so more of our effort is in
3 that regard rather than the daily prices.

4 Q Could you look at the first -- the first page of
5 this document a June 3, 1997. Do you see that?

6 A Yes, I do.

7 Q If you look out of the futures ever NYMEX and
8 Henry Hub column on the left, do you see that?

9 A Yes, I do.

10 Q If you could look at the settlement figures for
11 the year 1998 and I would offer that the year 1998 doesn't
12 actually appear on there, but it starts with January and
13 which is about the fifth or sixth number down.

14 A I see that.

15 Q Would you agree that the numbers that are there
16 for the period January through December, 1998 are
17 essentially consistent with the quote that Merrill Lynch
18 gives? I am not asking for a precise calculation of it but
19 just eye balancing they appear to be consistent. Am I
20 right?

21 A This would appear to be broadly consistent, yes.

22 Q If you turn to the next page, July 18, 1997,
23 that's the date that you got the quote that you discussed
24 earlier about, from concerning Columbia Gas transmission
25 rates. Is that correct?

1 A Subject to check, I don't recall the date on that
2 document.

3 Q All right. We'll get to that document in a
4 moment. Would you agree, then, that the January through
5 December, 1998 settlement figures for futures NYMEX and
6 Henry Hub are also basically consistent with the quote that
7 you got from Merrill Lynch?

8 A Yes, I would.

9 Q Now, would you refer to the last page, which is
10 December 10, 1997 and when you look again, at the futures
11 NYMEX and Henry Hub price for the calendar year 1998.

12 A Yes.

13 Q And would you agree that those figures are
14 somewhat higher than the figures that appeared in the
15 earlier edition?

16 A Yes. There has been a movement, short term
17 market in particular since the time my testimony was
18 filed. And in between, or prior to filing my rebuttal
19 testimony, we went back to check the term market to see if
20 there had been a movement in the term market and found that
21 while there had been significant spot movement and near
22 term future markets that the eight or ten-year strip market
23 had moved less than 5 percent which translates to about 70
24 cents a megawatt and deemed it not a material change in the
25 context of my ceiling prices and didn't make any revision

1 accordingly.

2 Q Would you agree with the proposition that the
3 fact that the short term spot market changed significantly
4 is evidence of the volatility and inability to forecast
5 after seeing the source of natural gas --

6 A There's no question that natural gas prices are
7 volatile as will be electricity prices. It is in my
8 judgment, the best we can do in that circumstance is to
9 rely on market data. That's why I have used the source
10 that I have used as opposed to WEFO or DRI or DOE type of
11 sources. As best as I am aware, the data that we have
12 relied on is still consistent with the long term market of
13 quotations for futures.

14 (Transcript continues on page 457.)

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1 Q You stated earlier that you included a
2 basin differential calculation in determining the
3 cost of gas.

4 Do you recall that?

5 A I believe I had stated it was a basis.

6 Q I'm sorry. Is that to account for the
7 transportation rate on pipelines?

8 A Yes. It is to account for the difference
9 between price at Henry Hub, as opposed to in the
10 market area?

11 MR. WISEMAN: If I could have marked as the
12 next exhibit in order, this is another response to
13 HSS interrogatory.

14 JUDGE CORBETT: This document will be marked
15 and identified as HSS Cross Examination Exhibit 7.

16 (Thereupon, HSS Cross Examination Exhibit 7
17 was marked for identification.)

18 BY MR. WISEMAN:

19 Q Mr. Schnitzer, are you familiar with the
20 document that has been marked for identification as
21 HSS Cross Exhibit 7?

22 A Yes, I am.

23 Q There is a one-page attachment. Can you
24 describe what that one-page attachment is?

25 A Yes. That one-page attachment is a quote

1 sheet from an affiliate of Columbia which gives a
2 quote for basis differential, or delivery costs, if
3 you will, from between Henry Hub and the TCO market
4 area.

5 Q Can you go to your exhibit MMS 33?

6 A Yes.

7 Q Do you see there in the year 1998 on MMS
8 33, you have a figure of -- I believe that is
9 actually 20 cents for the basis differential? Is
10 that correct?

11 A I believe we may have a digit truncation
12 here. I would have to check that.

13 We didn't print out two decimals to the
14 right, two digits to the right of the decimal point,
15 but my recollection is that we actually used 25 cents
16 escalation in inflation, but I would need to check
17 that --

18 Q Right.

19 A -- and that all we see here are the first
20 of those digits, but the fact that it moves magically
21 from point two to point three in one year leads me to
22 believe that there is a missing piece here that is in
23 the model and in the calculations.

24 Q That doesn't show in the Schnitzer model?

25 A In the spread sheet.

1 Q Thank you.

2 Q Going back to the attachment, HSS Cross

3 7 --

4 A Yes.

5 Q -- do you know where Columbia Gas -- first
6 of all, the TCO -- I think this was established
7 before -- stands for Columbia Gas Transmission? Is
8 that correct?

9 A Yes, and it is that pipeline, rather than
10 their Columbia Gulf affiliate.

11 Q Well, that is in fact exactly where I want
12 to go with this.

13 What is the beginning point of Columbia
14 Transmission's pipeline? Physically, what state is
15 it in?

16 A I am trying to recollect that, the
17 interconnection between Columbia Gulf and TCO.

18 Basically, TCO serves customers from Ohio
19 to West Virginia, Western Pennsylvania and the
20 Washington area, and I believe Maryland in-between,
21 and I am trying to -- some of their gas is sourced
22 right out of Appalachian fields, and I believe they
23 interconnect with Columbia Gulf, which in turn, you
24 know, goes down, goes down to the Gulf producing
25 areas.

1 I don't recall the exact point of that
2 interconnection.

3 Q Well, am I correct that if you want to get
4 Gulf Coast gas which is priced at Henry Hub prices,
5 you need to get transportation -- and you are using
6 the Columbia system in its entirety -- you need to
7 get transportation both on Columbia Gulf and Columbia
8 Gas?

9 Is that correct?

10 A That is correct.

11 Q Well, does that indicate to you that --
12 now, Columbia Gas Transmission and Columbia Gas have
13 separate FERC tariffs?

14 Is that correct? Do you know that?

15 A They have separate FERC tariffs, but both
16 of them have capacity release, and both own their own
17 transmission and the like, so it is not my belief or
18 expectation that these quotes would necessarily have
19 any relation to tariff rates.

20 Q If you are a party wanting transportation
21 on Columbia Gulf transmission, and you ask, you seek
22 to seek transportation only on Columbia Gas
23 transmission, will you get capacity on Columbia Gulf?

24 A No, you will not, but the question we would
25 ask the broker at Columbia Energy Service was to

1 quote us a basis differential between Henry Hub and
2 the TCO delivery area.

3 That is my understanding of what these
4 figures are, is their willingness to quote a firm --
5 a firm basis differential between those two points,
6 not between the interconnection of Columbia Gulf and
7 the market area.

8 Q Well, just looking at this exhibit, doesn't
9 it indicate to you that you need to add -- wasn't a
10 person telling you you need to add Columbia Gas, plus
11 a best guess transport number, which would, in
12 essence, have been the Columbia Gulf number?

13 A My understanding was that that second
14 column was a best guess at LDC Transport, if that was
15 going to be required for receipt delivery of the gas
16 from the pipeline to the power plant facility, not a
17 Columbia Gulf add.

18 Q So you believe that on an assured basis,
19 you can get transportation for to/from the Gulf Coast
20 region to the PJM or ECAR region for 24 cents?

21 Is that your testimony?

22 A This quote was oriented toward the ECAR
23 region, rather than the -- rather than the PJM area
24 we had asked for in Pittsburgh and Ohio as the basis
25 differential, rather than the eastern part of the

1 Columbia system, which is the more constrained part
2 of their system, but yes, that is what this quote
3 indicates to me, that on a, you know, 365-days-a-year
4 basis, the average price that's being quoted here is
5 about 25 cents.

6 Q Do you know what pipelines serve,
7 interstate pipelines serve the ECAR Region?

8 A I know some of the pipelines that serve the
9 ECAR region.

10 Q What are they?

11 A Columbia, Transco, I believe, Texas
12 Eastern, or now who are they?

13 Q No. Texas Eastern?

14 A Duke energy. I don't know how to describe
15 -- how to describe them.

16 I am trying to think who else comes across.

17 Q What about Tennessee?

18 A I believe Tennessee does as well. I think
19 Northern Natural comes through close to Lebanon as
20 well, the Lebanon lateral area, and some of the folks
21 out of the Colorado overthrust I believe also come
22 through, come through that area.

23 MR. WISEMAN: Your Honor, if I could have
24 marked as the next exhibit in order, these are sheets
25 from the FERC gas tariff, and I have a certified

1 copy, if that would be necessary for the record, and
2 it was no small undertaking getting a certified copy
3 from FERC.

4 MR. MOOT: I would like the gold seal for my
5 personal files.

6 JUDGE CORBETT: All right. This document will
7 be marked and identified as HSS Cross Examination
8 Exhibit 7 -- sorry -- Cross Examination Exhibit 8.

9 (Thereupon, HSS Cross Examination Exhibit 8
10 was marked for identification.)

11 MR. WISEMAN: And Your Honor, if I could
12 explain, on the certification page, you will note
13 that there is an individual certification for each
14 page, and the certification indicates that there are
15 two pages that are certified beneath it.

16 I apologize for the way this is done, but it
17 is the only way that I could get it from FERC, and
18 they misunderstood the request and gave me two copies
19 of every page.

20 To try to save some trees, I have only
21 included one page in each of the copies.

22 JUDGE CORBETT: All right.

23 BY MR. WISEMAN:

24 Q Mr. Schnitzer, just in general, can you
25 tell me what the documents are that I have handed you

1 that are marked as HSS 8?

2 A They appear to be at least excerpts of FERC
3 gas tariffs, or the first one looks to be for
4 Columbia Gas.

5 The next one appears to be for Tennessee, and
6 I haven't flipped any further than that through the
7 package that you have given me.

8 Q Will you accept, subject to check, that
9 there are tariff sheets for Columbia, and also for
10 Transco that we have in this packet?

11 A And Tennessee.

12 Q Yes.

13 A I will accept that.

14 Q Did you make any attempt to compare the
15 quotes you got from the TCO group to the rates that
16 are set forth in these tariff sheets?

17 A I did not.

18 Q Okay. Did you make any assumptions
19 concerning whether owners of CGC units would take
20 interruptible transportation or fund transportation
21 or release transportation?

22 A I believe the quote that we got, and which
23 was the basis of our calculations, was for 365 day
24 delivery.

25 That is what the telephone conversation

1 with the person in Columbia -- that is what it was
2 described to us as.

3 Q As I -- I'm sorry. I didn't mean to
4 interpret, but as a firm?

5 A Firm, yes, sir, not interruptible. We
6 thought about getting some interruptible quotes as
7 well, but given that we had this one, which we
8 thought to be firm, we thought that was a fully
9 adequate basis for going forward.

10 Q Did you make any assumptions concerning
11 payment for storage, by any chance?

12 A We did not.

13 Q One last question on your direct and cross
14 examination, and then I have some questions on your
15 rejoinder.

16 Could you refer to Page 49 of your rebuttal
17 testimony?

18 A 49 of the rebuttal testimony?

19 Q Yes. I think it is the rebuttal. It is
20 lines 7 through 10.

21 A Yes. I see those.

22 Q And there you are posing a request for some
23 kind of a retail market credit?

24 Is that a fair characterization of what
25 that testimony is about?

1 A In the retail market credit to the CGC,
2 yes.

3 Q By this testimony, do you mean to imply
4 that wholesale and retail prices are the same?

5 A I make no statement either way about that.

6 Q Well, do you believe that they are the
7 same?

8 A I don't know whether they are going to be
9 the same or not.

10 I can point you to instances where in
11 retail pilots to date where retail prices have been
12 lower than wholesale prices.

13 There are also instances where retail
14 prices reported have been higher than wholesale
15 prices, but I don't know which they are going to be,
16 but that is not -- that is not material to the
17 conclusions that I am drawing and the criticisms that
18 I am describing here on Page 49.

19 Q Well, in general, would you expect
20 wholesale prices to be lower than retail prices?

21 A They might. They might be, but I don't
22 know that we can conclude with certainty they will
23 be.

24 Q Now, I have some question about the
25 questions, just a few questions about your rejoinder.

1 MR. WISEMAN: And I apologies, Your Honor. I
2 know I am taking a long time.

3 JUDGE CORBETT: Yes. It is about twice as
4 long.

5 MR. WISEMAN: And I make a commitment that I
6 will keep the remainder of my cross examination very
7 brief.

8 MR. MOOT: Unless the question returns to DJC
9 20, we have no problem.

10 MR. WISEMAN: I always hate making the
11 commitment, but I believe that I can make that
12 commitment.

13 BY MR. WISEMAN:

14 Q You referred this morning to the sales of
15 the auction facilities both in the New England area
16 and in California? Is that correct?

17 A Yes, I did.

18 Q Now, first, let's talk about the California
19 auctions.

20 First of all, do you know whether all of
21 the units were must run units, or whether only some
22 of the units were must run units?

23 A My understanding is, with respect to PG&E,
24 all but one were must run, and with respect to
25 Southern California Edison, more than fifty percent

1 of the units, but much more than fifty percent of the
2 megawatts were must run.

3 Q Do you understand that the plants sold had
4 multiple units?

5 Are you aware of that fact?

6 A Yes.

7 Q And do you know whether all of the units at
8 each plant were must run, or whether only some of the
9 units at the plants were must run?

10 A I don't recollect that specifically. My
11 recollection, as I said, was that a majority of the
12 megawatts were must run.

13 I don't know how they break down across the
14 units.

15 Q If I understood your testimony this
16 morning, I think you would have to agree that the
17 value, that the value of must run and other units
18 would be different?

19 Is that correct?

20 A When those must run designations arise from
21 transmission and stability kind of issues, yes,
22 that's right.

23 Q Are you familiar with the contracts that
24 the California Commission has required of must run
25 units?

1 A Not in detail. My understanding is that
2 there are some transmission, transition must run
3 contracts, but that the ISO is to make a more formal
4 and final determination as to the nature of those
5 arrangements I believe sometime in 1998, is my
6 recollection.

7 Q Is my understanding correct that there are
8 three types of contracts, referred to as Types A, B
9 and C?

10 A So-called types A, B and C.

11 Q Can you describe how those contracts
12 differ?

13 A I don't know that I can give you a detailed
14 description of the differences on those three types.

15 Q Can you give me the detailed descriptions
16 of the contracts, themselves, any individual one?

17 A No. I am -- my familiarity I think was
18 with some earlier drafts of those arrangements, but I
19 haven't reviewed in detail the specifics of the
20 current A, B, C arrangements.

21 Q If I were to tell you that the must run
22 units came with 90-day cancellable contracts, is that
23 cancellable by the ISO?

24 Is that something that you would be
25 familiar with?

1 A It wasn't something that I was familiar
2 with, but it is not surprising to me.

3 Q Would you agree that a contract that is
4 cancellable would not have the same effect on market
5 value that a contract that is not cancellable would
6 have?

7 A Not necessarily.

8 Q You would have to understand what the terms
9 of the contracts are to make an evaluation?

10 A No. I would have to understand the
11 underlying physics of the electric system.

12 The fact that a contract is cancellable in
13 ninety days, but to allow someone to build two
14 hundred miles of lines, to cancel it would be a
15 material factor, to see whether you are bothered by
16 the ninety day cancellable term.

17 Q What does the term that California uses,
18 "must run," mean to you?

19 A It means the obligation to run when
20 required by the ISO, whether that would otherwise
21 take place on economic dispatch basis or not.

22 Q So it is not an obligation to run every
23 day, day in, day out, is it?

24 A Not necessarily, no.

25 Q It is only an obligation to run when the

1 ISO calls for it to run?

2 Is that correct?

3 A That's correct, but the physical
4 transmission instance which gives rise to those
5 requirements are well known, well studied, and well
6 described, that there are import limitations into the
7 market areas in both north and south California that
8 are voltage issues that arise, and so I think it is a
9 well studied and described problem as to the types of
10 circumstances under which those units are required to
11 run for stability reasons and the remedies that are
12 available to supplant them in that role.

13 Q PEPCO has a power exchange, as well as an
14 ISO? Is that right?

15 A I believe it will as of 1-1-98, if all goes
16 well.

17 Q There are many people that share that hope.
18 What price will these units, the must -- the --
19 quote/unquote -- "must run" units sell into the PX
20 when they are not on a -- quote/unquote -- "must run"
21 call?

22 A I don't recollect. The early contracts
23 that I remember, which covered a lot of the fixed
24 payments of those units, I think carried with them a
25 bid price of incremental cost, but I don't know if

1 the final contracts preserve that structure or
2 provided for bidding latitude for these must run
3 units.

4 I frankly just don't know.

5 Q Are you aware that the units are dual
6 fired?

7 They can be run by either oil or gas?

8 A Yes.

9 Q What supply basis serves California
10 predominantly now?

11 A Well, they get a lot of gas out of the
12 Permian and San Juan through El Paso.

13 I believe there's a lot of connections
14 there, and I think they get a lot of Canadian gas
15 would be the dominant pipeline interconnection with
16 California.

17 Q Well, in fact, hasn't there been a major
18 market shift in California, in that most of the gas
19 that supplies California now is produced out of
20 Alberta?

21 A I think that's right.

22 Q And the Alberta gas, by any definition, is
23 very cheap -- isn't that correct --

24 A Well --

25 Q -- as compared to domestic voltage?

1 A Yes. To the sometimes chagrin of the
2 Alberta producers, yes.

3 Q And doesn't that suggest to you that
4 natural gas fired electric units in California can
5 sell electricity in a competitive market at a fairly
6 low cost, given the Canadian gas prices?

7 A Well, those Canadian gas prices are not
8 uniquely available to these incumbent units, so I am
9 not sure I understand your question.

10 Q Well, everyone is going to sell into the PX
11 at one? They are just going to take out of the PX
12 whatever price is established?

13 Is that correct?

14 A To the extent they are not otherwise
15 getting must run payment, yes.

16 Q And if the natural gas fired units can sell
17 cheaply, isn't that in fact one of the hopes? One of
18 the goals of the California legislation is to lower
19 the price of electricity in California.

20 MR. MOOT: Can I ask for a clarification? The
21 last two questions used the term "low price" and
22 "cheaply" respectively, and I think it is fair to ask
23 for clarification.

24 Low price and cheaply compared to what?

25 MR. WISEMAN: Compared to domestic natural gas

1 prices.

2 MR. MOOT: I thought the question was --

3 MR. WISEMAN: Oh, I'm sorry. The price
4 referred to electricity.

5 BY MR. WISEMAN:

6 Q Let me ask the question in this context.
7 The goal of the California legislation was to reduce
8 electric prices because of competition? Isn't that
9 correct?

10 A It is to reduce electricity through
11 competition, would be the way I would state it, yes.

12 Q All right. And to the extent that prices
13 in California drop from current levels, would that
14 tend to depress the generation plants?

15 A You are talking about wholesale prices
16 dropping from current levels?

17 Q Yes.

18 A Yes.

19 Q Now, let's talk about, very briefly, about
20 New England.

21 Is it your testimony that no power flows
22 lead to New England from Canada?

23 A It is not my testimony that no power flows,
24 and I don't believe that is what I stated earlier
25 today.

1 Q So when you were talking this morning about
2 constraint, you weren't suggesting no power flows in
3 Canada -- I'm sorry -- into New England from Canada?

4 A No, I wasn't, but let me -- since you
5 asked, let me sort of amplify.

6 New England has a peak load on the order of
7 20,000 megawatts, and NEPOOL, you know, the peak load
8 I think is just a little north of 20,000 megawatts.

9 The hydro, Quebec Hydrophase Interconnect,
10 which is the principal method by which power comes
11 from Canada to New England, is rated 1500 megawatts
12 firm, so basically, you have got 1500 out of 20,000
13 plus is what is available to come through that
14 principal connection between Canada and NEPOOL, and
15 my comment this morning was, that wouldn't cover all
16 of NEPOOL's needs, and it wouldn't come close to
17 covering all of New England's needs.

18 Q Does power flow into NEPOOL from both New
19 York and PJM?

20 A No. It flows from New York. Sometimes it
21 flows from PJM into New York and into New England --

22 Q All right.

23 A -- but there is no direct connection from
24 PJM to New England.

25 The transmission limits between New York

1 and New England are limiting with respect to PJM as
2 well.

3 Q Are you aware that a number of new
4 merchants have been proposed in New England,
5 specifically in Massachusetts?

6 A Yes, I am.

7 Q Can you name some of those units, or just
8 tell us how many you know of have been proposed?

9 A Well, let's see. There are, like, American
10 National Power has proposed some plants in Maine, in
11 concert either with the Portland Pipeline or with the
12 -- the PAN Energy Pipeline.

13 There's another developer, whose name
14 escapes me, who has proposed a thousand megawatt
15 facility, I believe, in Connecticut, and several 100
16 megawatt facilities in western Massachusetts.

17 CIFE Energy was just announced the winner
18 of the Boston Edison solicitation, and they have
19 announced their intent on those sites to build
20 another 200,000 megawatts, so there are proposals of
21 that kind that are reported in the trade press and
22 the newspaper.

23 There are probably several others as well.

24 Q Is one reason for all of these proposed
25 merchant plants that under the NEPOOL agreement, the

1 costs of interconnection are essentially handled on a
2 rolled in basis, so that costs of interconnects are
3 shared by all participants in the market?

4 Is that something that you are aware of?

5 A I'm sorry. Are you speaking of cost of
6 interconnection of new facilities, or costs
7 associated with the affected cost of the transmission
8 group?

9 A Actually, both.

10 A Okay. Well, I don't have a -- I don't have
11 a specific understanding of the cost of
12 interconnection physically of a new facility,
13 although the practice to date has been that that is
14 the responsibility of the supplier, the utility, or
15 the developer to pay the cost of that
16 interconnection.

17 I don't know if that's -- if that's
18 changed.

19 I would be a little surprised if it has,
20 but that has been the practice to date, and I don't
21 have a detailed familiarity of the new NEPOOL
22 transmission pricing arrangements, but I am certain
23 that they flow from some kind of average cost, you
24 know, basis.

25 Q To the extent that there is an ease of

1 entry into NEPOOL -- and by "ease of entry," I mean
2 the financial cost of entering the market are
3 reasonable low -- would that tend to create more
4 competition in NEPOOL among electric generators
5 respectively?

6 A I'm sorry. Could you tell me the
7 particular types of ease of entry that you are
8 referring to here?

9 Q I am just talking about the financial
10 commitments required to enter the market.

11 A I'm sorry. If I could have the question
12 re-read?

13 (Record read.)

14 A I guess I don't -- I don't understand what
15 you mean when you refer to the financial consequence
16 of entering the market.

17 Q Well, let me rephrase the question, then,
18 and hopefully this can be the next to the last
19 question.

20 A The penultimate question.

21 Q Would you agree with the proposition that
22 to the extent that there is more competition in
23 NEPOOL among the electric generators, including new
24 electric generators that enter the market, that would
25 tend to drive down the value of existing plants?

1 A No. I think that the value of existing
2 plants is going to be driven by market price
3 expectations as to what price will prevail in that
4 marketplace --

5 Q What --

6 A -- and that will hinge more on people's
7 assessment of when and what kind of technology will
8 cap the market, and things of that nature.

9 That will be the principal determinative to
10 the asset value, and to a much lesser extent, the
11 kinds of considerations that you were asking me
12 about.

13 Q Well, to the extent that there are more
14 competitors in the market, and there is more
15 competition to serve the market demand, didn't you
16 expect that to reduce the price of electricity from
17 the current levels?

18 A No, not necessarily.

19 If what we are talking about is the market,
20 which is going to require some new capacity, which is
21 what New England -- developers in New England
22 believe, I think principally as a consequence of
23 nuclear retirement in New England, then there's going
24 to be jockeying to see who can secure whatever
25 contracts or whatever is required to build those

1 facilities, but that that is what is going to cap the
2 price, the cost of whoever is cheapest in building
3 that new facility, but assuming that these developers
4 are all talented and all do a pretty good job, it is
5 the intrinsic cost of adding the new supply which is
6 going to cap the price ultimately.

7 Q All right. Hopefully one last question.
8 It may end up being two.

9 You don't understand Dr. Weisenmiller to be
10 suggesting that there is a one-to-one relationship
11 between the sales in New England or California as
12 applied to Duquesne's generation assets, do you?

13 A Well, I'm not sure, is the answer.

14 We criticize Dr. Weisenmiller for not
15 having any basis or evidence to suggest that a Fort
16 Martin type transaction could be replicated now in
17 this region, and he replied in his testimony that,
18 "See the auctions around the country," presumably for
19 the proposition that they did somehow imply that
20 there were transactions available at book value here
21 in this region, and to the extent that that was a
22 correct implication draw from his testimony, then
23 yes, he was implying that there was some relevance to
24 these transactions, and as I discussed earlier today,
25 I would disagree with that quite strongly.

1 Q Do you agree with the proposition that in
2 conducting a valuation study, taking into account
3 various factors that would affect different sales,
4 that it would be better to consider more data points,
5 rather than less data points?

6 A It is better to consider more relevant data
7 points than fewer relevant data points, but the
8 addition of irrelevant data points does not often
9 help the process.

10 Q Is any data point relevant if it's outside,
11 in your opinion, outside Duquesne's service
12 territory?

13 A I would not -- I would not draw the market
14 as narrowly as Duquesne's service territory.

15 However, the California market is not even
16 in the same electrical interconnect as Duquesne.

17 The New England market at least has the
18 advantage of being in the eastern interconnect, but
19 it is only three major transmission constraints away
20 from Duquesne, and so I think hardly of direct
21 relevance to evaluation of its assets, but there are
22 many other assets and companies and plants that would
23 be much more directly relevant, but none have
24 testified with respect to any of -- those types of
25 facilities or plants were not among the evidence

1 cited by Mr. Weisenmiller.

2 MR. WISEMAN: Thank you very much, Mr.
3 Schnitzer, and thank you very much, Your Honor, for
4 your indulgence.

5 I appreciate it.

6 I would like to move the admission of Exhibits
7 HSS Cross, I believe it is --

8 JUDGE CORBETT: 3.

9 MR. WISEMAN: -- 3 through --

10 JUDGE CORBETT: 8.

11 MR. WISEMAN: -- 8.

12 MR. MOOT: Your Honor, if I may take a moment
13 to review these?

14 JUDGE CORBETT: All right.

15 MR. MOOT: Your Honor, we do not object to the
16 introduction of HSS 3 through 7.

17 We do, however, object to the introduction of
18 HSS No. 8.

19 It is a series of tariffs that the witness
20 said he did not review, and virtually no questions
21 were asked about them.

22 There is absolutely no foundation for them,
23 and I would note that the topic to which they related
24 was a TCO quote that was included in Mr. Schnitzer's
25 direct testimony, as rebutted in the rebuttal of Mr.

1 Weisenmiller, and all this stuff has been out a long
2 time, and this is just an attempt to make his case
3 through cross, and there is no foundation.

4 It should be denied.

5 MR. WISEMAN: Your Honor, I frankly don't
6 understand the grounds for the objection.

7 The tariffs are a matter of public record.

8 These are certified, and we provided a
9 certified copy counsel.

10 The fact of the matter is that Mr. Schnitzer's
11 testimony relies upon an assumed transportation rate,
12 and he assumes at least upon a one-page handwritten
13 note that he received from Columbia Gas Transmission.

14 It is extremely relevant to determine the
15 relationship of that one-page handwritten note to the
16 actual tariffs on file with the Federal Energy
17 Regulatory Commission.

18 The fact that Mr. Schnitzer did not review
19 those and does not in fact know the difference
20 between his tariff rates and the rates that are on
21 file at FERC is a highly relevant point in terms of
22 the reliability of his calculations --

23 MR. MOOT: And that fact --

24 MR. WISEMAN: -- and his --

25 MR. MOOT: Excuse me. And that fact is in

1 evidence.

2 He asked him that question, and he answered
3 it.

4 What I am talking about is tariff sheets, and
5 there is a difference between authentication, which
6 Mr. Wiseman has kindly done for us, and foundation.

7 When you have a trial, you have foundation to
8 show a witness an exhibit, and he talks about what is
9 in it, and whether it is relevant to the case, and
10 then it is admitted.

11 We had none of that here, and he is not going
12 to get it from Mr. Schnitzer, because he already
13 testified that he didn't think tariff rates were
14 relevant.

15 MR. WISEMAN: Your Honor, that is exactly the
16 point, that he did agree that it is relevant.

17 MR. MOOT: And that is in evidence.

18 MR. WISEMAN: I don't need to make -- first of
19 all, I don't need to make my case through cross
20 examination, but I do have the right to attempt to
21 impeach the witness, and that is offered to impeach
22 the witness and the reliability of his study.

23 It demonstrates that his assumption of a
24 transportation rate is invalid.

25 MR. MOOT: Your Honor --

1 JUDGE CORBETT: Okay.

2 MR. MOOT: -- I will make one final statement.
3 Please bear me out. Then I will rest.

4 What happens in these cases, and when this
5 kind of document gets admitted, we find in briefs
6 later references to line items that have not been
7 discussed with the witness and that counsel claims
8 determine that a particular fact is inconclusively
9 shown.

10 I will give Mr. Wiseman the option if there's
11 particular numbers on these pieces of paper he would
12 like to discuss with the witness, because he thinks
13 they are relevant to the TCO, the question, we will
14 just extend the cross examination.

15 He is free to do that.

16 Then he will have not only a foundation, but
17 he will have the witness's view whether this document
18 is relevant.

19 MR. WISEMAN: Your Honor, I have used up an
20 awful lot of the time in this hearing, and I would
21 say that if Mr. Schnitzer needs to go through these
22 tariff sheets right now and calculate the rates, we
23 are going to be here a very long time.

24 JUDGE CORBETT: Okay. I have heard enough. I
25 think that we will let the exhibit in for the limited

1 purpose of showing that the witness was unfamiliar
2 with the tariff rates.

3 That is the only purpose for which they are
4 being admitted. Okay?

5 MR. WISEMAN: Thank you Your Honor.

6 MR. MOOT: Thank you.

7 JUDGE CORBETT: Otherwise, Exhibits HSS Cross
8 Examination Exhibits 3 through -- 3 through 8 are
9 admitted, and we will take a recess until ten, or
10 five minutes after 3:00.

11 (Thereupon, HSS Cross Examination Exhibits 3
12 through 8 were admitted in evidence.)

13 (Recess taken.)

14 JUDGE CORBETT: We are back on the record.

15 Mr. Zielonis of PRA is up next.

16 MR. ZIELONIS: Thank you.

17 CROSS EXAMINATION

18 BY MR. ZIELONIS:

19 Q Good afternoon, Mr. Schnitzer.

20 A Good afternoon.

21 Q This panel that makes the final valuation
22 of stranded investment, can it use any forecast
23 information, or is it solely constrained to historic
24 transactions?

25 A Well, I think, as Mr. Marshall testified

1 yesterday, the panel can look at whatever it wants to
2 look at, but that the intent would be that it would
3 be guided by market evidence, rather than -- and
4 gives weight to market evidence, rather than to other
5 types of market price projections.

6 Q Well, that is not clear in your testimony
7 on page 48, line five, where you discuss objective
8 evidence.

9 That is why I asked the question, Mr.
10 Schnitzer.

11 Are you now saying that the panel can
12 select any evidence that it so desires in making this
13 determination?

14 A No. I don't think -- I don't think there
15 is any change in my testimony.

16 The proposal, as handled, would base its
17 decision on marked evidence.

18 Q Solely on objective market evidence?

19 A I believe that is the proposal, yes.

20 Q Do you believe that, or is that the
21 proposal?

22 A To the best of my knowledge, that is the
23 proposal.

24 Q And how far back can the panel go to review
25 this historic -- or strike that.

1 Is this objective evidence historic
2 evidence of market transactions?

3 A Well, it is hard to have evidence of market
4 transactions which are yet to occur, so I think that
5 it would be based on actual consummated market
6 transactions.

7 Q And how far back can you go for these
8 historic transactions?

9 MR. MOOT: Can I ask for a clarification,
10 whether he is talking about the date that the
11 transaction was signed, or of the term that the
12 transaction was for when he says "historic"?

13 BY MR. ZIELONIS:

14 Q How far back can you go, Mr. Schnitzer, for
15 the purposes of looking at this objective market
16 evidence?

17 A Well, if your question is directed at the
18 vintage of the transaction, itself, it seems to me
19 that that is a judgment to be made by the valuation
20 experts, but I would hope and expect that they would
21 rely on what they believe to be contemporaneous
22 market transactions that were still relevant and
23 valid for this purpose.

24 Q Is there a time period where objective
25 evidence becomes stale?

1 A There can be, yes.

2 Q And would that type of evidence not be
3 utilized in the valuation performed by this panel?

4 A "That type," being that which has become
5 stale?

6 A Yes.

7 A I would hope that the experts would give
8 that little or no weight if they determine that it
9 becomes stale, yes.

10 Q And why should they do that?

11 A Because the purpose of this valuation is to
12 establish the valuation as of that point in 2003, not
13 what it might have been, had it been done at some
14 earlier point.

15 Q And on page 48, line twelve, where you
16 indicate that the panel -- "It is anticipated that
17 the panel would use current best estimates," by
18 "estimates," do you mean forecasts?

19 A Yes. To the extent they were required for
20 the panel to complete its work, yes.

21 MR. ZIELONIS: Your Honor, that's all the
22 questions I have for the witness.

23 JUDGE CORBETT: Okay. I don't see Mr. Barak
24 in the hearing room.

25 The Environmentalists are up next, so I am

1 going to assume that he has no cross for this
2 witness.

3 Mr. Steward, you are up next --

4 MR. STEWART: Thank you, Your Honor.

5 JUDGE CORBETT: -- for MAPSA.

6 CROSS EXAMINATION

7 BY MR. STEWART:

8 Q Good afternoon, Mr. Schnitzer.

9 A Good afternoon.

10 Q I just have a couple of questions for you.

11 A I have heard that before.

12 Q I will try to be true to my word here. Do
13 you agree that your testimony on -- your rebuttal
14 testimony, I'm sorry, at page 52, and continuing onto
15 page 53 generally sets up a competitive scenario,
16 where suppliers are competing against Duquesne in its
17 supplier of last resort function?

18 A I'm sorry. Those page references again
19 were page 52?

20 Q Rebuttal testimony, page 52, over to 53.

21 A Okay. If you could give me a moment to
22 review that --

23 Q Sure.

24 A -- I would appreciate it. Thank you.

25 I have reviewed that section. If I could

1 ask you to repeat the section you are asking about,
2 the section?

3 Q Sure. Do you agree that your testimony on
4 those pages which I cited essentially set up a
5 competitive scenario, where competitive suppliers
6 compete against Duquesne as supplier of last resort,
7 or as the provider of services under the rate cap?

8 A I guess I would disagree with the
9 characterization of "set up."

10 I think it describes the choice that
11 customers would face between rate cap service on the
12 one hand and competitive office on the other.

13 I don't think it sets anything up.

14 That's what would happen under the statute,
15 which requires the company to offer to all comers
16 rate cap service and provides customers the choice to
17 choose those suppliers if they would like.

18 That is what happens when all customers
19 have those choices, and my testimony describes that.

20 Q All right. Fair enough. Are you aware of
21 how long Duquesne retains the obligation to serve as
22 supplier of last resort under the statute?

23 A Well, this section doesn't relate to a
24 generic supplier of last resort obligation.

25 It relates to the supplier of last resort,

1 or the resort service at the price cap levels, and
2 that form of obligation, to my understanding, will
3 continue to be in place so long as the company is
4 recovering stranded costs, either CTC or ITC, I guess
5 are the terms used in the statute, and that the
6 nature of the company's supply obligation after that
7 time is the subject for another day, but this
8 testimony speaks to the rate cap portion of its
9 obligation, which will go on only so long as stranded
10 cost collection is taking place.

11 Q Is it Duquesne's position that the
12 Commission might not permit it to fulfill its duty of
13 supplier of last resort or as the rate cap service
14 with purchases of energy, as opposed to its own
15 generation?

16 A No. I think that the question arises in
17 the context of if the company were to have divested
18 all or substantially all of its generation prior to
19 the time that this particular rate cap obligation had
20 been extinguished, the question arises as to whether
21 the Commission would be comfortable with that, and
22 what assurances, if any.

23 The Commission might require that the
24 company had adequate resources available to it, if
25 not owned, to meet that obligation.

1 That's an unanswered question, to the best
2 of my knowledge.

3 Q Do you believe that customers in the
4 competitive market for electric generation will
5 benefit by the fact that suppliers will have to
6 shoulder some of the risk of market price changes?

7 A I think that, yes, I think that
8 particularly when we get beyond the rate cap period,
9 where in effect the customers already have been
10 offered a service of risk management, a fixed price
11 option, but I think at any time thereafter that that
12 is one of the virtues of the marketplace, that risk
13 will be bought and sold, and different kind of
14 products will be developed where there is a different
15 sharing of the risk between customers and suppliers
16 on a basis which is mutually beneficial.

17 Q Would you include Duquesne in the group of
18 suppliers that will bear that risk in the generation
19 price fluctuations?

20 A I'm not sure I understand the question.

21 After the price cap period has ended, or
22 the rate cap period has ended, it is not clear
23 whether Duquesne will be in the generation business,
24 but if it is, it will be in that business on an
25 unregulated basis and will be indistinguishable from

1 any other competitive generation supplier at that
2 time.

3 Q What about before the rate cap is ended?

4 A Well, before the rate cap is ended, in the
5 absence of divestiture, the company has a defined set
6 of risks discussed at length by Mr. Clayton as to its
7 ability to fund its operating expenses, fund its
8 amortization commitment, and earn an acceptable
9 return on equity.

10 To the extent that it is relying on
11 wholesale sales to provide revenues to meet that
12 obligation, then it's at risk for those.

13 To the extent that the unavailability of
14 its generating plants requires it to purchase
15 kilowatt hours that it hasn't anticipated, it is at
16 risk for all those things under the terms of the
17 price cap, but not on the same basis as an
18 unregulated supplier post the end of the transition.

19 Q Do you agree that the Competition Act
20 envisions competition as the primary means of
21 controlling the price of generation?

22 A Yes.

23 Q Would you also agree that there is a high
24 degree of likelihood that if the competitive
25 generation charge in this market price is set too

1 low, that it would harm competition?

2 A Well, here I think we need to be perhaps a
3 little more specific between wholesale and retail.

4 I believe I have stated in my testimony
5 that a CGC which is set at too low a level will not
6 create an opportunity for a fair choice between
7 Duquesne's default service and competitive service,
8 and that would be a bad thing.

9 The extent to which that will frustrate or
10 poison effective competition at a wholesale level is
11 a separate question.

12 Independent of the CGC level under the rate
13 cap and the amortization commitment the company has
14 proposed, it has very strong incentives to operate
15 its generation as competitively as it can, you know,
16 to operate it when it is profitable to do so, to shut
17 it down when it is not profitable to do so.

18 Those particular competitive incentives are
19 not disturbed by the CGC phenomenon that you
20 described, but the retail piece of it would be.

21 Q On Page 5 one of your rebuttal testimony,
22 at line fifteen, you state that Duquesne's RFP may
23 well have been influenced by the current market
24 structure.

25 Is that true?

1 A That is what the testimony says, yes.

2 Q And my question is: Were you referring
3 there to the wholesale market structure as it exists
4 today?

5 A Yes. There were -- and I couldn't remember
6 exactly which parties, but there were complaints
7 about the company's RFP process, that somehow the
8 results were not valid, because there exists rate
9 pancaking, or because we don't know exactly how this
10 is going to work, or that is going to work, and my
11 point here is that that may well be the case, but
12 that is the world in which the generating assets
13 live, and their value is what it is in the world in
14 which they live, and so that was the sense of what I
15 was responding to here, which are principally
16 wholesale market structure issues, but I believe also
17 the uncertainty about other retail markets might open
18 up was one of the complaints that was raised in this
19 regard, and I think at lines eighteen and nineteen, I
20 reference that retail uncertainty in addition to
21 these wholesale issues that we have just been
22 discussing.

23 Q Is it true that Duquesne has set the CGC at
24 a price which Duquesne believes it will be able to
25 sell any power that it currently sells at retail, and

1 which it may have to dispose of elsewhere due to
2 losing load at competition?

3 A Well, Duquesne has not set anything yet.
4 If we are talking about its proposal --

5 Q Yes.

6 A -- to set the CGC on an annual basis using
7 this auction until and unless an interceding index is
8 available, if that was the thrust of your question --

9 Q Yes.

10 A -- then I believe the answer is yes, that
11 if a customer chooses an alternate supplier, what
12 Duquesne Light has available to it as an option is
13 either to purchase less at wholesale or to sell more
14 at wholesale.

15 That's all the options it has as a
16 regulated utility under this price cap as I have
17 testified.

18 It is not going to spend any money
19 marketing this default service, so it has no market
20 expenses that go away, or anything of that character.

21 All it has is more power available than it
22 otherwise would have, and we devalue that power.

23 Q Do you believe that Duquesne's proposal
24 would encourage competition for loading in Duquesne's
25 service territory?

1 A Yes, I do.

2 Q How many suppliers does Duquesne project
3 are likely to be able to compete in its service
4 territory?

5 A I am not aware of whether there is a
6 specific projection or not.

7 If there is, it is something that I am not
8 familiar with.

9 MR. STEWART: I have nothing further.

10 JUDGE CORBETT: Okay. Mr. Barak showed up in
11 the hearing room, so we will take Mr. Barak next.

12 MR. BARAK: Thank you, Your Honor. I am
13 sorry. I was just across the hall.

14 JUDGE CORBETT: All right.

15 MR. BARAK: Thank you.

16 CROSS EXAMINATION

17 BY MR. BARAK:

18 Q Good afternoon, Mr. Schnitzer.

19 A Good afternoon.

20 Q I am Alan Barak. I represent the
21 Environmentalists.

22 We co-sponsored Mr. Biewald's testimony.

23 A Yes.

24 Q I listened with great interest to your
25 reaction.

1 JUDGE CORBETT: Is that like a teleprompter,
2 Mr. Barak?

3 MR. BARAK: Boy, do I wish.

4 THE WITNESS: I would feel better if you said
5 you listened with great approval my earlier remarks.

6 BY MR. BARAK:

7 Q Perry 1 and Beaver Valley 2, in your
8 opinion, are they presently economically useful?

9 A The only way I know to reasonably interpret
10 that question or meaningfully interpret that question
11 is to ask, given that the plants do exist, on an
12 economic basis, does it make sense to continue to
13 operate them or not, and the best that I know, based
14 on the analysis that I have seen, is the answer to
15 that question is yes, the continued operation of
16 these units is economic.

17 That is the only arguable decision that is
18 there to be made with respect to the disposition of
19 these assets.

20 Q From anyone's point of view? Is that the
21 assumption that we attach to the answer that is from
22 the Commission's point of view, the customers' point
23 of view, or the company's point of view?

24 A No. I'm not sure I know how to answer that
25 question, other than when you use the words of the

1 plant's economics, the only meaningful definition I
2 can ascribe to the use of that word is, it makes
3 sense to continue to operate them or not, and on that
4 basis, everything I have seen suggests the answer is
5 yes.

6 Q Does it make sense to whom? That was what
7 I meant by my last question.

8 A I'm sorry. Does it make sense to anyone
9 who was concerned with minimization of total costs
10 not yet sunk?

11 Q Does that include a customer of Duquesne
12 Light Company?

13 A I haven't interviewed all of them, but it
14 certainly should.

15 Yes. I think we all should have an
16 interest in decisions being made which minimize the
17 costs that are incurred to provide electric service
18 that are not yet sunk or committed.

19 Q Your answer to that question of mine about
20 economically useful, that is an answer that is
21 predicated on examining "to go" costs only? Is that
22 correct?

23 A Avoidable "to go" costs is what I described
24 as the proper context for making that determination,
25 yes.

1 Q And the Duquesne rates presently in effect,
2 do they include any of the sunk costs for either of
3 those two units?

4 A Yes, they do.

5 Q Would you agree that the rates presently in
6 effect, that the customers pay include a return of
7 and a return on sunk costs for those two units?

8 A Well --

9 Q Excuse me. Could you answer yes or no, and
10 then explain?

11 A The answer is different with respect to the
12 two units.

13 With respect to Perry, the answer is yes.

14 With respect to the leased portion of
15 Beaver Valley 2, there is no return on the Duquesne's
16 earnings on those lease payments, recovery of the
17 lease payments.

18 Q And the lease payments are calculated to
19 provide an effective return on and return of sunk
20 investments?

21 Is that correct?

22 A The lease payments are what the -- let's
23 not get the lessor and lessee confused, but what the
24 people on the other end of the lease require for --
25 for having provided the funds when they purchased the

1 portion of the assets of the leased things.

2 I don't believe they were calibrated on any
3 basis as we would typically think of it.

4 On a cost of service perspective, they were
5 a commercial set of terms that were agreed to by the
6 parties.

7 Q And that sale and lease back arrangement
8 involved the party to whom Duquesne makes the lease
9 payments on the facility?

10 Is that right?

11 A That's correct.

12 Q And thereby tying up capital in the
13 ownership of a facility, correct --

14 A That's correct.

15 Q -- capital that could earn a return on
16 somewhere else, correct?

17 A I presume that those investors believe that
18 capital has an opportunity cost, yes.

19 Q And capital that could earn a return on
20 somewhere else, correct?

21 A The opportunity cost applies to both, yes.

22 My point was just that Duquesne Light was
23 not getting any return on its lease payments.

24 That's --

25 Q From the customers' point of view, with the

1 proviso in your last few answers, that "to go" cost
2 analysis for determining economically useful or not
3 rests on a foundation of the customers' already
4 paying the return on or return of sunk costs for
5 Perry 1, correct?

6 A No, and I need to correct the question.

7 You didn't use the word "avoidable" before
8 "to go" costs in your question, and so my answer is
9 going to be conditioned on avoidable "to go" costs
10 being a more proper characterization of what I said,
11 and it doesn't rely on that foundation at all.

12 Sunk costs are sunk, and there may or may
13 not be a dispute about who ought to pay for them.

14 The company will have its legal position
15 about, you know, what it means to already have those
16 be found prudent and to be included in just and
17 reasonable rates, and somebody else can have a
18 different proposition, but from an economic
19 perspective, independent of how that legal issue,
20 legal and policy issue gets decided, the economic
21 question to minimize the costs not yet sunk of
22 providing electric service is precisely the one I
23 articulated.

24 It doesn't rest on any particular
25 foundation of the disposition of sunk costs.

1 Q Is stranded cost recovery about sunk cost
2 or "to go" cost?

3 A Stranded cost recovery is about sunk costs.

4 Q And if the company receives in one form or
5 another an order from this Commission authorizing the
6 collection of stranded costs through the CTC, do you
7 anticipate that some portion of the revenues paid by
8 customers to the company will reflect return of
9 and/or return on sunk costs in Perry 1?

10 A If you are asking whether sunk costs at
11 Perry 1 represent a portion of the company's stranded
12 costs claim, the answer is yes.

13 Q How about sunk costs reflected through the
14 device of the lease payments of Beaver Valley 2?

15 A Yes, also.

16 Q You mentioned in your discussion of Mr.
17 Biewald's sur-rebuttal the Ohio Edison PEPCO Power
18 sale.

19 Do you recall that?

20 A I do.

21 Q Were you involved in negotiating the terms
22 for that sale?

23 A I was not involved in the negotiation of
24 that contract.

25 I was involved prior to the execution of

1 that contract in some of the planning that led up to
2 that transaction.

3 Q I recall during your oral rejoinder your
4 telling us about a couple of asset sales up in the
5 northeast, and how -- if I misparaphrase you, please
6 correct me -- and how it was important to look at all
7 of the factors and provisions of this sale, not just
8 one particular term.

9 Do you recall generally that testimony?

10 A I don't recollect it in the way you
11 summarized it.

12 I think I said that we had to make sure
13 that those transactions were comparable with respect
14 to the underlying market and comparable with respect
15 to the assets under consideration.

16 That is what I remember testifying about.

17 Q And your way of searching for comparability
18 is to look at all the terms of any particular deal?

19 Is that right?

20 A All of the ones -- in the context of my
21 testimony earlier, all of the terms that are relevant
22 to establish the comparability of the market and the
23 comparability of the assets.

24 That doesn't necessarily mean each and
25 every term, just the ones relevant to the

1 determination.

2 Q You have to look at all the terms to
3 determine which you think are relevant, right?

4 A I don't need to. I don't mean to defense
5 here, but I think I could know, without looking at
6 the document, that who was paying the FERC filing fee
7 was not relevant to the comparability, for
8 instance --

9 Q I hear you.

10 A -- things of that nature, so you are the
11 one using the word "all," and I can't accept the word
12 "all," because I don't think it is right.

13 I am not trying to be difficult.

14 Q And I understand, but you do have to
15 examine the terms to make a judgment as to which are
16 relevant for your comparability judgment, correct?

17 A There are certainly many terms that one
18 would want to examine to make that judgment.

19 Q And those -- and I don't think we are
20 disagreeing here.

21 It is just that that group of -- quote --
22 "relevant" -- unquote -- terms may be a subset of
23 some larger group that you will examine? Is that
24 right?

25 A It could be.

1 Q And what you did when you examined the
2 terms of those two Northeast asset sales is, you
3 looked at a number of terms for each, and then you
4 made a judgment as to relevance, and came to your
5 conclusion on comparability, correct?

6 A Yes. I would perhaps substitute the word
7 "characteristics" for the word "terms," which you
8 used.

9 I don't know that they were -- all the
10 factors that were listed were not terms of any
11 particular arrangement.

12 They were characteristics of the underlying
13 market, and the "assets" would be perhaps a better
14 choice of words.

15 Q You didn't present to us earlier today a
16 similar analysis for the Ohio Edison PEPCO deal? Is
17 that right?

18 You presented to us your conclusion?

19 A Yes, that that transaction represents an
20 arm's length transaction at about the time these
21 plants went into service and had an extended, to my
22 recollection -- it's been some time since I looked at
23 the details, but that transaction extended through
24 the late '90s, with some cancellation options or
25 capacity reduction options triggered about now, but

1 that it was a transaction which covered a portion of
2 the period that Mr. Biewald was looking at, and that
3 reflected somebody's market price expectations, at
4 least two parties at about the time that he was
5 starting his analysis, and that it was a relevant
6 data point, and that it was very different than the
7 market price assumptions or the value of output
8 assumptions that were reflected in his analysis.

9 Q To determine whether it was comparable, in
10 the sense you used "comparability" earlier today in
11 your oral rejoinder, one would have to examine the --
12 quote -- "relevant" -- unquote -- characteristics or
13 terms of that agreement, right?

14 A Sure, and I -- you know, when I said a few
15 moments ago that I didn't participate in the
16 negotiation of that agreement, I hope I didn't imply
17 that I was unfamiliar with that agreement, because I
18 certainly didn't mean to do that.

19 Q There were literally dozens of short and
20 long term power deals in that ten-year period
21 involving ECAR companies selling capacity and energy
22 to other firms?

23 Is that right?

24 A I think the dozens part of it would require
25 the short term piece of your statement.

1 If we are looking at longer term, the
2 dozens -- only the dozens would probably not apply.

3 Q You would not test avoided cost against
4 Perry 1 and Beaver Valley, because those were base
5 load facilities? Is that why you chose a long-term
6 deal?

7 A I'm sorry. I am not catching your
8 question.

9 Q I will rephrase the question. Beaver
10 Valley 2, Perry 1, they were built as base load
11 facilities, correct?

12 A They were.

13 Q And your "to go" view of those facilities
14 looks for comparable arrangements for base load
15 power, as opposed to intermediate or peaking power?
16 Is that right?

17 A Yes. If you want to get some indicia of
18 the value that those units can produce, you would
19 want something that would measure an indicia value,
20 base load power -- there is no question about that --
21 and PEPCO is one such. The Duquesne GPU transaction
22 that I mentioned this morning is another such base
23 load transaction.

24 Yes, you would want to make sure it had
25 base load characteristics.

1 Q And is it implicit, in your judgment, that
2 you look at a surrogate for base load power, or base
3 load power is that the requirements for the company
4 during the ten-year period were for similarly sized
5 base load facilities?

6 A No. That didn't factor into my earlier
7 discussion at all.

8 Q Well, in factoring that period, the company
9 could well have met its requirements at any
10 particular time by going to short term or even spot
11 market arrangements, correct?

12 A Yes, but that is not relevant to the
13 analysis that I am describing or that Mr. Biewald
14 should have undertaken.

15 If the question is, what is the value of
16 the output of those facilities in comparison to its
17 cost, then one has to -- has to find an estimate of
18 the value of the output.

19 Those facilities don't run just for a year,
20 and they are capable of running long into the future,
21 so you need an indicia of value that's beyond 1987 or
22 1988.

23 You need some longer term projection of
24 what those market price expectations or value
25 expectations would be, and that is the relevant way

1 to assess the economics of those assets, as opposed
2 to, what did Duquesne Light need, and what it might
3 have done at that period of time.

4 The question is: What is the output of
5 those units valued at properly, and what are the
6 avoidable costs of producing that output?

7 Q Is that also the analysis that the
8 Commission should apply to the stranded asset claim
9 in this case, that is, when we look forward in time,
10 we look not merely to temporary or spot or very short
11 term market prices, but we look for the prices that
12 are the surrogate for building facilities that serve
13 the same function as the facilities that the company
14 is claiming are stranded assets?

15 A No. I think that the either/or that you
16 just posed is not at all a collectively exhaustive
17 set of choices.

18 I don't think we should look just at short
19 term, and I don't think that the company has proposed
20 that we look just at short term.

21 The company has said that we should look at
22 market based data over the relevant time period for
23 the output of these units, and which happens to be
24 more short term, but whether that happens to be the
25 cost of the new facility is something that the market

1 has to tell us.

2 It is what the market value of that output
3 is, or the market value of the assets, and we
4 shouldn't presume that that is magically long run
5 marginal cost as of this moment or the next moment or
6 whatever.

7 We should find out from the market how it
8 would value the assets.

9 Q So you are suggesting that the market
10 tests, the customers -- excuse me. Let me rephrase
11 that.

12 So you are suggesting that the customer
13 look to the market for pricing of its requirements
14 for the stranded asset analysis, but when we look at
15 the history of one of one pair of these assets, we
16 look not to the market in any particular time, but we
17 look to much longer term relationships inviting the
18 -- embodying the investments in the facilities? Is
19 that right?

20 A No. That is not what I have said on either
21 count.

22 Q The Duquesne sale, the GPU you mentioned
23 earlier today --

24 A Yes.

25 Q -- you weren't suggesting that was

1 consummated, were you?

2 A The commercial terms between Duquesne and
3 GPU were agreed to on at least two separate
4 occasions.

5 The ultimate transaction did not go
6 forward, but it was a fully negotiated deal at two
7 points in time, and relevant to market price
8 expectations at those times.

9 Q Did power and money ever become exchanged
10 between those two plants?

11 A No, they did not.

12 Q And the New Jersey Board, you recall,
13 refused to approve the deal from Met Ed's side of it,
14 because it was an uneconomic transaction?

15 A Actually, I think it was New Jersey
16 Central's side of it.

17 Q You are quite right, but with that
18 correction, do you recall -- agree with the
19 statement?

20 A I don't recall the exact reasons why the
21 BPU in New Jersey did not approve the transaction,
22 but it did not approve the transaction.

23 Q And were you part of the negotiation of
24 that deal?

25 A I am familiar with the terms of that deal.

1 I was not involved first hand in the negotiations
2 with GPU.

3 Q You presented us earlier today with your
4 conclusion as to the comparability of the relevant
5 terms of that deal with Mr. Biewald's analysis? Is
6 that right?

7 A I presented my conclusions about that being
8 a relevant data point about value expectations for
9 base load power at those points in time, yes.

10 Q You didn't examine capacity factors when
11 you looked at Mr. Biewald's testimony? Is that
12 right?

13 A I'm sorry. I don't understand the
14 question.

15 Q Well, Mr. Biewald's sur-rebuttal testimony
16 discussed his assumptions?

17 A Yes, it did.

18 Q Yes. And one of his assumptions were for
19 capacity factors?

20 A Yes, they were.

21 Q Did you make a judgment as to whether the
22 capacity factors he selected were correct or not?

23 A I didn't. My criticisms of his analysis
24 didn't require me to respond at that level of detail.

25 Q I can probably shorten this, then. Your

1 analysis of Mr. Biewald's presentation was
2 methodological?

3 You did not look at and make a judgement as
4 to the assumptions and their values that he included
5 in his analysis?

6 Is that right?

7 A That's correct. I don't have specific
8 criticisms about the numbers that he used for
9 operating costs beyond the fact that he didn't focus
10 on avoidable operating costs and exclude some costs,
11 and I don't have specific criticisms of his market
12 price or value figures, other than that they did not
13 reflect contemporaneous estimates along the way of
14 what those values are, but rather with respect to the
15 historical part of his analysis, they represent a
16 hindsight view of where we stand now, what the power
17 might have been worth, as opposed to then what the
18 people thought the power would be worth.

19 Q Thank you.

20 MR. BARAK: That's all I have, Your Honor.

21 JUDGE CORBETT: Okay. Mr. Clearfield.

22 MR. CLEARFIELD: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. CLEARFIELD:

25 Q I have a handful of questions, considering

1 the lateness of the hour.

2 Good afternoon.

3 A Good afternoon.

4 Q I wanted to make sure it wasn't evening.

5 A I believe it is still afternoon.

6 Q Let's go through this quickly. The market
7 price calculations that are shown in DJC 20 -- you
8 notice I didn't ask permission.

9 MS. MELLILO: 20?

10 Q I wanted to clarify, Mr. Schnitzer -- you
11 may not need to look at them specifically.

12 A Do you have a specific page of DJC 20 to
13 look at?

14 Q Well, for example, Page 3.

15 A Yes, sir.

16 Q Those were actually wholesale market price
17 for generation?

18 Would that be fair to say?

19 A Yes. I think that's -- that's a fair
20 characterization of those prices.

21 Q And if one were to -- one would have to
22 make adjustments or add-ons to account for delivery
23 costs, if you will, if you use a general term if you
24 want to determine the delivered cost of power that,
25 for example, a supplier would incur if it in fact

1 could purchase the power or did purchase the power at
2 these levels?

3 Is that right?

4 A If the purpose of that calculation was to
5 calculate the cost the supplier would incur of
6 getting the power to a particular place, then yes --

7 Q Yes.

8 A -- for that purpose, one would want to
9 include those costs.

10 Q And those costs would include such things
11 as distribution line losses for one example?

12 A Yes, they would.

13 Q Gross receipts tax would be another, if you
14 know?

15 A It might. I think they would in
16 Pennsylvania, yes.

17 Q Do I infer correctly from that last answer
18 that you have not made such a calculation to
19 determine what the delivered cost of power associated
20 with these market prices would be for Duquesne Light
21 Company?

22 A I haven't made an explicit analysis. I am
23 aware that Mr. Lahtinen has done some calculations
24 and sponsors the company's proposals with respect to
25 how, in addition to the CTC retail losses, ancillary

1 services, and some of those other costs of getting
2 power to the customers' meters are handled in some
3 manner back out of the retail tariff in a fashion
4 that provides an effective credit for those costs as
5 well on top of this wholesale CGC.

6 Q In answer to your question from, I believe,
7 Mr. Steward you said that if the CGC is set at too
8 low a level, it would frustrate competition, and I
9 believe you said that would be bad, and I am just
10 paraphrasing.

11 Do you remember that answer?

12 A Frustrate competition at retail, yes.

13 Q At retail, yes, that's correct.

14 A Yes.

15 Q Thank you. Now, when you used the term at
16 "too low a level," by that, did you mean that the CGC
17 would be set at a level which turned out to be lower
18 than the cost at which suppliers had to -- the cost
19 that suppliers had to pay to deliver power to
20 customers at retail?

21 A Well, I was -- my comments were directed
22 specifically about the wholesale component of that
23 problem, and the comment that I made earlier and the
24 testimony that, in my prefiled testimony bears on
25 this point, is in response to proposals from various

1 parties that we fix the wholesale CGC in advance,
2 using some forecast today for the rest of the
3 transition period, and what my testimony describes is
4 that there is a virtual 100 percent chance that the
5 actual market price at wholesale is going to turn out
6 to be different than that, and if the actual market
7 price at wholesale turns out to be higher than that,
8 then irrespective of retail losses, ancillary
9 services, the rest of it, I guess, which Mr. Lahtinen
10 begins with, irrespective of those issues, there is
11 the situation that you were asking me about, where
12 the CGC was set too low, it frustrates competition at
13 retail.

14 Q And that would be bad?

15 A That would be bad, that's right, and the
16 company, through its proposal to set the wholesale
17 part of that CGC on an annual basis using
18 contemporaneous market information is seeking to
19 avoid that bad outcome.

20 Q Granted, but it doesn't eliminate that
21 potential, does it?

22 A Well, I am not sure. I'm not sure why it
23 wouldn't, but if you have a specific circumstance
24 that you would like to describe to me, I can try and
25 respond to that, but I think that the company's

1 position is that that ought to deal very well with
2 this problem.

3 Q Is it your position that if in fact the
4 market data derives a market price at the beginning
5 of the year of, let's say, two cents for KWH, that in
6 fact there is potential that that market data request
7 turns out to be wrong, and that in fact the market
8 price during the year could end up being higher than
9 the two cents, which presumably is the point at which
10 the generation credit is set?

11 A Well, there is -- I guess there is a
12 practical problem here.

13 We could certainly, you know, have an
14 auction every day and set the CGC every day, but I
15 don't believe that that would strike a proper balance
16 between the economic signals and administrative
17 feasibility.

18 Certainly at the time that market
19 solicitation takes place, that number is valid and
20 will work for a period of time for customers deciding
21 whether to choose another supplier for a period of
22 time.

23 Could the market conditions change before
24 the next year, and therefore have that number be out
25 of whack one way or the other?

1 That's possible, I suppose.

2 The worst case is that three or four months
3 later, when the new CGC comes out, that situation is
4 rectified, so that we don't have a structural,
5 persistent long-term problem that doesn't get
6 corrected on a periodic basis by a new piece of
7 market evidence, and the company's proposal would,
8 you know, every year reset that number, and would, I
9 think, be an adequate protection against a sustained
10 period of time when the circumstance you fear might
11 occur.

12 Q So you are saying that it would change for
13 the next year?

14 A Yes, sir.

15 Q And you believe that would be -- that is
16 going to be adequate, all other things being equal?

17 A I think it is an adequate proposal, yes,
18 and certainly better than setting it now for the
19 seven-year period, as has been proposed by several
20 other parties.

21 Q But there's two ways that that price can be
22 inaccurate.

23 It can, am I right? One is that it is set,
24 and it perfectly captures the market price at a
25 particular point in time, but the market changes

1 subsequently, and it could be higher or lower for as
2 much as a year.

3 That is, the CGC could be higher or lower
4 than the actual market price.

5 That's one scenario, right?

6 A That's one scenario.

7 Q All right. And the other scenario --
8 forgive me, but, you know, we are all trying to get
9 through this.

10 The other scenario is that a determination
11 of the CGC using this market data just turns out to
12 be wrong, again neither high or low, but turns out
13 just not to actually reflect the actual market price
14 of power for some reason because of some noise in the
15 data, if you will?

16 A Well, I don't understand how the second can
17 arise independent of the first, so I guess I don't
18 accept the second, unless you can give me a specific
19 example about how that might occur.

20 Q Is it fair to say that you believe that
21 this RFP process, or this market based process in all
22 cases will capture the actual market price of power
23 in Duquesne's service territory?

24 A I believe in markets, and I believe that,
25 you know, the well-structured solicitation will get

1 the market price expectation at a particular point in
2 time.

3 Mr. Marshall has testified that the company
4 is open to constructive proposals as to how the
5 process that it went through last June could be
6 improved.

7 I am not aware that we have received any,
8 but, you know, the company is open to discussing
9 constructive suggestions as to how to improve that,
10 but I think that it is better than anything else that
11 is available, and, I think, adequate to the task.

12 Q But it could be inaccurate, I mean? Yes or
13 no?

14 A You know, when Christy's has an auction, is
15 the price inaccurate?

16 I mean, I don't understand.

17 It is the price that came out of that
18 auction.

19 I don't know on what basis one can conclude
20 that it was inaccurate in any sense.

21 I am just not understanding. I understand
22 how markets could move post auction, your first
23 category, but I am not understanding what the second
24 -- what might be in that second category that you are
25 asking me about.

1 Q Okay. Do you know whether Duquesne has
2 sold power at wholesale to suppliers for the purposes
3 of pilots, or the pilot, the Duquesne pilot?

4 A I don't know the answer to that. I know
5 that it sold power out of the solicitation, and I
6 don't know that it asked or knows the purpose to
7 which that power is going to be put by the payers,
8 and whether it will be resold to its retail customers
9 or not.

10 Q So beyond, or putting aside the
11 solicitation, or I don't mean to -- other than the
12 solicitation, you are not aware of sales by Duquesne
13 at wholesale to suppliers for the pilot?

14 A I am not aware of any. That doesn't mean
15 that they haven't taken place. It is just not
16 something that I am aware of.

17 Q You didn't check? Did you ask?

18 I am just trying to understand your
19 testimony. That's all.

20 A I don't think that it is relevant to the
21 company's proposal to establish a CGC on an annual
22 basis through an auction.

23 Q With respect to your statement on 52 of
24 your rebuttal testimony, and I think you made it
25 today in answer to a question as well, that you don't

1 believe that Duquesne will be, and I think the term
2 is "marketing" the rate cap service, do you recall
3 that testimony?

4 A Yes, I do.

5 Q Now, when you say the "rate cap service,"
6 are you referring to the selling generation as the
7 provider of last resort, or default supplier pursuant
8 to the -- at a rate that reflects the generation
9 credit?

10 A No. I am referring to Duquesne's
11 obligation under the statute, so long as it is
12 recovering stranded costs, to be willing to sell
13 power to all comers at the generation rate cap level.

14 Q Okay. That may be the same thing I said,
15 but that's okay. No. That is fine.

16 Are you aware of whether Duquesne
17 contemplates being able to change that generation cap
18 downward, that generation credit downward in any
19 circumstances, when it sells power to customers,
20 retail customers in that context?

21 A I think the company's proposal is to hold
22 that rate at the top until its stranded costs have
23 been fully recovered, and I frankly don't recollect.

24 If your question gets at issues of economic
25 development, power things like that, I frankly don't

1 remember the specifics of the company's proposal in
2 that regard as to under what circumstances
3 discounting of the rate cap or of the CTC would be
4 permissible.

5 Q You don't know whether that's included in
6 the company's proposal or not?

7 A Well, I believe there is a proposal
8 covering those issues.

9 I frankly don't recollect the details of
10 that proposal.

11 I think Mr. Lahtinen is probably the
12 company witness, or Mr. Hoffman or Mr. Lahtinen to
13 whom that question would be best addressed.

14 I frankly forget which.

15 Q Just a couple more areas. Earlier today,
16 you had some discussions about your calculation of
17 the cost of building a power plant, in this case a
18 combined cycle turbine, and you listed a series of
19 costs that would be contemplated.

20 Am I right that that entity that is
21 contemplating building that unit will build it if it
22 believes that it can recover all of its costs, plus
23 whatever return it believes is necessary for it to
24 commit to capital?

25 A Yes, it is. In my calculations is included

1 an estimate of that required return in the
2 calculation.

3 Q And the costs that we are talking about are
4 the costs that are reflected at least generally on
5 that, on your Schedule 2, I believe?

6 A That is correct, including the capital
7 structure and required return assumptions are on
8 Schedule 2.

9 Q Finally, on Page 54 --

10 A Rebuttal or direct? I'm sorry.

11 Q Rebuttal. I'm sorry. You make some
12 references to a proposal by Portland General Electric
13 with respect to characterizing a credit, and this is
14 in the context of a proposal by other parties,
15 including ENRON, that a portion of administrative and
16 general costs should be allocated to the generation
17 credit.

18 Just, do you have any personal knowledge of
19 the underlying basis for the calculation made by
20 Portland General to determine this, what you
21 characterize as a two dollar megawatt power credit?

22 A I have the -- I reviewed a copy of the
23 company's submission to the Oregon Commission, which
24 included the schedule, and which included a narrative
25 discussion of the other provisions of the pilot, that

1 it was a back out kind of a pilot, similar to a rate
2 cap, minus a CGC type of approach, and then this
3 credit would be added onto the otherwise CGC.

4 Q Now, did you make any adjustment to the
5 credit that was proposed by PGE?

6 A Not there.

7 Q There is a line there I think that said,
8 "if applied to Duquesne," and I just wondered whether
9 that reflected some --

10 A Well, let me describe that the Portland
11 proposal basically was for all large customers.

12 It was a flat credit dollars per megawatt
13 hour or cents per kilowatt hour.

14 I guess it was basically just about one
15 point one four dollars per megawatt hour for all
16 large customers basically was the amount of the
17 credit.

18 For other customers, it was a monthly
19 credit to the bill, so it was a per customer, rather
20 than a per kilowatt hour credit, and that piece was a
21 function of how many -- what percentage of those
22 customers actually were buying from competitive
23 suppliers.

24 It was a higher monthly bill credit if a
25 small number were buying from a competitor, and a

1 lower monthly bill credit if more customers were
2 buying, so what I did was undertook a little analysis
3 under varying assumptions about how much of
4 Duquesne's customers might go with alternate
5 suppliers, what would the weighted average of the one
6 point one dollar megawatt hour large customer credit
7 and the two dollars a month or four dollars a month
8 sliding scale per other customer bill, what would
9 that work out on a bill on a dollar per megawatt
10 basis, and on a range of assumptions about the mix
11 and participation, those Portland numbers applied to
12 Duquesne worked out to about \$2 a megawatt hour.

13 Q Now, is this a total credit for generation,
14 or solely associated with the allocation of
15 administrative and general expenses?

16 A This is the incremental credit above and
17 beyond the wholesale CGC effectively.

18 Q Okay. Now, did you make any determination,
19 or how did you determine whether the test year used
20 by Portland General was comparable to the test year
21 used by Duquesne for determining the credit?

22 A I don't believe that test year
23 comparability had anything to do with the figure.

24 What Portland had proposed was a dollar per
25 megawatt hour credit for large customers and a dollar

1 per month customer credit for other customers, and
2 those were the numbers that they proposed, and if you
3 take those numbers and apply them to Duquesne, you
4 get the results which are summarized on Page 54 of my
5 testimony.

6 Q When you say "applied to Duquesne," did you
7 make any determination of the comparability of the
8 level of administrative and administration costs of
9 Portland General, as opposed to its total cost, and
10 made the same comparison to Duquesne?

11 A No. The administrative and general
12 comments you are making, I don't find those words
13 anywhere in the Portland document.

14 It is described as a credit. A supplier is
15 to write a monthly credit to energy service
16 providers.

17 There is no justification in the filing
18 that it is based in any way on A&G costs at Portland.

19 It is basically a number to give a credit
20 when there is a small scale pilot to provide an
21 additional incentive for the suppliers to
22 participate.

23 The words "A&G," to my recollection, are
24 nowhere in the filing to the Commission about that
25 being a basis for the calculation.

1 Q So it actually doesn't specifically
2 reference A&G expenses as it is, at or in the
3 document?

4 A That's precisely the point.

5 Q Are you -- and perhaps we can do this as a
6 data request. Could you check the material that you
7 provided? And incidentally, I would like to ask if I
8 could have a copy of the material that you are
9 referencing, but could you check to make sure whether
10 that credit is not in fact a credit for unbundled
11 non-wire services, Mr. Schnitzer, and could you get
12 back to us?

13 You know what non-wire services are?

14 A I'm sorry?

15 Q Metering, billing, those kinds of things.
16 Are you familiar with that term?

17 A I am familiar with that term, and no, this
18 is not a credit for those kinds of services.

19 This is a credit applicable to their pilot
20 when they would retain the metering, billing, and
21 collection services, and it was restricted to the
22 pilot, and that it has nothing to do with the
23 so-called revenue circle and unbundling proposals
24 that the company has subsequently made.

25 Q Can I ask that you provide a copy of the

1 material that you are referencing?

2 MR. MOOT: Your Honor, I would note that out
3 of good faith we will do that, but that's his client.

4 MR. CLEARFIELD: Well, I would note, Your
5 Honor, that out of good faith, we made a reasonable
6 effort to try to figure out what in the world Mr.
7 Schnitzer is referring to, and we have no way.

8 We can't discern it, so we can either leave it
9 at that --

10 JUDGE CORBETT: Okay.

11 MR. CLEARFIELD: -- or --

12 JUDGE CORBETT: With that in mind --

13 MR. CLEARFIELD: -- ascertain --

14 JUDGE CORBETT: -- we will ask the company if
15 they can provide it?

16 BY MR. CLEARFIELD:

17 Q Based on this reference to Portland
18 General, is it your testimony that determinations of
19 administrative and general cost add-ons to a
20 generation credit is -- by other utilities or for
21 other utilities is relevant to the Commission's
22 determinations for Duquesne here?

23 A Only in the sense that there was a proposal
24 by an affiliate of one of the propounding parties in
25 this case which was markedly different, both with

1 respect to magnitude and duration, than the proposals
2 that are being made in this case, and that struck me
3 as a relevant fact to take note of, and which is why
4 I included it in my testimony.

5 Q And did you believe it was important to
6 determine whether the level of A&G costs for Duquesne
7 versus Portland General were comparable in any way,
8 not relevant, relevant?

9 A Let's say I don't -- I don't think it is
10 productive to continue to suggest that the Portland
11 proposal was in any way related to an avoidable A&G
12 allocation, because I told you my understanding is,
13 it is not, and that it was just to be a supplier of
14 credit for the purposes of a pilot, and even on that
15 basis, it was \$2 a megawatt hour for a year or less,
16 in marked contrast to the proposals in this case
17 which were double the amount, and seven times as
18 long.

19 Q So a determination to add a certain amount
20 of administrative and general costs to a customer
21 generation credit, a generation credit for a longer
22 period of time, you know, for a utility in
23 Pennsylvania, would that be more relevant, or that
24 would be just as relevant as the reference you made
25 to PG, Portland General?

1 A I think the position that an affiliate of
2 ENRON has taken on this very issue is relevant to
3 this Commission for that reason.

4 Q Have you reviewed the three to two decision
5 in the PECO restructuring case that was issued last
6 week by the Pennsylvania Public Utility Commission?

7 JUDGE CORBETT: Are you referring to the
8 motion by Commissioner Hanger?

9 MR. CLEARFIELD: Yes. I'm sorry. The motion
10 that was adopted three to two.

11 A I have skimmed portions of that 80-page
12 motion.

13 Q Did you skim the portion that indicated a
14 17 mill add on, A&G add on to the generation credit
15 that was adopted within that motion?

16 MR. MOOT: There has been no foundation for
17 that question.

18 If the questioner would like to show him a
19 copy of that record, where it references 17 mills in
20 A&G, I think we would be in good shape.

21 MR. CLEARFIELD: I can ask it subject to
22 check, or I can show you the order, whichever.

23 MR. MOOT: I think the latter would be fair.

24 BY MR. CLEARFIELD:

25 Q I will tell you what. Why don't we do

1 that, if in fact the order indicates that would you
2 consider that to be a relevant -- a relevant fact
3 that the Commission consider when it makes its
4 decision in this case with respect to whether a
5 portion of A&G expense should be added to the
6 generation credit determined for Duquesne?

7 A I would hope that the evidence in this case
8 would -- in this record would convince the Commission
9 that such an order was appropriate.

10 MR. CLEARFIELD: That's all I have, Your
11 Honor.

12 JUDGE CORBETT: Okay. Mr. Rubin, you are up
13 next for IBEW, but the schedule indicates that you
14 have no cross.

15 MR. RUBIN: That's correct. Your Honor.

16 JUDGE CORBETT: All right. And then the next
17 party up would be Duquesne Industrial Intervenors.

18 It indicates, Miss Polacek, that you have high
19 cross or heavy cross for this witness. Is that
20 right?

21 MS. POLACEK: I believe we were inaccurate in
22 our assessment of that and will be much shorter than
23 heavy, especially some is of the heavy that has gone
24 on today.

25 JUDGE CORBETT: Why don't we just take a

1 ten-minute recess anyway?

2 (Recess taken.)

3 JUDGE CORBETT: All right. We are back on the
4 record.

5 Miss Polacek, you may begin.

6 CROSS EXAMINATION

7 BY MS. POLACEK:

8 Q Good afternoon, Mr. Schnitzer.

9 A Good afternoon.

10 Q My name is Pamela Polacek, and I represent
11 Duquesne Industrial Intervenors.

12 A Good afternoon.

13 MS. POLACEK: Your Honor, as a housekeeping
14 matter, before I begin my cross examination, earlier
15 today, my colleague placed a request to submit
16 supplemental sur-rebuttal testimony, and we would
17 like to withdraw that request.

18 JUDGE CORBETT: All right. Very good.

19 (Discussion off the record.)

20 BY MS POLACEK:

21 Q Mr. Schnitzer, my cross examination is kind
22 of going to focus on your rebuttal testimony, so I am
23 sure you have got that handy.

24 A Yes, I do.

25 Q Can you first refer to page three of that

1 testimony?

2 A Yes.

3 Q And I would like you to focus on lines 11
4 through 12, where you talk about the Consumer
5 Advocate and the Industrials proposing sharing the
6 disallowance, and you quantify that as 460 million
7 for the Industrials?

8 A That's correct.

9 Q Are you aware that DII has proposed a
10 specific type of sharing allowance for created
11 generation cost in this proceeding?

12 A Yes, I am.

13 Q And are you aware that that is the equity
14 return disallowance?

15 A Let me just have a minute to refresh on
16 that point.

17 Yes. I believe my understanding of that is
18 summarized on Page 14 of my testimony.

19 Q And the 460 million dollars figure there,
20 that doesn't equate only to that equity return
21 disallowance, correct?

22 A I'm sorry. I have got to go back and find
23 that one.

24 Everything now has flipped.

25 Q If you would like time, it might be helpful

1 for you to review --

2 A Yes. I --

3 Q -- your answer there on page 3.

4 A Yes. I am just thinking to myself here, I
5 am wondering if the figures on Page 3 have been
6 transposed.

7 I think actually the 232 is applicable to
8 the Industrials on line twelve, and the 460 is
9 applicable to OCA.

10 I think I have transposed the attribution
11 of the amounts inadvertently there on page three.

12 Q So it is 232 for the Industrials?

13 A Yes.

14 MR. MOOT: I just note for the record that
15 that is confirmed by Page 14, line sixteen --

16 THE WITNESS: Yes.

17 MR. MOOT: -- and line six.

18 BY MS. POLACEK:

19 Q And that is -- I think our understanding
20 is, that is based solely on the equity return
21 disallowance, and not on different positions on the
22 valuation of the generation or regulatory assets?

23 A That is Mr. Baron's calculation of the no
24 equity return sharing proposal on his numbers for
25 generation stranded costs.

1 It would be a different number if it was
2 applied to the company's estimate of generation
3 stranded costs, so that's Industrials' number on
4 Industrials' generation stranded cost calculation.

5 Q Okay. Thank you. I have a couple of
6 questions on the company's proposal as far as
7 establishment of the competitive transition charge
8 and the competitive, or the -- what is it -- consumer
9 generation credit?

10 A Competitive generation credit, CGC.

11 Q CGC?

12 A Yes.

13 Q Now, under the company's proposal, will
14 suppliers know in advance of the yearly RFP what
15 price they must offer in order to attract customers
16 from Duquesne as a supplier of last resort?

17 A Yes. I think, under the company's
18 proposal, that solicitation would be done perhaps in
19 the fourth quarter, the results of which would be
20 made public, and the calculation of the CGC for the
21 ensuing calendar year, if it were to be done on a
22 calendar year basis, would be made public to
23 suppliers and customers alike.

24 Q And what if a supplier was seeking to enter
25 into a contract with a customer before that was made

1 public?

2 A Well, the supplier would know the CGC
3 applicable for the remainder of the year in which --
4 in which we were currently in, as it were, and could
5 make whatever estimate or assessment they wanted as
6 to what the CGC would be in the succeeding year.

7 Q Are you aware that in the competitive
8 environment, it is anticipated that some larger
9 customers may want to enter into long term supply
10 agreements in excess of one to five years?

11 A It wouldn't surprise me that that would
12 turn out to be the case.

13 Q And the suppliers and customers entering
14 into those types of arrangements, how are they to
15 assess their generation options and in effect ensure
16 that when they have their market price in that
17 contract, plus whatever the CTC may be established by
18 the company in any given year, will not exceed the
19 price that they would otherwise pay to get generation
20 from the company?

21 A Well, I have two answers to that. The
22 first is that that is exactly analogous to the
23 situation that currently exists in California, where
24 there is a price cap through 2001, and the back out,
25 if you will, for the CGC credit will be based on

1 actual power exchange prices, not -- calculated on a
2 monthly basis, to my understanding, notwithstanding
3 that those will be calculated, I believe, in arrears,
4 and that no suppliers know what they are going to be.

5 There are marketers in that marketplace,
6 including ENRON, who are offering two-year
7 residential commitments with fixed discounts and a
8 week, I believe, of free supply, or a month of free
9 supply at the end, so suppliers in that circumstance,
10 we see suppliers making multi-year commitments to
11 customers, notwithstanding the fact that they don't
12 have CGC certainty even for the next month, let alone
13 for the next year.

14 That's empirical fact number one.

15 The second part of my answer was that the
16 company, in the context of the pilot, made a
17 proposal, an option, if you will, for customers
18 seeking that certainty, that the CTC could be fixed
19 in advance for customers who were willing to commit
20 not to come back under the rate cap service to
21 provide the option of the kind of certainty that you
22 described.

23 I think it is a fair characterization that
24 that proposal met with less than enthusiastic
25 response even as an option.

1 The company regrets that, but that was its
2 affirmative proposal for dealing with the situation
3 that you described, and I can't -- I can't provide
4 any rationale as to why, as an option, that was
5 objectionable to as many parties as it appeared to be
6 objectionable to, but that would be another way of
7 dealing with the situation you described.

8 Q I am curious. On that option, how would
9 the yearly CTC, or the CTC responsibility for a
10 customer be set?

11 A In that case, what Duquesne proposed is
12 that there would be a -- in addition to the one-year
13 solicitation, there would be a solicitation for the
14 remaining term of the price cap or the rate cap, and
15 so that for that period, we get a forward price, if
16 you will, for the remaining term of the price cap,
17 and that that price would be used for setting the CGC
18 for customers electing to leave in the succeeding
19 year, and they would know with certainty what their
20 CGC would be for the remainder of the rate cap
21 period.

22 That was the company's option. I think it
23 was Option 2, I believe, was its designation in the
24 company's pilot filings.

25 Q So customers could get certainty if they

1 waived their statutory right to the rate cap?

2 A Well, to put it another way, if the
3 companies wanted certainty in return for assuming the
4 obligation of making a business decision about which
5 way they wanted it, they could do that, but that if
6 what they aspired to instead was, you know, the right
7 to certainty, if certainty turned out to be in their
8 benefit, and the right to the come back at the rate
9 cap, if that turned out to be better for them, that's
10 hardly a fair or a balanced trade, and I don't think
11 the company can be faulted for not offering it.

12 Q Now, if the main Duquesne proposal, and not
13 this option, is accepted by the Commission, am I
14 correct that the customer generation credit, plus the
15 competitive transition charge, will always equal the
16 generation rate cap?

17 A Yes, you are correct.

18 Q And is there a possibility that the
19 customer generation credit set by the yearly RFP will
20 diverge from actual market price?

21 A There is some possibility at some point
22 during the year that the market price would move, but
23 that as I discussed earlier, that if that problem
24 should arise, it will be rectified at the time of the
25 next solicitation and isn't going to be a long-term

1 systemic problem, such as could arise from a
2 seven-year fixed CGC forecast.

3 Q Mr. Schnitzer, would you refer to Page 7 of
4 your rebuttal testimony --

5 A I have it.

6 Q -- specifically, lines 21 through 22?

7 A Yes.

8 Q You discuss the linkage between the rate
9 cap and the CGC.

10 Would you agree that under the Industrial
11 proposal, there is also a linkage between the CGC and
12 the stranded cost total for the company?

13 A Well, as I recollect, in Industrials'
14 proposal, the CGC is the same as their market price
15 forecast for the first seven years, which is the
16 basis of a portion of their stranded cost
17 calculation, so in that respect, yes, but the same
18 market price forecast that is used in the stranded
19 cost calculation is also used for the CGC as the
20 Industrials' proposal.

21 Q Would you agree that generally, the linkage
22 between the two is such that a higher CGC in the
23 Industrial proposal would lead to a lower stranded
24 cost total for the company, generation-related
25 stranded cost total?

1 A Higher market price forecasts lead to lower
2 stranded cost calculations, other things being equal.

3 Q And that the inverse is also true?

4 A That is also true.

5 Q Next, would you turn to page nine, lines
6 six through seven?

7 You discuss the main intervenors. To which
8 parties are you referring?

9 A I think the -- I think that designation or
10 that description applies to the three parties as
11 shown in the table above on page nine.

12 Q And your assumption is that any parties
13 that did not respond agree with -- strike that.

14 Can you turn next to Page 10?

15 A Yes.

16 Q And as you look at the chart there, you
17 will notice the OCA and the OTS and the Industrials
18 all support a decommissioning expense recovery for
19 the company of around forty-four million?

20 A That's correct.

21 Q Do you agree that because the majority of
22 the parties depicted on this chart recommend a
23 recovery of forty-four million that the Commission
24 should accept that number?

25 A No, and I don't believe I have so

1 testified.

2 The purpose of this section of testimony is
3 to try and, for those parties who have provided
4 explicit alternate quantifications, to summarize on a
5 consistent basis what their positions are, and where
6 their differences arise as an aid to the parties, the
7 Judge, and the Commission.

8 Q And in general, you would agree that in
9 making its decision in the proceeding, the Commission
10 shouldn't simply count the number of parties on each
11 side of an issue and find in favor of the position
12 with more support?

13 A Well, I hope that the Commission, in
14 reaching its decision, the Judge, in writing his
15 recommended decision, will reach to the merits of the
16 arguments, rather than the numbers.

17 Q Can you next turn to Page 11, please?

18 On line seventeen, you discuss costs
19 independent of operations.

20 A That is the heading on line seventeen, yes.

21 Q Oh, sorry. What parties failed to include
22 costs independent of operation in their stranded
23 plant analysis?

24 A I believe, as shown in the table on Page
25 10, the OCA for certain, and I'm not sure about the

1 Industrials per se.

2 I think their differences came out a little
3 differently in their analysis, but certainly, the
4 OCA, with respect to the OCA, that's their position.

5 Q So is it your testimony that the
6 Industrials did not include costs independent of
7 operation?

8 A I'm sorry. Did not?

9 Q Did not include costs independent of
10 operation in their stranded generation plant
11 analysis?

12 A Well, it is my testimony -- and if you will
13 bear with me, I will give you the page cite -- it is
14 my testimony on Page 26 that the differences between
15 the company and the Industrials are largely
16 attributed to market price assumption differences,
17 rather than costs independent of operation per se.

18 Q So where would it cost, if the Industrials
19 did not include cost independent of operation in the
20 company's quantification of 208 million, or would
21 they be depicted on this chart on page 26?

22 A Because -- because the Industrial market
23 price assumption is so much higher than the
24 company's, particularly in the early years, during
25 the 1999 to 2005 period, the issue of shutdown or

1 negative margin or zero margin plants does not arise
2 in the Industrials' analysis, and so as we show here
3 on Page 26, they simply show more margin from those
4 plants than the company does under its market price
5 assumptions, and so we have shown that whole
6 difference as a market price difference.

7 At some point, as we reduce the market
8 price, and reduce the market price, at some point, we
9 could have classified a part of that bar as -- from
10 then on in as cost independent of operations, but for
11 the purposes of Page 26, that whole difference has
12 been attributed to the difference between the
13 company's lower market price assumptions between 1999
14 and 2005 and DII's much higher market price
15 assumption between 1999 and 2005.

16 Q So are you saying that the 208 million is
17 in the DII market price bar in here?

18 A I guess I'm not sure I know what the --
19 what you mean by the question, if the 208 million is
20 in there.

21 Q The cost independent of operation, I
22 believe our costs that these plants will incur,
23 regardless of where they operate, and if the DII
24 market prices recover those costs, would they be
25 included -- would that 208 million cost, independent

1 of operation, be subsumed in what you have depicted
2 as the market price bar in your reconciliation?

3 A The costs independent of operation are in
4 the DII's analysis, in their spread sheets and their
5 calculations'.

6 In describing the difference between their
7 value and the company's value, that 208 million
8 dollar difference is attributed to a market price
9 difference, as opposed to broken out into a cost
10 independent of operation vis-a-vis market price.

11 It would be an alternate way of depicting
12 it, but the thing that gives rise to the difference
13 is the difference in market price assumptions, as
14 shown on Page 26.

15 Q So would that different way of depicting it
16 take the 208 million out of there and only leave --
17 what is it -- the two hundred fifty-five million that
18 you attribute solely to a difference in market price
19 calculations, minus the 208 million would leave
20 approximately 47 million?

21 Is that what is the difference due to
22 market price calculations, or is it 255 million?

23 Is it somewhere in between?

24 A DII calculates a -- well, let me get you a
25 specific site.

1 DII calculates a generation operating value
2 -- I am now on Page 19 of my testimony -- of 128
3 million dollars for the company's plants as of
4 1-1-99, where generating operating value is defined
5 as the sum of two elements, the marginal analysis,
6 plus the cost of independent operation.

7 The DII is the 128 million, which is their
8 margin analysis.

9 For Duquesne, the comparable number is
10 minus 181.

11 That's a difference of three hundred and
12 some odd million dollars, and in trying to illustrate
13 what the key sources of that difference are, that is
14 the purpose of Page 26, and Page 26 shows that DII
15 doesn't show any plants being shut down, hasn't
16 pulled any costs out for shutdown, any unavoidable
17 costs, and having done all that, they have just shown
18 way more revenue than the company believes will be
19 realized, so Page 26 shows, yes, of that difference
20 of three hundred and some odd million dollars between
21 the values, most of it is attribute to the
22 incremental revenue that DII assumes the company
23 could receive, which is a market price, not that they
24 have excluded costs or somehow assumed that cost
25 could go away, because under their market price

1 assumption, that those issues never came up.

2 That is what the exhibit on Page 26
3 illustrates, and Page 19 is the difference that it is
4 trying to explain, the minus 181, the positive 128.

5 Q Would you turn next to, or I guess
6 backwards a little bit to Page 21?

7 A Yes.

8 Q On lines seven through thirteen, you state
9 that the Industrials are hedging their bet through
10 the sharing proposals?

11 A Yes.

12 Q Can you point to any Industrial testimony
13 that connects the market price forecast with the DII
14 equity return disallowance?

15 A No, but I don't understand -- I don't
16 understand the Industrials' proposals to be
17 separable.

18 I don't understand them to be proposing
19 that the Commission accept its stranded cost
20 calculation and not accept its sharing proposal.

21 I understand them to be, you know, two
22 parts of a comprehensive proposal, and all I am
23 observing here is that it is easier to rely on that
24 one time market price valuation, secure in the
25 knowledge that you have built in a 232 million

1 dollars shareholder hit before the deferred tax
2 errors that Mr. Clayton speaks of, you know, to
3 insulate yourself if it turns out that your market
4 price forecast turns out to be wrong.

5 That is the sole purpose for the statement
6 to which you are referring.

7 Q In your opinion, the Commission could not
8 accept the DII market price and stranded cost total
9 and reject the sharing proposal?

10 A No. That is not what I said. I said it is
11 not my understanding that that is what DII is asking
12 the Commission to do.

13 My understanding is that you are asking
14 them to accept your stranded costs quantification and
15 to accept your sharing proposal.

16 If I am mistaken in that, I am sure you
17 will correct me, but that is my understanding of
18 DII's proposal.

19 Q You agree that the sharing proposal has a
20 completely independent basis --

21 A It is --

22 Q -- whether you agree with the basis or not?

23 A It is articulated as a completely
24 independent basis.

25 It has the effect of insulating rate payers

1 from the first 232 million dollars of market price
2 estimation error, and I think that is undeniable.

3 Q Would you turn to Page 49, lines fifteen
4 through twenty?

5 (Discussion off the record.)

6 JUDGE CORBETT: All right. Let's go back.

7 BY MS. POLACEK:

8 Q On Page 49 of your rebuttal testimony,
9 lines fifteen through twenty, you discuss the need to
10 determine the CGC yearly in order to enable the
11 company to fulfill its obligations under the rate
12 cap.

13 Are you aware of whether Duquesne is
14 proposing limits on the ability of customers to
15 return to cap service after shopping in the market?

16 A I'm sorry. I guess I can't accept your
17 characterization of what this -- what this testimony
18 is describing, but if you would like to ask the
19 question without the characterization, I would be
20 happy to try to answer it.

21 Q One of the reasons that the company is
22 arguing that the CGC should be determined yearly,
23 instead of being predetermined for the entire
24 transition period under a proposal such as the
25 Industrials, is because the company is concerned

1 about fulfilling its obligations under the rate cap?

2 Am I correct?

3 A I wouldn't characterize it as that. The
4 concerns are two.

5 The concerns are, one, that there be a fair
6 choice for customers between the rate cap and the
7 competitive service, and second, that the company not
8 jeopardize its opportunity for stranded cost recovery
9 under the -- under the rate cap, but I wouldn't
10 describe either of those as concern over fulfilling
11 its obligations under the rate cap. In any event,
12 the company is going to provide that rate cap
13 service. It is a question as to whether the
14 customers have a fair choice on the one hand, and the
15 company has a reasonable opportunity for stranded
16 cost recovery on the other.

17 That is what the testimony addresses.

18 Q But isn't it true that when we were
19 discussing your alternate proposal, you said that a
20 customer could choose to give up the rate cap in
21 order to have a CGC set, or a CTC and a corresponding
22 CGC set for more than one year?

23 A We were talking about a proposal that the
24 company had made in the pilot at that juncture,
25 but yes.

1 BY MS. POLACEK:

2 Q Setting the CTC in advance, in your view,
3 is not connected with the rate cap and performing
4 under the rate cap and customers being able to return
5 to service in the event that actual market prices
6 exceed a predetermined CGC?

7 MR. MOOT: I would object to that as a
8 compound question.

9 MS. POLACEK: I'll rephrase it, if I can
10 remember it.

11 BY MS. POLACEK:

12 Q Is it true that a concern that the company
13 has expressed is that if a CTC and CGC are set for
14 each of the seven years of the transition period now
15 that whenever the market price goes above that
16 predetermined level customers will come back to
17 supplier of last resort service from the company?

18 A That incentive will clearly exist, and the
19 concern that customers will act on that incentive is
20 clearly a concern of the company. But --

21 Q Go ahead. I didn't mean to interrupt you.

22 A But in that respect, there's no injury to
23 the company. The injury to the company comes from
24 the reverse circumstance, which is a cause of greater
25 concern from the company's perspective. If the CGC

1 is set too high, there will be an artificial
2 incentive for customers to leave, and the company
3 will absorb a revenue shortfall that would otherwise
4 have been available to recover stranded costs.

5 That is a situation that would be of more
6 concern from the company's perspective. The first
7 concern is a concern as between suppliers and that
8 the customers have a fair choice between rate cap
9 service and competitive service.

10 Q Earlier with counsel for ENRON you
11 discussed Portland General Electric. Did you make
12 any comparison of the overall level of rates between
13 Portland General and Duquesne?

14 A It wasn't relevant to my analysis. I did
15 not.

16 Q Would you expect or do you know whether
17 Portland General's rates are generally lower than
18 Duquesne's?

19 A I believe that they are generally lower
20 than Duquesne's. Again, that's not relevant to the
21 testimony on that point.

22 MS. POLACEK: Thank you very much,
23 Mr. Schnitzer.

24 I have no more questions, Your Honor.

25 JUDGE CORBETT: Is there any other party who

1 has not cross-examined this witness who wishes to
2 cross-examine Mr. Schnitzer at this time?

3 (No audible response.)

4 JUDGE CORBETT: Hearing no response,
5 Mr. Moot, do you have any redirect?

6 MR. MOOT: Yes, I do, Your Honor.

7 JUDGE CORBETT: All right.

8 REDIRECT EXAMINATION

9 BY MR. MOOT:

10 Q Would it be a fair statement,
11 Mr. Schnitzer, that several interveners in this case
12 support a level of recovery of nuclear
13 decommissioning costs?

14 A Yes. As a stranded cost, yes.

15 Q Do you have any opinion regarding whether
16 those costs could be fairly characterized as costs
17 independent of operation?

18 A Yes. Nuclear decommissioning cost is an
19 example of costs independent of operation. They
20 represent costs not yet spent but which will have to
21 be spent regardless, largely independent of whether
22 the units run anymore or shut down now or 15 or 20
23 years hence. As such, they are a category of costs
24 independent of operation.

25 Q Do you recall a colloquy with Mr. Wiseman

1 regarding a basis point adjustment that affected the
2 market price stream in your exhibits?

3 A Yes. We discussed the basis point
4 differential as effective the spot price derivation
5 between 1999 and 2005 based on the RFP results.

6 Q Do you have any understanding of, for
7 example, what an increase in 100 basis points would
8 translate into with respect to the electricity market
9 prices?

10 A Yes. He had asked me whether I knew what
11 the effect would be if we had used a 300 basis point
12 differential, as opposed to a 200 basis point
13 differential. I didn't at the time, and I so stated.

14 But over the break we've been able to do that
15 calculation, and the use of a 300 basis point
16 differential would increase the spot prices over the
17 1999 to 2005 period by an average of four percent,
18 less than \$1 a megawatt hour.

19 Q Do you have any opinion regarding whether
20 Duquesne's RFP gives a marketer the ability to hedge
21 market price risk?

22 A Yes. For those marketers who might have
23 been contemplating making offerings under the various
24 Pennsylvania pilots, the opportunity to have a one-
25 year fixed price commitment, as was offered in the

1 one-year RFP, would have been a way for those
2 marketers to hedge or balance a portion of their
3 risks if they so chose.

4 Q Do you have any knowledge regarding whether
5 Portland Electric offered an incentive type credit
6 for the full transition to competition? And by that,
7 I mean the post-pilot period.

8 A Portland General filed the details of its
9 more comprehensive retail choice plan I believe on
10 December 2nd, and that plan did not include any
11 analog of supplier incentive payment as had been
12 proposed earlier for its pilot.

13 Q Now, with respect to the incentive credit
14 for the Portland pilot, what was the basis for the
15 CGC underlying that credit?

16 A The basis for the CGC was the company's
17 estimate of avoided energy costs base, I believe, on
18 a recent historical analysis of avoided energy costs
19 to serve retail load.

20 Q Was there a capacity adder on those energy
21 costs?

22 A There was not.

23 MR. MOOT: I have no further questions, Your
24 Honor.

25 JUDGE CORBETT: Ms. Melillo, do you have any

1 recross?

2 MS. MELILLO: No, I don't, Your Honor.

3 JUDGE CORBETT: Mr. Berger.

4 MR. BERGER: No, Your Honor.

5 JUDGE CORBETT: OSBA and the City did not
6 cross before. Mr. Wiseman.

7 MR. WISEMAN: No, Your Honor.

8 JUDGE CORBETT: Mr. Zielonis.

9 MR. ZIELONIS: No, Your Honor.

10 JUDGE CORBETT: Mr. Stewart.

11 MR. STEWART: Nothing from me, Your Honor.

12 JUDGE CORBETT: I don't believe Mr. -- I
13 forget the name. Mr. Barak is out of the room at the
14 present time.

15 Mr. Clearfield.

16 ' RE CROSS EXAMINATION

17 BY MR. CLEARFIELD:

18 Q. Mr. Schnitzer, do you know what the
19 proposed CGC for Portland General was as a percentage
20 of Portland General's overall rate?

21 A No, I don't, but I would --

22 Q I just asked you whether you knew or you
23 didn't know.

24 A I'm sorry. Am I not allowed to complete my
25 answer?

1 JUDGE CORBETT: He can explain it if he
2 wishes.

3 A I'm not aware of what it would be expressed
4 as a percentage as you described. But, again, the
5 reason I don't know it is I don't consider it to be
6 relevant.

7 BY MR. CLEARFIELD:

8 Q. With respect to the incentive credit for
9 suppliers that you referenced that was applicable to
10 the pilot, you said it only included energy; is that
11 correct?

12 A No, that's not correct.

13 Q What was the incentive credit for the
14 pilot?

15 A The incentive credit was wholly apart from
16 the CGC backout that Mr. Moot had asked me about. It
17 was the CGC backout that included only avoided or
18 detrimental energy. I didn't say anything about the
19 incentive credit in that respect.

20 Q Do you know whether the incentive credit
21 was to account for any particular cost that a
22 supplier might incur in that instance?

23 A I think I told you in our earlier
24 cross-examination my understanding of the basis of
25 that supplier incentive credit.

1 Q And that is it wasn't specifically
2 applicable to any particular cost as far as you knew?

3 A As far as I was aware, it was not based on
4 any A & G costs at Portland but was derived on some
5 other basis.

6 Q So you don't know whether it was designed
7 to cover other costs?

8 A I don't know what other costs it was
9 designed to cover. There's no mention that it was
10 based on Portland's A & G.

11 MR. CLEARFIELD: Thank you.

12 JUDGE CORBETT: Ms. Polacek.

13 MS. POLACEK: No questions, Your Honor.

14 JUDGE CORBETT: Any further redirect,
15 Mr. Moot?

16 MR. MOOT: No, Your Honor.

17 JUDGE CORBETT: Mr. Schnitzer, thank you very
18 much, sir. You're finally excused.

19 Let's go off the record for housekeeping
20 chores at this point.

21 (Discussion off the record.)

22 MORGAN K. O'BRIEN, called as a witness, being
23 duly sworn, was examined and testified as follows:

24 JUDGE CORBETT: Would you begin, please, by
25 giving us your full name for the court reporter,

1 please.

2 A It's Morgan K. O'Brien.

3 JUDGE CORBETT: Try to keep your voice up a
4 little bit, if you can, Mr. O'Brien.

5 DIRECT EXAMINATION

6 BY MR. MOOT:

7 Q Mr. O'Brien, did you submit direct and
8 rebuttal testimony and accompanying exhibits in this
9 case?

10 A I did.

11 Q And would those direct and rebuttal
12 statements have been Numbers 4 and 4-R?

13 A They are.

14 Q Do you have any corrections to those
15 statements or exhibits?

16 A I do not.

17 Q Are those statements and exhibits true and
18 correct to the best of your knowledge, information,
19 and belief?

20 A Yes, they are.

21 MR. MOOT: I'm now handing to the court
22 reporter two copies of said testimony and exhibits,
23 and I move that they be admitted into evidence
24 subject to any appropriate motions.

25 JUDGE CORBETT: All right. The documents

1 previously identified will be admitted in the record
2 subject to any proper motions.

3 (Duquesne Statement Numbers 4 and 4-R were
4 marked and admitted into evidence.)

5 (Duquesne Exhibit Numbers MKO-1A through
6 MKO-1E and MKO-2 were marked and admitted into
7 evidence.)

8 BY MR. MOOT:

9 Q Mr. O'Brien, are you generally familiar
10 with Mr. Weisenmiller's surrebuttal testimony?

11 A I am.

12 Q Would it be a fair statement that he takes
13 issue with whether Duquesne has achieved an
14 appropriate level of efficiency at its coal plants?

15 A Yes, it's correct to characterize it that
16 way.

17 Q Do you have any opinion with regard to
18 whether the merger will allow a material reduction in
19 the costs of operating those plants?

20 A Yes. One of the benefits of the Allegheny-
21 DQE merger is that there are certain synergies or
22 cost reductions of combining the two entities. A
23 portion of those cost reductions would be allocated
24 to the generation part of the business for Duquesne
25 Light.

Q Do you have any opinion regarding the

1 relative level of cost reductions that would result?

2 A As I believe was testified yesterday in
3 Mr. Marshall's testimony, he gave an example of, for
4 instance, in the year 2000, which is a year when the
5 merger has been up and running and we've been able
6 to, hopefully, accomplish the benefits themselves.
7 We estimated in that year that there would be about
8 nineteen and a half million of generation savings,
9 savings attributed to the generation portion of the
10 business in that year. Of that, we then allocate to
11 the specific plants themselves.

12 Because of how the study was put together,
13 which I've testified in the joint merger case, sort
14 of the parameters of the study, but some of the
15 significant parameters were that there were -- We
16 were reviewing for duplication of costs. When you
17 combine the companies, certain of those costs would
18 go away. That's really where the savings come from.

19 A large portion of that is in the
20 administrative and overhead costs category, where
21 we've got two sets of accountants, two sets of
22 lawyers, and different overhead, which would be
23 somewhat eliminated in the merged entity. Then those
24 costs would then be allocated to the power stations.

25 When we look at overhead, we excluded --

1 First of all, looking at savings, we excluded the
2 nuclear operations because Allegheny Energy,
3 Allegheny Power, doesn't have any nuclear operations.

4 In addition, the other issue was in the
5 foreign fossil stations. Foreign being fossil
6 stations that Duquesne Light has ownership in but
7 that it itself doesn't operate. There, again, we've
8 said that there wouldn't be much synergies there
9 because we don't operate those, and there wouldn't be
10 efficiencies in combining those.

11 So the bulk of the dollars in the generation
12 area would be attributed to the El Rama and Cheswick
13 power plants. In the year 2000, that nineteen and a
14 half million, we've allocated over nine million to El
15 Rama power station in that one year and a little over
16 seven million at Cheswick.

17 Q Do you have any basis for comparing those
18 numbers on a percentage basis of what the costs
19 otherwise would be?

20 A Well, one of the comparisons is comparing
21 those savings to the actual non-fuel O & M costs
22 provided in PJC-20, which on a percentage basis it's
23 over 40 percent, a 40-percent reduction in those
24 costs.

25 MR. MOOT: At this time, Your Honor, I would

1 like to have marked as an exhibit a copy of a
2 statement of Financial Accounting Standard Number 71.

3 I would put all the parties at ease that we
4 will not introduce this. I will just ask Mr. O'Brien
5 a question about it.

6 BY MR. MOOT:

7 Q Mr. O'Brien, would it be a fair statement
8 that Mr. Weisenmiller's testimony fairly harshly
9 criticizes the standard for recovery of a regulatory
10 asset being used by the company?

11 A Yes.

12 Q Is there anything in Financial Accounting
13 Standard Number 71 that would be relevant to his
14 criticism?

15 A I guess, first of all, on Page 5 of my
16 direct testimony, he takes where I have said in short
17 and tried to summarize FAS 71. Basically, it appears
18 that he's taking that summarization and interpreted
19 that to be more restrictive than the actual
20 accounting pronouncement.

21 My attempt was merely to summarize, in general
22 terms, what Statement 71 said. He was reaching the
23 conclusion, based on my testimony, that there had to
24 be a valid order which provided for certainty of
25 recovery in order to qualify for a regulatory asset.

1 The purpose of looking at the actual statement
2 is to look on Page 707 of the publication that I
3 copied the statement from.

4 Q If I could just interject, for purposes of
5 the copies circulated to the parties and perhaps
6 those given to the court reporter, it appears that
7 the number of the page has been cut off, but it is
8 the second page, the right-hand portion of that page.

9 A The paragraph number is Paragraph 9, which
10 is the general standards of FAS 71. Basically, under
11 Paragraph A there's a two-part requirement, and the
12 first part is that it's probable that future revenue
13 in an amount at least equal to the capitalized cost
14 will result from inclusion of that cost in allowable
15 costs for ratemaking purposes.

16 The term "probable" is footnoted to the bottom
17 of the page, which is highlighted. The definition of
18 probable provided in the footnote is that the term
19 probable is used in this statement with its usual
20 general meaning, rather than in a specific technical
21 sense, and refers to that which can reasonably be
22 expected or believed on the basis of available
23 evidence or logic but is neither certain nor proved.
24 Then it goes on.

25 MR. MOOT: Thank you, Mr. O'Brien.

1 I have no further questions. The witness is
2 available for cross-examination.

3 JUDGE CORBETT: We're going to take a party
4 out of turn because Mr. Rubin is unavailable for a
5 portion of tomorrow morning, and no other party
6 objects.

7 Mr. Rubin, do you need a few minutes to digest
8 the rejoinder testimony?

9 MR. RUBIN: No. I think we can move forward.

10 JUDGE CORBETT: All right. Very good. You
11 may go forward.

12 MR. RUBIN: Thank you. I thank you and the
13 parties for the courtesy, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. RUBIN:

16 Q Good afternoon, Mr. O'Brien.

17 A Good afternoon.

18 Q Could we start in your rebuttal testimony,
19 please. On Page 3 starting on Line 11, you state
20 that property taxes associated with generating plants
21 in Pennsylvania would be reduced to zero if the
22 company shut down a plant. Have you evaluated the
23 effect of this tax loss on the communities that would
24 be affected by a plant shutdown?

25 A No, we haven't. The attempt here was

1 merely to quantify costs that would be avoidable from
2 the company's perspective versus costs that would
3 continue.

4 Q On Page 5 in your rebuttal, the sentence
5 that's on Lines 4 through 6, here you estimate that
6 if El Rama were shut down you would have to pay
7 approximately \$8 million in severance costs to the
8 people who work at that plant, and the comparable
9 figure for Cheswick is approximately six million. Is
10 that right?

11 A That's correct.

12 Q Further down on Page 5 you indicate that
13 these figures were calculated assuming an average
14 severance cost of \$48,000 per employee. Would I be
15 correct that that \$48,000 is a figure that you
16 estimated for the merger, for the merger case?

17 A That's correct.

18 Q And would I also be correct that that's
19 based on the assumption that the severance package
20 would include two and a quarter weeks of compensation
21 for each year that an employee was employed by
22 Duquesne?

23 A That's correct.

24 Q And you assumed an average length of
25 service of 16 years?

1 A Right.

2 Q In addition to that, there are some
3 benefits, such as medical coverage, for a period of
4 time; is that right?

5 A That's correct.

6 Q Did you conduct any analysis to determine
7 whether this companywide estimate that was calculated
8 for the merger case would apply to the people who
9 actually work at Cheswick and El Rama?

10 A No. I mean the estimate in the merger case
11 was basically derived, One, with the help of a
12 consultant who had worked on numerous other mergers
13 in arriving at what a normal severance package, a
14 typical severance package may be.

15 The companies at that point, the merged
16 company, and to this date hasn't established a
17 severance policy or package. So this was really
18 based on management and some guidance from a
19 consulting firm.

20 Q At this point Duquesne does not have a
21 severance package where it could say this is exactly
22 what you would get? This is just an estimate?

23 A Not necessarily Duquesne, but the merged
24 company. I mean this was an estimate after the
25 merger and we become Allegheny Energy, what would be

1 the severance policy under that set of facts.

2 Q I understand that. But now you're taking
3 that same number and putting it into this case, which
4 we've been told over and over is the stand-alone
5 case.

6 A Right. Absolutely.

7 Q By using that number as your estimate here,
8 is that related to a specific severance package that
9 Duquesne has adopted?

10 A No. No. It's based on what we believe is
11 a reasonable estimate and then applying it to the set
12 of facts.

13 Q Again, even applying that estimate, you
14 haven't, for example, calculated the years of service
15 of the employees at Cheswick and El Rama?

16 A It's not that detailed.

17 Q Mr. O'Brien, hypothetically, if Duquesne
18 decided to shut down El Rama or Cheswick in 1999,
19 would it be able to lay off the employees at those
20 plants?

21 A I guess there's two issues. There's two
22 groups of employees that work at the plant. There's
23 union employees and management employees. But the
24 management employees, I don't believe there's a
25 question that we could lay those employees off. I'm

1 not aware of anything that would cause us not to be
2 able to lay those off.

3 MR. MOOT: Can I interject just to clarify?
4 Was that asking for just his understanding as a
5 layperson or a formal legal opinion or position of
6 the company?

7 MR. RUBIN: I'm not asking him for a legal
8 opinion.

9 JUDGE CORBETT: Try to keep your voice up,
10 Mr. O'Brien.

11 A With regard to the union employees, the
12 company, Duquesne Light, has a union contract in
13 place which generally guarantees employment through
14 the year 2001, or I guess it's October 2001, at some
15 point in 2001.

16 There is a provision in that contract which
17 allows, under certain circumstances, an employee
18 being severanced for involuntary release. One of
19 those circumstances is a shutdown of a plant.

20 My understanding is that in addition to that
21 there's other language in the contract which talks
22 about retraining those employees if there are certain
23 opportunities with outside contractors, the use of
24 those employees to train there.

25 I did not go through an analysis as to whether

1 that exists and what the cost of that would be versus
2 this scenario.

3 BY MR. RUBIN:

4 Q Mr. O'Brien, you filed rebuttal testimony
5 in the merger case last week, didn't you?

6 A Yes.

7 Q In your testimony in that case, I'd like to
8 read you a statement that you made, and then I can
9 show you the testimony if you need it.

10 A Sure.

11 Q You say, Both DQE and APS have contracts
12 with their respective union work force which are in
13 effect through 2001. Both contracts ensure job
14 security for the entire union work force throughout
15 the contract. In addition, the contracts ensure that
16 throughout the contract period the union work force
17 compensation level would not be reduced.

18 Then you go on and state, All of these
19 employees will be protected from having their
20 positions eliminated prior to 2001.

21 Would you like to look at this?

22 A No. I'm familiar with those statements.
23 Can I explain the context of those statements?

24 Q I would be happy to have you do that.

25 A I don't know if a question is being asked

1 or just --

2 Q The question was, Is that consistent with
3 what you just told me?

4 A In the merger case, the companies,
5 Allegheny and DQE, do not propose shutting down
6 plants. That's not in the company's filing.

7 What we're addressing in those statements is
8 the fact that if there are no plant shutdowns or none
9 of these extraordinary events that we're referring
10 to, which are not in our filing as our position, that
11 under those circumstances, all those employees under
12 the contract, my belief is they're protected. Their
13 jobs are protected.

14 Q Just so we're clear on this, when you
15 estimated the employee severance costs at El Rama and
16 Cheswick, would I be correct that you assumed that if
17 you close the plant in 1999 you would have to pay the
18 equivalent of about nine months of wages to those
19 employees for 1999 and you wouldn't have to pay them
20 anything in the year 2000 or 2001 or any year after
21 that?

22 A Yes. All I've quantified is in the year of
23 shutdown. In your instance, 1999, that's the year we
24 would incur the severance.

25 Q Do you know how Mr. Clayton has used your

1 estimate in his analysis?

2 A I am familiar with that.

3 Q Would I be correct that Mr. Clayton used
4 the numbers you gave him and assumed a shutdown in
5 1999 and --

6 A It would be a one-time payment.

7 Q And assumed your approximately \$8 million
8 at El Rama being paid in 1999?

9 A That's right.

10 Q Do you believe that's an appropriate way to
11 use the figures that you provided to him?

12 A I do. I believe these are -- In context
13 of looking at what the company's avoidable costs are,
14 which is the context of what we're providing, that's
15 actually a conservative estimate of what the
16 company's avoidable costs are.

17 If the circumstances did exist that we shut
18 the plant down based on an order or by some decision,
19 the actual cost if those employees couldn't be let go
20 would be that their labor would become a non-
21 avoidable cost. So our non-avoidable costs would
22 actually be greater in that situation.

23 Q In fact, if they couldn't be let go, your
24 non-avoidable costs might extend for as long as 36
25 months, rather than just nine months?

1 A Absolutely.

2 Q By the way, are you familiar with what
3 types of severance packages other utilities have
4 offered to their employees when this kind of work
5 force reduction takes place?

6 A No. My only familiarity was when the
7 consultant who came in to look at the merger talked
8 about typical merger packages, and they've worked on
9 dozens of electric mergers.

10 Q So you haven't been following what's been
11 happening out in Los Angeles with the Department of
12 Water and Power?

13 A I have not.

14 Q Then I won't ask you about it.

15 In your Exhibit MJO-2, which is part of your
16 rebuttal, you show a calculation of what you term
17 avoidable overhead. Do you know approximately how
18 much of that overhead represents salaries or wages
19 paid to Duquesne employees?

20 A I didn't do the calculation to distinguish.
21 We basically went through what the costs were and
22 what would cause them to be reduced.

23 Q Is at least a substantial portion of that
24 avoidable overhead salaries or wages?

25 A Yes.

1 Q And would what we've just discussed about
2 the employees at El Rama and Cheswick also apply to
3 these employees, that they might have some protection
4 that doesn't make it possible for you to avoid that
5 with just a severance payment?

6 A That's right, if they were union employees
7 under the contract.

8 Q So what you term here as avoidable overhead
9 may not actually be avoidable? I mean the avoidable
10 piece of that may be much lower; is that right?

11 A What this is is just, again, an estimate of
12 what costs could go away if the plant were shut down.
13 Those are costs that either are based on the fact
14 that there's transactions administering those number
15 of employees, administering the invoices related to
16 those employees, different transactions that have to
17 be administered. As those are reduced, the
18 requirement of administration is less.

19 Q But, again, there's no specific program in
20 place today to quantify what the impact of these
21 types of decisions would be on Duquesne's employees?

22 A The company -- I mean the company has
23 proposed to do a full study. That's in, I believe,
24 Mr. Clayton and Mr. Marshall's testimony.

25 Q I'm not asking you about what they said.

1 I'm saying right now today you don't have anything
2 where you can tell us what the impact of this
3 decision would be on Duquesne's employees. We've
4 talked about a lot of the issues today, but we don't
5 have answers yet; is that right?

6 A No. The context of this was really on what
7 impacts the financial results, the ability to recover
8 stranded costs. I mean that's the context of this
9 analysis. It wasn't directed at what were the
10 impacts on the employees.

11 MR. RUBIN: I appreciate that. Thank you.

12 Thank you, Your Honor. That's all I have.

13 JUDGE CORBETT: Is there any other business
14 before we adjourn for the day?

15 (No audible response.)

16 JUDGE CORBETT: Okay. Thank you all. We'll
17 resume at 9 o'clock tomorrow morning.

18 (Whereupon, at 5:20 p.m., the hearing recessed
19 until December 17, 1997.)

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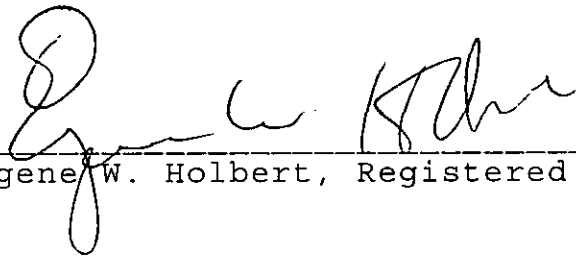
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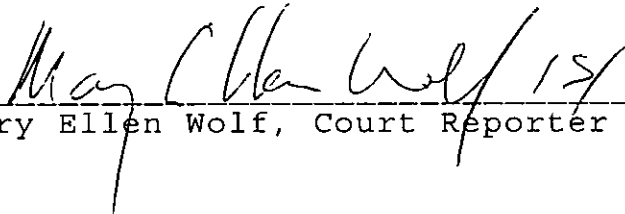
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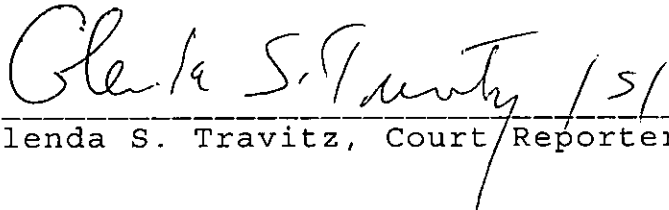
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