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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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Pittsburgh, Pennsylvania  
December 17, 1997

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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

- - - - -

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

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

Wednesday,  
December 17, 1997  
at 9:00 o'clock a.m.

BEFORE

JOHN CORBETT, JR., ADMINISTRATIVE LAW JUDGE

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1 JUDGE CORBETT: We are on the record. This is a  
2 further hearing in the restructuring plan filed by Duquesne  
3 Light Company. I note the presence of counsel and let me  
4 just say one thing before we begin this morning.

5 I have received assurances that after the first  
6 three witnesses were crossed by the parties that things  
7 would move a little more quickly. I do have a concern,  
8 though, that we're falling seriously behind in our schedule  
9 for cross examination of the company's witnesses.

10 So I am going to ask the parties to try to stick to  
11 the amount of cross examination that they have indicated  
12 they forecast for themselves in the proposed schedule and  
13 if you begin to wander beyond that amount of time, I am  
14 going to start to impose limits.

15 I want to get through the witnesses this week and I  
16 have to do that to make sure that we cover the amount of  
17 witnesses in the amount of time that we have. Okay. Are  
18 there any other preliminary matters that need to be  
19 addressed this morning.

20 MR. WISEMAN: Your Honor, I have one preliminary  
21 matter. During Mr. Schnitzer's cross examination by me  
22 yesterday he said that a work paper for his rebuttal  
23 testimony was the 1997 Gas Turbine World article that set  
24 forth certain data relating to the prices of gas suppliers  
25 to buy cycled units.

1 I discussed this with Mr. Moot. I would like to put  
2 that document in evidence. Both he and I, though, have  
3 questions concerning exactly what page; first of all, how  
4 long the document is, what pages ought to be put in and  
5 whether additional pages from the 1996 report ought to be  
6 put in.

7 We determined that it would be best to resolve this  
8 between ourselves first and come to you with a proposal  
9 later in the week. I just wanted to alert you to that.

10 JUDGE CORBETT: Okay. Very good.

11 MR. WISEMAN: Thank you, Your Honor.

12 JUDGE CORBETT: Yes. Ms. Melillo.

13 MS. MELILLO: At the beginning of our hearings this  
14 week, I had announced that parties let me know as soon as  
15 possible if they have any cross examination for OTS Witness  
16 Van Jeschke. I have heard nothing from the parties.

17 I would appreciate if after Mr. Nelson is presented  
18 for cross examination which is after Mr. O'Brien, I be  
19 permitted to move into evidence by stipulation the  
20 testimony of three of our witnesses: That would be Mr.  
21 Metro, Mr. Gill and Mr. Van Jeschke. And I have also asked  
22 if any party has any cross examination for Mr. Metro or  
23 Gill.

24 JUDGE CORBETT: Okay.

25 MR. MOOT: Your Honor, it may be, from a

1 housekeeping standpoint make sense to also stipulate to Mr.  
2 Makholm's testimony, who is the rate of return witness that  
3 spars with Mr. Van Jeschke and the parties indicate no  
4 cross examination for him. Maybe we ought to take care of  
5 that at the same point.

6 JUDGE CORBETT: Mr. Clearfield?

7 MR. CLEARFIELD: Just a quick suggestion; perhaps we  
8 want to stipulate all of the company's testimony into the  
9 record to save the process of identifying, subject to usual  
10 motions, of course, Your Honor, simply may save a little  
11 bit of time in the beginning of the presentation of each  
12 witness. That's the procedure we used in the PECO case.  
13 Perhaps the -- I am not sure.

14 MR. MOOT: I don't want to impede the efficiency,  
15 but on some of the testimony, they have corrections.

16 MR. CLEARFIELD: We could simply go through the  
17 corrections. We might be able to save a little time.

18 JUDGE CORBETT: I'll take that under advisement.  
19 We'll see what we have for the next witness. Any other  
20 preliminary matters?

21 (No response.)

22 JUDGE CORBETT: Then I believe Ms. Melillo, you are  
23 up first this morning.

24 MS. MELILLO: That is correct. Thank you. Good  
25 morning, Mr. O'Brien.

1 MR. O'BRIEN: Good morning.

2 MORGAN K. O'BRIEN, the witness on the stand at the  
3 time of recess, having been previously duly sworn, resumed  
4 the stand, was examined and testified further as follows:

5 FURTHER CROSS EXAMINATION

6 BY MS. MELILLO:

7 Q Mr. O'Brien, please turn to page 15 of your  
8 direct testimony. Beginning at line 13 on that page you  
9 state that the company has included the net undepreciated  
10 cost of the cold reserved units in its territory for  
11 stranded costs of \$106,800,000.00. Do you see that?

12 A Yes.

13 Q What I'd like you to do is would you take a look  
14 at what has been introduced into the record yesterday as  
15 OTS Cross Examination Exhibit Number 1. This has  
16 previously been distributed to all parties, Your Honor. Do  
17 you see at the bottom of OTS Cross Examination Exhibit  
18 Number 1 a cold reserved unit in the amount of \$65.58  
19 million?

20 A Yes.

21 Q The rate base numbers?

22 A Yes.

23 Q Could you simply, for purposes of clarification,  
24 explain the difference between the 65.58 million and the  
25 106.8 million in your testimony? What case that

1 difference.

2 MR. MOOT: Before the witness answers, I just want  
3 to state for the record, for the witness' understanding  
4 because I am not sure he was here that day, that this was a  
5 data request asked of Mr. Clayton and Mr. Clayton prepared  
6 it for the OTS.

7 JUDGE CORBETT: Okay.

8 THE WITNESS: Really, I don't know the difference.  
9 I really don't. I wasn't familiar with the numbers on the  
10 sheet.

11 BY MS. MELILLO:

12 Q For purposes of clarification, could you just  
13 simply asked that again, as an on the record data request  
14 to fill in the missing piece between the \$65.58 million and  
15 the 106.8 million. Perhaps it would be a different  
16 witness. I wasn't sure since Mr. O'Brien had mentioned the  
17 106.8 million.

18 MR. MOOT: We have no objection to that.

19 MS. MELILLO: Thank you.

20 BY MS. MELILLO:

21 Q Mr. O'Brien, under the company's preferred  
22 scenario in this proceeding, does the company propose to  
23 amortize the regulatory assets listed on page 7 of your  
24 direct testimony through its CTC?

25 A Yes.

1 Q And is the company also proposing to continued to  
2 recover approximately \$9 million annually in nuclear  
3 decommissioning costs in rates until January 1, 2006?

4 A Yes.

5 Q And would that recovery also be through the CTC?

6 A Yes.

7 Q Has the company developed any priority as to the  
8 regulatory assets proposed to be amortized? In terms of  
9 priority of recovery?

10 A No.

11 Q Am I correct that's company is not proposing to  
12 recover any of its fossil decommissioning costs over the  
13 nine year transition period?

14 A That's correct. We have -- and Duquesne proposal  
15 we have proposed that would enter into the final valuation  
16 in 2003 as to the 2005.

17 Q So distribution, so Duquesne is not proposing to  
18 recover any of its fossil decommissioning costs through its  
19 CTC?

20 A That's correct.

21 Q Please turn to page 4 of your direct testimony.  
22 Reference lines 16 through 18. If the residual balance of  
23 generation plant is negative at January 1, 2006 before you  
24 have subtracted unfunded fossil fuel decommissioning from  
25 plant valuation, how would Duquesne propose to recover

1 fossil fuel decommissioning?

2 A Could you just repeat that again, I am sorry.

3 Q Certainly. I have referenced you to pages four  
4 of your testimony at lines 16 through 18.

5 A Right.

6 Q If the residual balance of generation plant is  
7 negative, at January 1, 2006 of, before you have subtracted  
8 unfunded fossil fuel decommissioning from plant valuation  
9 as you said you intended to do, how would Duquesne propose  
10 to recover fossil fuel decommissioning?

11 A That actually is beyond the scope of my  
12 testimony. What I have testified are to what are the  
13 regulatory as its within the company. I haven't testified  
14 as to how the company proposed to recover those.

15 Q Could I ask that as an on the record data  
16 request? I assumed he was the person that would respond  
17 because he was dealing with the regulatory assets.

18 MR. MOOT: That's fine. The question isn't entirely  
19 clear to me and it may well be that we have to wait for the  
20 transcript tomorrow to get a clearer picture of this but we  
21 don't have a problem trying to answer that.

22 MS. MELILLO: If you would like I have the questions  
23 written out, too.

24 MR. MOOT: That might help, too.

25 BY MS. MELILLO:

1 Q My question was I was wondering and in know you  
2 are not going to be responding directly today but I was  
3 wondering if perhaps Duquesne would agree to seek to adjust  
4 its CTC. That's something I was wondering about.

5 MR. MOOT: Fair enough.

6 BY MS. MELILLO:

7 Q At this time we are at January 1, 2006, it's  
8 possible that Duquesne's generating plants could be  
9 generating power sold to end use customers outside of  
10 Duquesne's service territory. Is that correct?

11 A That's possible.

12 Q And is it also possible that some portion or even  
13 all of Duquesne's customers at that time, January 1, 2006,  
14 could be buying generation from sources other than Duquesne  
15 but could still be Duquesne's key distribution customers.  
16 Is that correct?

17 A That's possible.

18 Q And under this scenario and this is the year  
19 2006, if recovery of fossil fuel decommissioning is  
20 permitted to occur through extension of a CTC and I knew  
21 that was one possibility you were going to examine as to  
22 whether you would requesting that. Then would I be correct  
23 that distribution's -- that Duquesne's distribution  
24 customers would be paying the entire fossil fuel  
25 decommissioning cost while Duquesne's generation customers

1 were actually receiving power from the plants to be  
2 decommissioned are paying nothing.

3 MR. MOOT: Objection, Your Honor. He's already  
4 stated that the recovery of these costs in rates is beyond  
5 the scope of his testimony.

6 JUDGE CORBETT: Ms. Melillo.

7 MS. MELILLO: Your Honor, I would ask an on the  
8 record data request whether, if, in fact there is to be  
9 some recovery either through the CTC or some other  
10 mechanism if it's through the CTC I assume Duquesne's  
11 distribution customers would be paying that and generation  
12 customers will not. I would like to know that.

13 MR. MOOT: We will attempt to respond to that as  
14 well.

15 JUDGE CORBETT: Okay.

16 MR. MOOT: I had hoped we were getting beyond the  
17 interrogatory process.

18 BY MS. MELILLO:

19 Q Now, with respect to nuclear decommissioning  
20 expenses, I have these same questions. If the residual  
21 benefits of the generation plant is negative at year  
22 January 1, 2006 before you have subtracted unfunded nuclear  
23 decommissioning value, plant valuation as you said you  
24 would do. I have I have another question. How would  
25 Duquesne propose to recover those decommissioning

1 expenses?

2 A I don't know.

3 MR. MOOT: We would agree to attempt to respond to  
4 that as an on the record data request.

5 MS. MELILLO: And I have the same questions that I  
6 asked with respect to fossil fuel decommissioning as I do  
7 with respect to the nuclear. I have the same questions  
8 with regard to the decommissioning as I did with the fossil  
9 plants.

10 MR. MOOT: Kandace, there's possibility I would be  
11 helpful if you just perhaps just read those into the record  
12 as well. I don't know if it's clear to the people who  
13 would be answering it what that means.

14 MS. MELILLO: Okay. Fine.

15 BY MS. MELILLO:

16 Q I believe you had answered this question with  
17 respect to fossil fuel but I'll ask it then with respect to  
18 nuclear plants. At the time of 2006 it's possible that  
19 Duquesne's plants -- and now I am talking about nuclear  
20 plants -- could be generating power sold to end use  
21 customers outside of Duquesne's service territory. Is that  
22 correct?

23 A That is correct.

24 Q It's also possible at that period of time that  
25 some portion of all of distribution's customers could be

1 giving generation from sources other than Duquesne but  
2 could still be Duquesne's distribution customers?

3 A That is possible.

4 Q Under this scenario being 2006, if recovery of  
5 nuclear decommissioning is permitted to occur through the  
6 extension of the CTC then Duquesne's distribution customers  
7 would be paying the entire nuclear decommissioning costs at  
8 that time while distribution's generation customers will  
9 not be paying the decommissioning costs for distribution?

10 A As with the --

11 MR. MOOT: Objection, Your Honor. That's again  
12 beyond the scope of the testimony.

13 MS. MELILLO: You had asked me to state what the  
14 questions were and that's why I did it that way.

15 MR. MOOT: Fair enough.

16 JUDGE CORBETT: That's also a data request, then.

17 MS. MELILLO: Yes, it is. That's all I have. Thank  
18 you Mr. O'Brien.

19 THE WITNESS: Thank you.

20 JUDGE CORBETT: Mr. Berger?

21 MR. BERGER: Thank you, Your Honor. Just in advance  
22 some questions were referred to Mr. O'Brien which Mr.  
23 Clayton and as a result of that, I expect that the low  
24 designation on the cross examination sheet is probably a  
25 little bit too low and I'll probably have a few more

1 questions in your concerns about timeliness, I wanted to  
2 apprise you of that beforehand. Good morning, Mr. O'Brien.

3 THE WITNESS: Good morning.

4 BY MR. BERGER:

5 Q Would you turn to your MKO-2 exhibit attached to  
6 your rebuttal testimony. Would you look at the first  
7 column where it says dollar millions and you'll see there  
8 at the bottom of that column it says 68 meaning 6 million?

9 A That's correct.

10 Q Would you agree with me that these, the 68  
11 million there represents the amount of dollars which are of  
12 overhead which are allocated to the brief plans indicated  
13 in the following three columns. Is that an appropriate  
14 understanding?

15 A No, that's not. The overhead allocated to those  
16 plans are, if you look below that line, you'll see overhead  
17 allocated with an asterisk. And the numbers are, the total  
18 numbers are down below.

19 Q So the 68 million is total overhead?

20 A That actually is a confusing column. The total  
21 overhead to the plants are the numbers here and the  
22 overhead avoidable is related to those plants are above.

23 Q Okay. But the \$68 million represents --

24 A That represents --

25 Q Total overheads the companies?

1           A   That's overhead allocated to generation. That's  
2 approximately \$100 million of overhead, 68 million of that  
3 was allocated to the generation in unbundling the company  
4 into G, T&D. General is transmission, distribution. The  
5 68 its how much went to generation in total and then of  
6 that, how much was allocated to the three plants is  
7 indicated in the second to last --

8           Q   So approximately 16 million of the \$68 million  
9 overhead which is allocated to the generation goes to those  
10 three plants?

11          A   Exactly.

12          Q   Okay. First wanted to establish that.

13          A   Okay.

14          Q   Then in the line item overhead avoidable which is  
15 right above that overhead allocated column where the \$68  
16 million appears, the three line item for each of the  
17 plants, the \$1,044,000.00 and 1 million 270 and 478  
18 thousand, that indicates the overhead which the company  
19 believes is avoidable on those plants if those plants were  
20 not operating. Is that correct?

21          A   That's correct.

22          Q   And that was the basis for your estimate, the 20  
23 percent of the cost of overhead costs could be reduced if  
24 those plants were not operating?

25          A   That's correct.

1           Q Now, and in the far right column you have a  
2 column indicating allocation basis for savings. Am I  
3 correct that this is the allocation factor by which those,  
4 the \$68 million or I guess each of the individual line  
5 items was allocated to each of the plants.

6           A The, and they are actually the basis for the  
7 savings is that if you look at each allocation factor, the  
8 fact that there will be either reduced number of accounting  
9 transactions or reduced number of employees and the various  
10 numbers that certain of those costs, administrative costs  
11 would be reduced.

12           Then how those costs get allocated to the plants was  
13 actually billed on direct -- this is actually sort of an  
14 indication as to why those costs would be done or be  
15 avoided.

16           Q Okay. But these are all allocated costs. It may  
17 not be that you are actually eliminating employees at the  
18 corporate level?

19           A Right. That's correct.

20           Q But you still believe that these are avoidable  
21 costs?

22           A The concept here is that there is a level of work  
23 because these plants are in operation that occurs at the  
24 administrative part of the business. And if you reduce the  
25 work, either you would reduce -- you would probably reduce

1 the number of people doing that work, and that's the  
2 impetus for the avoidance of overhead costs.

3 Q Oh?

4 A So there is an inference that you would have less  
5 administrative employees necessary to continue in those  
6 categories.

7 Q Now, you see there's a number of line items that  
8 have a zero dollar figure, even though there are so many  
9 dollars allocated to generation A&G.

10 A That's correct.

11 Q For example, the second line, marketing and  
12 sales, has \$10 million allocated generation A&G for all the  
13 plants. But --

14 A Right.

15 Q But that's avoidable overhead. Is that the basic  
16 understanding?

17 A What that represents is the fact that whether we  
18 shut a plant down or not, we would still incur the same  
19 amount of marketing and sales costs. There's no direct  
20 relationship with the plant and the operations and the  
21 amount of overhead cost that the company incurs.

22 So what would happen is if you shut the plant down,  
23 the company would continue to incur the same level of those  
24 costs and those costs would then be allocated toward other  
25 plants within the generation function.

1 Q Okay. Now, for those items that have a zero you  
2 haven't indicated what the allocation factor was?

3 A No. This schedule was to quantify an estimate of  
4 what costs would be avoided if the plant were shut down?

5 Q Could be avoided presumably?

6 A Could be avoided.

7 Q It's a hypothetical. They won't really be  
8 avoided. I think Mr. Rubin established that yesterday.

9 A Okay.

10 Q Well --

11 MR. MOOT: That may or may not be true.

12 MR. BERGER: Okay.

13 BY MR. BERGER:

14 Q On the first line there where you have MIS and  
15 you have MIS usage report, on that line as I understand it,  
16 the cost allocation to each of the plants is based upon  
17 what the information systems, department basically  
18 determines how much information systems requirements have  
19 been utilized by those plants during that period. Is that  
20 correct?

21 A Can I clarify that?

22 Q Sure. All of the -- all of the overhead are  
23 allocated to the plants based upon an allocation factor  
24 based on direct operating costs of those plants. Okay. So  
25 all of these costs are allocated to the plants based on the

1 direct costs of that plant.

2           What this MIS usage report indicates that of those  
3 dollars allocated to those plants, certain amount of MIS  
4 services would go away if the plant were shut down. And  
5 that represents -- and the MIS usage report basically said  
6 that that's how much is directly attributed to that plant,  
7 as far as direct MIS, either software programs that are  
8 specific to that plant, people who would be designated to  
9 that plant, but its service is directly attributable to  
10 that plant and if the plants weren't in existence the  
11 company wouldn't incur those costs.

12           Q So what you are saying is that the general  
13 allocation of those costs to that plant wouldn't go away  
14 but specific allocation of costs to those plants would?

15           A Basically, what we are representing here is that  
16 of the total overhead allocated to generation, 68 million  
17 which occurs in the administrative part of the business, if  
18 one -- if you could use the example of Cheswick. If  
19 Cheswick was shut down of the MIS the company incurs,  
20 \$228,000.00 of the MIS charges the company would not incur  
21 because there would be no necessity for that portion of our  
22 MIS costs.

23           The remaining portion of the MIS costs would  
24 continue to be incurred what would have to be borne by the  
25 rest of the business.

1           Q    Could you provide as an on the record data  
2 request an indication of the allocation, total allocation  
3 of, to each of these plants of the costs in each of these  
4 categories and the allocation factor utilized?

5           MR. MOOT:   Before answering whether we'll provide it  
6 I would ask the witness not to indicate if he understands  
7 what the questioner is asking for.

8           THE WITNESS:   One of the clarifications of that  
9 question might be if you read the asterisk at the bottom.  
10 Does that clarify your question?

11 BY MR. BERGER:

12           Q    I want it broken down, though, by category. I  
13 understand that 60.2 percent of total overhead is allocated  
14 to generation, but I want it for these three plants and I  
15 want it to indicate by each of the categories you have on  
16 this page. Is that possible?

17           A    That's possible.

18           MR. MOOT:   Your Honor, we will undertake to do that.  
19 I will note for the record that we reserve all rights under  
20 the regulations with regard to the timing of responding to  
21 these requests. They are beginning to pile up and we'll  
22 use our best efforts to do it as quickly as possible. But  
23 we can promise no specific time other than the best efforts  
24 of the company.

25           MR. BERGER:   Certainly, and I certainly appreciate

1 the burden that has been placed upon the company in this  
2 case.

3 JUDGE CORBETT: Fine.

4 BY MR. BERGER:

5 Q With respect to the Pa. capital stock taxes that  
6 you discuss on page 4 of your rebuttal testimony, you talk  
7 about the revenue factor in that computation. Would you  
8 please tell me how you compute that revenue factor?

9 A Well, basically it's an average of the company's  
10 revenues over a five-year period and there's basically a  
11 calculation of net worth that the Department of Revenue has  
12 determined and how it assesses capital stock tax and as  
13 it's indicated in the testimony, one is based on the equity  
14 as reported under the initial statements of the company and  
15 another is basically a capitalization of revenues. Then  
16 the average of those two factors are used to determine the  
17 capital stock tax.

18 Q Okay. The capitalization of revenue factor, can  
19 you tell me how that's computed?

20 A I don't have the details of that calculation here  
21 with me. I don't have the formula memorized.

22 Q Okay. Now, your MKO-2 ties back to Mr. Clayton's  
23 DJC-13. Is that correct?

24 A I believe that's correct.

25 Q Do you have any work papers that show how the two

1 are tied together?

2 A I did not perform that task, no.

3 Q Mr. Clayton performed the task. Is that correct?

4 A I don't know. I did not perform the task.

5 Q Can we get as another on the record data request,  
6 work papers that tie the calculations of Mr. O'Brien to Mr.  
7 Clayton's DJC-13?

8 MR. MOOT: The answer is yes, assuming we, the  
9 people that would perform that, understand the question and  
10 we will just talk to Mr. Berger informally if they don't.

11 MR. BERGER: Okay. Appreciate that.

12 BY MR. BERGER:

13 Q Now, the amount that aren't calculated as being  
14 avoidable. The 80 percent. Do you consider them to be  
15 unavoidable overhead; correct?

16 A That is correct. The shutdown of a generation  
17 station would not cause those administrative costs to go  
18 away.

19 Q And those have been indicated on Mr. Clayton's  
20 DJC-13 in the line item or we can refer to that if you'd  
21 like. Do you have a copy of that?

22 A No, I don't.

23 MR. BERGER: Can you provide him with a copy,  
24 please.

25 BY MR. BERGER:

1 Q Now, does your MKO-2 just refer to the line item  
2 overhead allocation with just the -- which is the fourth  
3 line down on that page?

4 A What MKO-2 does is it takes a test year, one year  
5 and says it looks at that year, says looking at all of the  
6 administrative costs allocated to the plants and in this  
7 case this is 1997 data. Okay. And the question was what  
8 percentage of those costs would be avoided if the plant  
9 were shut down and the percentages at the bottom indicated  
10 in that test year what percentage of the costs would be  
11 avoided if a plant were shut down of the total  
12 administrative cost, then I believe Mr. Clayton took those  
13 percentages and applied it to his estimates of those  
14 overhead costs in those years.

15 Q Would you agree with me that basically what he  
16 did was take 80 percent of the costs that were allocated,  
17 developed a revenue or a stream of costs for each of those  
18 plants and then present valued that stream based on the 80  
19 percent? Maybe we should ask -- should have asked that of  
20 Mr. Clayton will obviously, but I think the work papers  
21 will show it.

22 A I am not being difficult. I didn't do the  
23 calculation.

24 Q No. I understand that. All I was really trying  
25 to establish was that his calculations just relate to the

1 line item, his use of your information just relates to the  
2 line item overhead allocation. Is that correct?

3 A I think he also includes the property taxes and  
4 the capital stock taxes which --

5 Q Which you discuss in your testimony but not  
6 necessarily included on MKO-2 just relates to a line item  
7 overhead allocation. Is that right?

8 A I believe that but again, this isn't my  
9 schedule. I believe that to be true.

10 Q I am sure that the company will clarify  
11 subsequently if that's not the case.

12 MR. MOOT: All this is on the record. We'll take  
13 those pages into account, too.

14 BY MR. BERGER:

15 Q Did you provide information to Mr. Clayton on or  
16 near the property tax line and capital tax lines. Did you  
17 provide information with respect to the remaining lines on  
18 that pages?

19 A The employee severance lines for both, for  
20 Duquesne's employees.

21 Q Who do you know who provided him the information  
22 on fixed O&M?

23 A I believe Mr. Nelson, Mr. Duckworth provided the  
24 remaining information. I believe that his testimony  
25 outlines who provided what information.

1           Q   Okay.  Now, one of the questions I asked Mr.  
2 Clayton was when you have unavoidable costs such as he  
3 calculated on this page and if the plants were to be shut  
4 down, those costs would be allocated to other plants and to  
5 the transmission or to the transmission/distribution  
6 function.

7           Would you agree with me that basically what would  
8 happen would be the, that the generation allocator would be  
9 reduced as a percentage of the whole and so those costs  
10 would be divided on some basis between T&D and generation.

11          A   I don't believe that's proper.  I believe these  
12 costs are related to the generation portion of the  
13 business, which have to be borne by the generation portion  
14 of the business and shouldn't impact the costs of the  
15 transmission and distribution rates.

16          Q   But would you agree with me that those are  
17 corporate overheads that, you know, have been allocated  
18 based upon some total company allocation factor?

19          A   Which is used to indicate what portion of the  
20 overhead attributed to this piece of our business.

21          Q   But when that piece of your business gets  
22 smaller, would you agree with me that it would seem  
23 appropriate to change the balance?

24          A   It doesn't seem reasonable that because you shut  
25 a plant down, that transmission and distribution rates

1 should be affected by that.

2 Q So if you shut all but one plant down you would  
3 still say that the same amount of generation overhead  
4 should be allocated that one plant that as was allocated to  
5 ten plants. Is that what you are saying?

6 A In that extreme example, I would say it relates  
7 to the generation portion of the business.

8 Q You would say that all that overhead that was  
9 originally allocated to ten would be allocated to one, so  
10 that your answer to my question was yes?

11 A Yes.

12 Q Thank you. Would you agree with me that these  
13 were costs that will be incurred. These unavoidable  
14 overhead costs are costs that will be incurred regardless  
15 of whether the plants are operating or retired and  
16 regardless of whether the company owns the plants or not?

17 A That's what I would consider the definition of  
18 unavoidable.

19 Q Okay. Just looking at the one item, total  
20 unavoidable costs on Exhibit DJC-13 and the item at the top  
21 of the page, PV of margin using avoidable and unavoidable  
22 costs. For the first three plants, the company calculated  
23 this PV cost independent of operation for those three  
24 plants using the PV of margin, using avoidable and  
25 unavoidable cost.

1           Would you agree with me that the reason for doing  
2 that was because those plants continue to operate? They do  
3 provide some reduction in the unavoidable overheads by  
4 generating some margin? Or is that --

5           A    Could you just repeat that again. I'm sorry. I  
6 am trying to understand the schedule. I was just reading  
7 through it.

8           Q    The first line item on that page is PV of margin  
9 using avoidable and unavoidable costs and to calculate PV  
10 costs independent of operation for the first three plants,  
11 the company used that line item in developing that factor  
12 and in developing that dollar amount that it included in  
13 Mr. Clayton's schedules. Were you aware of that?

14           MR. MOOT: Mr. --

15           THE WITNESS: I didn't do the calculation.

16           MR. MOOT: I object to the question. It's asking  
17 about Mr. Clayton's exhibit. Mr. O'Brien presented what he  
18 presented. We are now getting into PV margins.

19           MR. BERGER: That's fine. I'll move on to another  
20 question.

21 BY MR. BERGER:

22           Q    If you can't answer this question just say so.  
23 That's fine. On the line item on DJC-13 where it says  
24 total unavoidable costs, if there was a divestiture would  
25 you agree with me that it would be appropriate to add up

1 those four numbers in that line rather than to calculate PV  
2 costs independent of operation.

3 MR. MOOT: Same objection. I don't care whether he  
4 can answer it or not.

5 MR. BERGER: I'll withdraw the question. That's all  
6 I have. Thank you, Your Honor.

7 JUDGE CORBETT: Okay. Thank you, Mr. O'Brien.

8 THE WITNESS: I thank you.

9 JUDGE CORBETT: The OSBA has indicated, Ms. Jones,  
10 you have indicated you have no cross for this witness.

11 MS. JONES: That's correct, Your Honor.

12 JUDGE CORBETT: All right. City of Pittsburgh is up  
13 next. Mr. Americus?

14 MR. AMERICUS: No cross examination.

15 JUDGE CORBETT: Ms. Polacek, I believe you are up.

16 MS. POLACEK: In the interest of time, Your Honor,  
17 we will have no questions for this witness.

18 JUDGE CORBETT: Okay. Mr. Wiseman?

19 MR. WISEMAN: Thank you, Your Honor. Good morning,  
20 Mr. O'Brien.

21 THE WITNESS: Good morning.

22 BY MR. WISEMAN:

23 Q Mr. O'Brien, I just have a few questions about  
24 your Exhibit MKO-1 in your direct testimony. Could you  
25 turn to that, please and let's start off at pages MKO-1-A,

1 page 4. Are you there?

2 First of all, am I correct that Schedule 1-A  
3 reflects Duquesne's actual 1996 year end results. Is that  
4 correct?

5 A That's correct.

6 Q Now, on page 4 of Schedule 1-A, if I go about  
7 halfway down the page, there's a line that says total  
8 operating expenses before federal and state income taxes.  
9 Do you see that?

10 A Yes.

11 Q So, do I understand from that line that  
12 Duquesne's total operating expenses before taxes in 1996  
13 was approximately \$864 million?

14 A That's correct.

15 Q All right. Now, can you go to page 2 of Schedule  
16 1-B in Exhibit MKO-1.

17 A I am sorry. Would you repeat the pages.

18 Q Page 2.

19 A Of 1-B?

20 Q 1-B, yes. Am I correct that Schedule 1-B has the  
21 actual 1996 year end results plus certain adjustments that  
22 Duquesne believes are appropriate?

23 A That's correct.

24 Q Now, on page 2, there's about a third of the way  
25 down, quarter of the way down the page, there's a line that

1 says total power production expenses and there's an  
2 adjustment of a negative approximately \$21 million. Do you  
3 see that number?

4 A Yes.

5 Q Can you tell me why a negative adjustment of \$21  
6 million has been made there?

7 A Yeah. That is the sum total of the adjustment on  
8 page 1 of 12, starting with production expense and adding  
9 up to there. So that's where the 21 comes from.

10 Q Any question what are the reasons?

11 A Right.

12 Q For the 21?

13 A And I just want to get to that.

14 MR. MOOT: Ken, just as a matter of clarification  
15 since he said it was a cumulative adjustment, do you want  
16 him to discuss the reason for every adjustment from 500  
17 on?

18 MR. WISEMAN: No. I am hoping there's a general  
19 explanation for the adjustment.

20 THE WITNESS: There's two general reasons. One is  
21 the 1996 year included the Fort Martin plant which would  
22 not be in the company's operating results going forward.  
23 So it was baseless to take out Fort Martin and the other --  
24 let me just look to see -- that's \$21 million.

25 BY MR. WISEMAN:

1 Q Thank you. Now, also on page 2 just above the  
2 \$21 million figure there's a positive adjustment to  
3 deferred energy costs of approximately four and a half  
4 million dollars. Can you tell me what the reason for that  
5 is?

6 A Well, basically these financials here were  
7 presented assuming that we could collect the deferred fuel  
8 using the capped ECR rate assumed in the Fort Martin  
9 agreement of 14.7.

10 Q All right. Can you turn to the next page of  
11 Schedule 1-B, page 3?

12 A Okay.

13 Q Down toward the bottom of the page, there's line  
14 403, it says depreciation expense and there's a positive  
15 adjustment of \$25 million there. Can you explain what the  
16 reason is for that positive adjustment?

17 A Sure. The -- as part of the sale of the Fort  
18 Martin Power Plant the company made a commitment to  
19 accelerate depreciation of its nuclear facilities. And as  
20 part of that agreement, there's actually steps of increases  
21 to depreciation. And there's an increase in 1998 or -- or  
22 1997, I am sorry. That would be needed to add it to the  
23 966 number to affect that adjustment so that's the 25  
24 million agreed to in the Fort Martin sale.

25 Q So then none of that increase in depreciation

1 expense relates to your request in this case to accelerate  
2 depreciation. Is that correct?

3 A Could you repeat that again.

4 Q I am just trying to find out if this \$25 million  
5 adjustment relates solely to the Fort Martin transaction if  
6 some portion of the \$25 million relates to Duquesne's  
7 request in this case to accelerate depreciation and  
8 amortization by \$1.7 million.

9 A No, this 25 million specifically related to the  
10 depreciation in the Fort Martin agreement.

11 Q All right. Now, also on that same page, just  
12 below that line 4 and 3, it size amortization of transition  
13 costs and there's a positive adjustment of approximately  
14 \$84 million. Do you see that?

15 A Yes.

16 Q Can you tell me what the basis for that  
17 adjustment is?

18 A Yes. Basically what we are trying to show here,  
19 the purpose for the schedule in this is that Mr. Lahtinen  
20 takes these costs and develops a revenue requirement and  
21 compares that to our existing rates and this adjustment is  
22 basically to say that if we needed to recover what we  
23 believe are stranded costs or transition costs over the  
24 nine-year period, '97 through 2005, we would have to  
25 recover these additional costs during that period. And

1 that is the additional costs necessary to recover all of  
2 our regulatory assets in stranded costs.

3 Q So the \$84 million, that does relate to your  
4 request in this case. Is that correct?

5 A That's correct.

6 Q So if we were to eliminate that \$84 million, then  
7 do I understand that Duquesne's total operating expenses  
8 would be based on test year results, would be the 864 --  
9 approximately \$864 million with these various adjustments.  
10 That's set forth in the next column less \$84 million. Is  
11 that correct?

12 A I thought you stated a bunch of facts if you did  
13 this, if you -- if you took the 84 million out of the  
14 adjustment column, the adjustment column would be \$84  
15 million lower and the adjusted year would be \$84 million  
16 lower.

17 Q So the adjusted year would be -- the adjustments  
18 would be approximately a negative \$22 million, I believe.  
19 Is that correct?

20 A Approximately.

21 Q Thank you. Now, could you turn to page 5 of the  
22 same exhibit? Do you see, and this is Schedule 1-B for  
23 clarity. At the top of the page, under intangible plants  
24 there's a negative adjustment of \$243 million and then  
25 under nuclear production plants there's a positive

1 adjustment of \$243 million. Can you explain why that  
2 reallocation, in effect, reallocation has taken place.

3 A Yes. The \$243 million which is the -- this is  
4 gross plant to clarify the schedule -- relates to the Perry  
5 Power Station and a few years back, we reclassified certain  
6 plant costs as intangible costs. And that was to account  
7 303. But those are basically related to the original  
8 construction of Perry that were reclassified to intangible  
9 plants.

10 Q And why are you now reclassifying it under  
11 nuclear plants, production plant specifically?

12 A Basically, that, to more specifically relate  
13 those back to the nuclear power station in Perry. It's  
14 adjusted to, the original construction costs were all in  
15 account 322. We took 343 million of various costs and  
16 reclassified them to intangible; regardless of whether,  
17 which category they are in, they relate to the construction  
18 costs of Perry.

19 Q If I wanted to go back in time and look at the  
20 documents that determined the financial accounting records,  
21 to determine why these costs were put into intangible  
22 plant, could you tell me what documents I would be looking  
23 at?

24 A Well, the issue relates to actually a property  
25 tax issue that we have in Ohio. We are currently

1 litigating the property tax assessments on the Perry plant  
2 and the State of Ohio has something they call personal  
3 property tax, which is different from the real estate tax  
4 that we have in Pennsylvania. And it's taxed on personal  
5 property, which equipment and nuclear plant qualifies for.  
6 As part of that case, we underwent a study that basically  
7 said portions of the original construction of the plant are  
8 more accurately characterized for property tax purposes as  
9 intangible plant.

10           Engineering costs, drawing costs, those types of  
11 costs and it was understood that we engage -- actually we  
12 engaged Coopers and Librand to undergo for the purpose of  
13 the property tax case that would quantify those costs.

14           MR. WISEMAN: Could I make an on the record data  
15 request for copying that study?

16           MR. MOOT: Your Honor, we would object to that.  
17 This testimony was filed four and a half months ago and  
18 this is just untimely. Mr. Wiseman's client apparently  
19 just didn't pay attention to the schedule before trial.  
20 It's untimely and we object.

21           MR. WISEMAN: Your Honor, I know absolutely no  
22 burden that would be imposed on Duquesne providing us a  
23 copy of a document that has been in existence for some  
24 time.

25           MR. MOOT: The issue is burden. It's that the

1 discovery portion is gone. There is a burden because you  
2 have heard -- we have been here 55 minutes today and we are  
3 already into double digits on data requests. The objection  
4 remains.

5 JUDGE CORBETT: You are asking for the entire study,  
6 Mr. Wiseman?

7 MR. WISEMAN: Well, let me ask how long, if Mr.  
8 O'Brien, knows, is the study?

9 THE WITNESS: It's a fairly thick document.

10 BY MR. WISEMAN:

11 Q Are we talking about a thousand pages, 500  
12 pages?

13 A It's comparable to this thickness. I don't know  
14 how many pages it would be.

15 Q Is there an executive summary of the study? Do  
16 you know?

17 A Not really.

18 Q Is it available for review?

19 A Yes.

20 JUDGE CORBETT: Okay. We'll let you or your witness  
21 review it, Mr. Wiseman.

22 MR. WISEMAN: Thank you very much.

23 MR. MOOT: Your Honor, I guess I would just note for  
24 the record that in spite of any acquiescence by Duquesne in  
25 a data request or any requests such as this that you would

1 order does not mean that once the other party reviews that  
2 and appears with it at some other hearing day that we would  
3 not object to it necessarily being introduced and we all  
4 reserve our rights in that regard.

5 JUDGE CORBETT: That's another matter.

6 BY MR. WISEMAN:

7 Q Mr. O'Brien, would you turn to pages 7 of Exhibit  
8 MKO-1 (b). There are two adjustments on that page, again,  
9 the intangible plant, a negative 24 and a half million  
10 dollars and then in addition to nuclear production plants,  
11 almost \$19 million, is the reason for that adjustment the  
12 same as the reason for the adjustments that we were just  
13 talking about?

14 A Yeah. It's amortization of the previous number.

15 Q All right. And then one last question, if you  
16 turn to page 12 of the same exhibit.

17 A Yes.

18 Q At line 359, it looks like you are making a  
19 positive adjustment to transmission plant of almost \$44  
20 million. Is that correct?

21 A Yes.

22 Q And on line 373, it looks like you are making a  
23 positive adjustment to distribution plant of approximately  
24 \$111 million. Is that correct?

25 A Yes.

1 Q To your knowledge, is there a witness sponsored  
2 by Duquesne who supports these adjustments? I mean,  
3 specifically I am referring to the adjustments in the  
4 transmission plant and distribution plants?

5 A Can I discuss that with my counsel as to who  
6 would best describe -- I mean as far as making the  
7 accounting entries.

8 Q I am not talking about accounting entries. I am  
9 talking about a person that explains why those adjustments  
10 were appropriate. And I have no objection to -- if it's  
11 appropriate.

12 MR. MOOT: Would you mind if I conferred with him  
13 for three seconds? It's up to you, though.

14 MR. WISEMAN: Go ahead.

15 MR. MOOT: Fair enough. I appreciate that.

16 BY MR. WISEMAN:

17 Q Mr. O'Brien, are you prepared to answer that  
18 question?

19 A Yes, I am. The reason for the pause is I didn't  
20 focus on what pages we were on. This is the schedule which  
21 is deferred taxes, the lead overview of what this  
22 represents. These adjustments -- and I am going to answer  
23 the question. I think I am the most appropriate person.

24 These adjustments are basically to take the deferred  
25 taxes related to transmission and distribution and we refer

1 to these as FAS 109 deferred taxes. These were the  
2 additional deferred taxes that the company had to record  
3 when it adopted FAS 107.

4 And basically what FAS 107 said was to the extent,  
5 regardless of whether you had to flow through certain tax  
6 benefits to your customers or not, which Duquesne did, and  
7 many other Pennsylvania utilities had to, you need to  
8 record a liability that represented what your future tax  
9 liability really is, and associated with that additional  
10 deferred taxes that we record.

11 We also record a regulatory asset which we are  
12 including in recovery. So there's these deferred taxes  
13 relate specifically to a regulatory asset. The two offset  
14 basically dollar for dollar. So these are additional  
15 deferred taxes that the company has on its books that  
16 relate to each of these pieces; transmission, four three  
17 eight three zero seven six seven related to transmission,  
18 one one one two five nine six three five are additional  
19 deferred taxes related to distribution.

20 MR. WISEMAN: Thank you, Mr. O'Brien. I have no  
21 further questions.

22 JUDGE CORBETT: Okay. Mr. Zielonis?

23 MR. ZIELONIS: Nothing, Your Honor.

24 JUDGE CORBETT: Is Mr. Barak in the room?

25 Apparently not? Mr. Stewart?

1 MR. STEWART: I have nothing, Your Honor.

2 JUDGE CORBETT: Mr. Clearfield?

3 MR. CLEARFIELD: I have a handful of questions. I  
4 was taught many years ago never to give an actual number.

5 JUDGE CORBETT: Handful is more than one.

6 MR. CLEARFIELD: One hand, Your Honor. I am getting  
7 close to breaking my own rule.

8 BY MR. CLEARFIELD:

9 Q Mr. O'Brien, could you turn to Exhibit MKO-1-E  
10 for at moment, please. Do you have that?

11 A Yes.

12 Q And I just for clarification, am I reading this  
13 exhibit correctly when I conclude that using your  
14 functionalization study you identified approximately 60  
15 percent of the company's labor expenses as generation  
16 related?

17 A That's correct.

18 JUDGE CORBETT: And with respect to the net book  
19 value correspondingly you identified approximately 54  
20 percent, precisely 54 percent of the company's plant in  
21 service as generation related?

22 A That's correct.

23 Q Now, I see in both items in both lines that we  
24 just referenced, labor and net book value that there's a  
25 column for administrative and general at the bottom there

1 that's not allocated. Is that right?

2 A Is it allocated? We are looking on page 6 of six  
3 here.

4 Q I am sorry. I didn't give you that reference?

5 A No. There are, reading left to right, there is  
6 the description of what category of costs they are, first.  
7 We have Duquesne Light, CAPCO, total and then we have a  
8 percentage.

9 First percentage is just the labor dollars by each  
10 of those functions. Generation, transmission, distribution  
11 and then administrative and general. The next column  
12 basically says within the three operating groups, 60  
13 percent of the labor between the labor related to  
14 generation, transmission, distribution, relates to  
15 generation.

16 We did allocate the administrative and general  
17 column costs.

18 Q Is that because that supports all three of those  
19 functions?

20 A That's correct.

21 Q Now, turning to another subject quickly, you had  
22 a colloquy with Mr. Berger about the unavoidable  
23 administrative and general expenses and what would happen  
24 if all but one plant hypothetically were to shut down. Let  
25 me ask you this. If hypothetically, Duquesne were to exit

1 generation business so that it was not operating any  
2 plants, wouldn't the he it be reasonable to expect that the  
3 company with reduce or shrink its level of administrative  
4 and general expenses so that while it might continue to  
5 perform the same general function it would do so at a lower  
6 level of costs or at a lower level of activity? With your  
7 job excluded from that, of course?

8 A I appreciate that. The, if the question is that  
9 if the company were smaller would it have less overhead  
10 cost.

11 Q Yes.

12 A And my intuition says yes.

13 Q It would make an effort to do that?

14 A Yes.

15 Q And just to make sure the report is clear and if  
16 it was smaller because it no longer had any generation  
17 function, you would expect that the administrative and  
18 general expenses over time would be reduced.

19 A Yes. Can I clarify that?

20 Q Sure.

21 A The schedule that I presented earlier was looking  
22 at if we shut one of those -- each of those plans don. It  
23 wasn't looking, the scenario you just described. To me  
24 that would be a different analysis.

25 MR. CLEARFIELD: Thank you.

1 JUDGE CORBETT: Okay. Is there any other party that  
2 I have not called who wishes to cross examine this  
3 witness?

4 (No response.)

5 JUDGE CORBETT: Then, Mr. Moot, did you have any  
6 redirect?

7 MR. MOOT: If you'll give me a moment, Your Honor.

8 JUDGE CORBETT: Sure.

9 MR. MOOT: Your Honor. I believe I have a couple  
10 questions.

11 **REDIRECT EXAMINATION**

12 BY MR. MOOT:

13 Q Mr. O'Brien, do you recall being asked by Ms.  
14 Melillo a question -- and many trying to recall and  
15 paraphrase, he -- that asked you whether it was true that  
16 Duquesne was not proposing to recover fossil  
17 decommissioning through the YTC? Do you recall that  
18 question?

19 A Yes.

20 Q And what was your answer?

21 A That we were looking to -- we were looking not to  
22 recover fossil decommissioning through the transition  
23 period but rather have the fossil decommissioning liability  
24 included in the final valuation of the fossil stations.

25 Q Could you turn to your MKO-2 Exhibit. Just as a

1 matter for my clarification, is it correct that the \$68  
2 million that finds itself at the bottom of the first  
3 numerical column represents the total overhead allocated to  
4 general -- generation or is it as the wording to the left  
5 with indicate, an allocation which related only to  
6 avoidable overhead?

7 A It's total overhead.

8 Q With regard to that same row on which the 68  
9 million appears, I want to ask you about the three numbers  
10 to the right of that. Is it true that it's your testimony  
11 that those costs would actually be avoided by the company  
12 or is it simply that they would be reallocated somewhere  
13 else?

14 A Those dollars would be avoided by the company.

15 Q Do you recall a discussion with Mr. Wiseman  
16 regarding deferred taxes?

17 A Yes.

18 Q Are you generally familiar with Mr.  
19 Weisenmiller's criticism of the regulatory asset related to  
20 deferred taxes?

21 A Generally.

22 Q Were the numbers that Mr. Wiseman was asking you  
23 about, are those the numbers that Mr. Weisenmiller was  
24 disputing?

25 A For every dollar that's in those numbers there's

1 a dollar in the numbers that he's disputing; yes.

2 MR. MOOT: I have no further questions, Your Honor.

3 JUDGE CORBETT: All right. Any recross? Ms.

4 Melillo?

5 MS. MELILLO: No, Your Honor.

6 JUDGE CORBETT: Mr. Berger.

7 MR. BERGER: No, Your Honor.

8 JUDGE CORBETT: Mr. Wiseman?

9 MR. WISEMAN: No, Your Honor.

10 JUDGE CORBETT: Mr. Clearfield.

11 MR. CLEARFIELD: No, thank you.

12 JUDGE CORBETT: I believe that's it. Thank you very  
13 much, Mr. O'Brien. You are excused, sir.

14 THE WITNESS: Thank you.

15 JUDGE CORBETT: I have one housekeeping matter to  
16 take up with you, Mr. Miller. I am sorry. With you, Mr.  
17 Moot. I should have brought this up first thing this  
18 morning but it slipped my mind, again.

19 Yesterday, after the hearing, it was brought to my  
20 attention that the fact that there was an exhibit I believe  
21 it was submitted to Mr. Schnitzer. It was the section of  
22 the FAS Standard 71 and I believe you may have asked that  
23 that be marked as an exhibit. I, for whatever reason,  
24 probably because of mental fatigue at the time, did not  
25 take you up on that. Do you wish to have that marked and

1 identified as an exhibit?

2 MR. MOOT: Why don't we just indicate it as being  
3 marked for identification as an exhibit. I don't know  
4 whether that would be Duquesne Rejoinder 1 or what it would  
5 be, but it was not admitted into evidence and not moved  
6 into evidence. It just would be marked for  
7 identification.

8 JUDGE CORBETT: All right. Why don't we have it  
9 marked as Duquesne Exhibit MMS-8. I am sorry.

10 MR. MOOT: As a clarification this was an exhibit  
11 discussed with Mr. O'Brien.

12 JUDGE CORBETT: I'm sorry. All right. Thank you  
13 for that. And we'll have that marked as Duquesne Exhibit  
14 MKO-3, which I believe is the next one in order.

15 MR. MOOT: Your Honor, I guess my only hesitation is  
16 that I worry about confusion somewhere down the road when  
17 somebody's citing that as though it were evidence and maybe  
18 the better course is to do what we did implicitly  
19 yesterday, which is not to have it marked. I think the  
20 record was clear that what document it was and the witness  
21 read from it and if no other party has an objection to not  
22 marking it, we'd be happy to do that.

23 MS. MELILLO: Normally, when exhibits are referenced  
24 such as that, normally there is a requirement that the  
25 whole document come in. Some party does request it come

1 in. My concern is that there's a reference on the record  
2 to a part of the statement and the whole statements isn't  
3 it I am I have don't know if I personally will be using  
4 someone might want. Out of an abundance caution I suggest  
5 we do put that in as an exhibit.

6 JUDGE CORBETT: I think the short route to that is  
7 to have it marked identified and move into the record.  
8 Okay. We'll have it marked and identified as Duquesne  
9 Exhibit MKO-3.

10 MR. WISEMAN: Your Honor. I don't here the last  
11 part of your ruling. I support the identified, but I would  
12 also support OTS' position that if it's going to be  
13 identified I would like the parties to be able to refer to  
14 it and I don't want Duquesne coming back, since it's a  
15 document that Duquesne in fact relied upon and say now you  
16 can't refer to it because it's not an estimate in rates. I  
17 would prefer that it be moved into evidence.

18 JUDGE CORBETT: That is what I just suggested.

19 MR. WISEMAN: That's fine.

20 MR. WISEMAN: Okay. All right.

21 MS. MELILLO: Have copies been provided to the Court  
22 Reporter?

23 JUDGE CORBETT: Yes.

24 (Duquesne Exhibit No. MKO-3 was produced and  
25 marked for identification and admitted in  
evidence.)

1 JUDGE CORBETT: Why don't we take a fifteen minute  
2 break. We'll be back at 10:30.

3 (Whereupon, a brief recess was taken.)

4 JUDGE CORBETT: We are back on the record.  
5 According to the schedule that we have, that the parties  
6 have put together for the presentation of witnesses, we  
7 turn now to the OTS. Ms. Melillo, I understand that you  
8 were going to present certain testimony on behalf of Mr.  
9 Metro at this point.

10 MS. MELILLO: Yes, Your Honor. It's my  
11 understanding that no party has any cross examination for  
12 Mr. Metro and that Mr. Metro's testimony can be moved into  
13 the record, therefore, by stipulation and also at this  
14 point, I would propose to move into evidence by stipulation  
15 the testimony of Darren D. Gill.

16 I have also been advised that no party has any cross  
17 examination for Mr. Gill. In addition, as I said, I have  
18 requested on Monday that any party let me know if they have  
19 any cross examination for Mr. Van Jeschke. I have heard  
20 nothing.

21 It's my understanding that Mr. Van Jeschke and Mr.  
22 Makholm are primarily responding to each other and we have  
23 no cross. We waived cross for Dr. Makholm and the  
24 company's waived cross of Mr. Van Jeschke, so I would like  
25 to also at this time move his testimony into the record by

1 stipulation. I have copies for the Court Reporter.

2 JUDGE CORBETT: All right.

3 MS. MELILLO: Your Honor, at this time, I am  
4 providing to the Court Reporter two copies of OTS Statement  
5 Number 4, and two copies of OTS Statement Number 4-SR.  
6 These are the direct and surrebuttal testimonies of OTS  
7 witness Paul J. Metro.

8 JUDGE CORBETT: Okay.

9 (OTS Statements Nos. 4 and 4-SR were produced and  
10 marked for identification.)

11 MS. MELILLO: Also at this time two copies for the  
12 Court Reporter of OTS Statement Number 2, the direct  
13 testimony of Darren D. Gill and accompanying exhibits. I  
14 have two copies of OTS Exhibit Number 2, the exhibit of  
15 Darren D. Gill to accompany his direct testimony. And I  
16 also have two copies of OTS Statement Number 2-SR, the  
17 surrebuttal testimony of Darren D. Gill. Also I have for  
18 the Court Reporter two copies of OTS Statement Number 1,  
19 being the direct testimony of Eric Van Jeschke and  
20 accompanying that I have two copies of OTS Exhibit Number 1  
21 being the accompanying exhibit of OTS witness Eric Van  
22 Jeschke. I also -- and Mr. Van Jeschke does not have any  
23 surrebuttal.

24 (OTS Statements Nos. 1, 2, 2-SR, 4, 4-SR and OTS  
25 Exhibits Nos. 1 and 2 were produced and marked for  
identification.)

1 MS. MELILLO: At this time, I would like to move  
2 those testimonies and exhibits into evidence.

3 JUDGE CORBETT: All right. Hearing no objection,  
4 they will be so admitted.

5 **(OTS Statements Nos. 1, 2, 2-SR, 4, 4-SR and**  
6 **Exhibits Nos. 1 and 2 were admitted in evidence.)**

7 MS. MELILLO: Thank you.

8 MR. MOOT: Your Honor, would it be appropriate at  
9 this time to do the same for Dr. Makholm's testimony to  
10 which all the same things apply as the OTS attorney  
11 mentioned.

12 JUDGE CORBETT: Sure.

13 JUDGE CORBETT: Would you identify the statements  
14 and exhibits that you wish to have moved into the record.

15 MR. MOOT: Yes. I am handing to the Court Reporter  
16 two copies of the direct and rebuttal testimony of Jeff D.  
17 Makholm which are numbered Duquesne Statements Number 12  
18 and 12-R and accompanying exhibits.

19 JUDGE CORBETT: Okay.

20 MR. MOOT: And I would move them into evidence.

21 JUDGE CORBETT: All right. Hearing no objection,  
22 they will be so admitted

23 **(Duquesne Statements Nos. 12 and 12-R were produced**  
24 **and marked for identification and admitted in**  
**evidence.)**

25 MR. MOOT: Your Honor, I believe that if we were to

1 look at the schedule we would find Mr. Nelson next. I see  
2 that Mr. Rubin is not in the room at this point and from a  
3 informal poll of the parties, I got the sense that Mr.  
4 Nelson probably would come on and off in a very, very short  
5 time and my guess is that Mr. Rubin, however, would have  
6 significant or material cross for Mr. Nelson and I guess  
7 I'd suggest that it might be more efficient and if the  
8 other parties don't object to take Mr. Duckworth out of  
9 order first and maybe by the time he's done, Mr. Rubin will  
10 be here.

11 JUDGE CORBETT: All right. Any objection?

12 (No response.)

13 MR. BARAK: Your Honor, as coordinator, I know I  
14 have been asked by Mr. Hughes to let me know when we think  
15 Mr. Duckworth is coming. I'll give him a call  
16 immediately. I assume that the other parties have some  
17 cross so we can do this. This is an unanticipated.

18 MR. MOOT: I understand.

19 MR. BERGER: OCA has no cross.

20 MS. JONES: OSBA has no cross.

21 MS. POLACEK: I just have very little.

22 MR. MOOT: Do people -- we can go off the record.

23 JUDGE CORBETT: Let's go off the record.

24 (Discussion off the record.)

25 JUDGE CORBETT: Okay. We are back on the record.

1 We are going to take Mr. Nelson next. Would you raise your  
2 right hand, sir, and be sworn.

3 RALPH L. NELSON, called as a witness, having been  
4 duly sworn, was examined and testified as follows:

5 JUDGE CORBETT: Please have a seat, sir. Would you  
6 begin by giving us your full name, please.

7 THE WITNESS: My name is Ralph L. Nelson.

8 JUDGE CORBETT: Mr. Moot, you may continue.

9 DIRECT EXAMINATION

10 BY MR. MOOT:

11 Q Good morning, Mr. Nelson.

12 A Good morning.

13 Q Did you file direct and rebuttal testimony and  
14 exhibits in this case?

15 A Yes, I did.

16 Q Do you have any corrections to those testimonies  
17 or exhibits?

18 A No, I do not.

19 MR. MOOT: At this time I'd like to hand to the  
20 Court Reporter what is marked as Duquesne Statement Number  
21 10 and Number 10-R and accompanying exhibits, which are the  
22 direct and rebuttal testimony and exhibits of Mr. Nelson  
23 and I'd like to move them into evidence.

24 JUDGE CORBETT: All right. The statements and  
25 accompanying exhibits will be admitted into the record

1 subject to any proper motions.

2 (Duquesne Exhibits Nos. 10 and 10-R were produced  
3 and marked for identification and admitted in  
4 evidence.)

4 MR. MOOT: Your Honor, I have just been informed  
5 that Mr. LaGuardia is here and ready to go and I suggest  
6 that we postpone the full cross examination for Mr. Nelson  
7 till after Mr. LaGuardia goes on the stand and is completed  
8 and perhaps we can do all of Mr. Nelson at that time and  
9 perhaps that will be the best course.

10 JUDGE CORBETT: Any objection?

11 (No response.)

12 JUDGE CORBETT: Okay. Let me just take one look at  
13 the schedule.

14 MS. MELILLO: May we be off the record for a  
15 moment?

16 JUDGE CORBETT: Let's go off the record.

17 (Discussion off the record.)

18 JUDGE CORBETT: All right. We are back on the  
19 record and to accommodate parties who are not in the  
20 hearing room at the present time I am going to ask Mr.  
21 Nelson to step down and we'll take Mr. LaGuardia next.  
22 Thank you, Mr. Nelson, for your patience.

23 (Pause.)

24 JUDGE CORBETT: Would you raise your right hand, sir  
25 and be sworn.

1           **THOMAS S. LAGUARDIA**, called as a witness, having  
2 been duly sworn, was examined and testified as follows:

3           JUDGE CORBETT: Please have a seat, sir and would  
4 you give us your full name.

5           THE WITNESS: Full name is Thomas S. LaGuardia.

6           JUDGE CORBETT: Mr. Moot, you may continue.

7           MR. MOOT: Good morning, Mr. LaGuardia.

8           THE WITNESS: Good morning.

9                           **DIRECT EXAMINATION**

10          BY MR. MOOT:

11           Q Did you file direct and rebuttal testimony in  
12 this case?

13           A Yes, I did.

14           Q Do you have any corrections to that testimony?

15           A No. There are no corrections.

16           Q Is that testimony true and accurate to the best  
17 of your knowledge, information and belief?

18           A Yes, it is.

19           MR. MOOT: At this time I'd like to hand to the  
20 reporter and move into evidence Duquesne Statements Numbers  
21 13 and 13-R and any accompanying exhibits.

22           JUDGE CORBETT: All right. These documents will be  
23 so marked and identified and they will be admitted subject  
24 to any proper motions.

25           **(Duquesne Statements Nos. 13 and 13-R were produced  
and marked for identification and admitted in**

1           evidence.)

2           MR. MOOT: The witness is now available for cross  
3 examination.

4           JUDGE CORBETT: Okay. Ms. Melillo?

5           MS. MELILLO: Thank you, Your Honor. Good morning,  
6 Mr. LaGuardia.

7           THE WITNESS: Good morning.

8                           CROSS EXAMINATION

9 BY MS. MELILLO:

10           Q Mr. LaGuardia, first the of all, I had prepared a  
11 document which I had shown to your counsel and what this  
12 document is, it's the summary sheets from your studies that  
13 you did for decommissioning Beaver Valley 1 and 2, Perry  
14 and the fossil units in this proceeding.

15           A Yes.

16           Q I don't know if you have had the opportunity to  
17 look at this, given your schedule but I'll show you a copy  
18 of this now and see whether you can identify that as  
19 excerpts of the decommissioning studies that you used in  
20 this case. And the excerpts would be the cost estimate  
21 summaries.

22           A Yes.

23           Q You can identify those?

24           A These are the summaries from our reports, yes.

25 BY MS. MELILLO:

1 Q I note that the cover she for Beaver Valley Units  
2 1 and 2 decommissioning cost estimates says draft. While  
3 it does say draft, can you confirm that the numbers  
4 contained on the summary sheets for Beaver Valley Units 1  
5 and 2 were, in fact, the cost estimates used in this case  
6 by yourself?

7 A I believe they are correct, yes.

8 MS. MELILLO: Let the record reflect this is a  
9 document that we were provided a copy in discovery so we  
10 have not been provided any other update so the data is what  
11 we used for the exhibits.

12 MS. MELILLO: Your Honor, at this time I would like  
13 to mark for identification as OTS Cross Examination Exhibit  
14 Number 2, the document that I just showed Mr. LaGuardia and  
15 which I identified as being the cost summary sheet excerpts  
16 from his decommissioning studies in this proceeding.

17 JUDGE CORBETT: All right. It's so marred and  
18 identified.

19 **(ITS Cross Examination Exhibit No. 2 was produced**  
20 **and marked for identification.)**

21 MS. MELILLO: I have provided two copies to the  
22 Court Reporter, a copy to Your Honor and I do have some  
23 extra copies for parties who want it.

24 I believe this is a discovery response. The parties  
25 probably have it already.

1 MR. MOOT: That is --

2 BY MS. MELILLO:

3 Q Mr. LaGuardia, let's turn to page 3 of your draft  
4 testimony.

5 A I don't have a copy in front of me.

6 MR. MOOT: I'll get it.

7 THE WITNESS: Thank you.

8 BY MS. MELILLO:

9 Q That page shows a listing of the fossil fuel  
10 units of Duquesne for which you have performed a  
11 decommissioning study.

12 A Yes.

13 Q The ten fossil fuel stations listed in a total of  
14 17 units listed. Can you tell us the types of fossil fuel  
15 plants that they are? What fuel is burned in those?

16 A These are all coal fired units, basically, except  
17 for Brunot Island which are steam turbines. The last one  
18 is a steam turbine cycle unit.

19 Q On page 5 of direct testimony, at line 13, you  
20 discuss your prior involvement in a demonstration power  
21 reactor located in Puerto Rico and also on page 6 at line 4  
22 you talk about your involvement with a demonstration power  
23 reactor in the state of Minnesota what is a demonstration  
24 power reactor?

25 A In the early to late 1950s, the old Atomic Energy

1 Commission which is now the Nuclear Regulatory Commission,  
2 in the developing nuclear power, developed several design  
3 concepts for producing power by nuclear energy, using  
4 nuclear energy and these were called demonstration  
5 facilities. There are about six or eight -- about six of  
6 them.

7 They operated for periods of one to five years,  
8 depending on the individual design and then were shut down  
9 after the facility was -- either demonstrated or discovered  
10 problems which would not make that a viable method for  
11 generating power. And I was involved in those  
12 decommissioning projects. Some of those decommissioning  
13 projects.

14 Q On page 7 of your direct testimony, you at line 4  
15 you reference the Gentilly Unit 1 reactor in Canada. Are  
16 Canadian nuclear plants the same as the tiles one in the  
17 United States?

18 A No. Generally they are a different design.  
19 They're generally a Canadian design. Basically, they  
20 contain radioactivity; tough to deal with them, using  
21 remote tooling in the high radioactive areas.

22 The same type of engineering planning program would  
23 be needed for decommissioning in the U.S. reactors.

24 Q And also on that page, at line 9 you mention the  
25 Pathfinder atomic power plants in Sioux Falls, South Dakota

1 and you mention an abbreviated operating life for that  
2 plant. What was the operating life?

3 A 283 days, effective full power days.

4 Q And also on page 8 of your direct testimony,  
5 you mention the decommissioning of the Shoreham Nuclear  
6 Power Station on line 2 of that page. How long did  
7 Shoreham run?

8 A About two effective full power days;  
9 unfortunately.

10 Q How many nuclear facilities comparable in size to  
11 Beaver Valley 1 and 2 and Perry have been decommissioned so  
12 far in the United States?

13 A In size, there's two ways to look at that.  
14 Either in terms of megawatts or in terms of fiscal size and  
15 difficulty.

16 Q How about megawatt size?

17 A Megawatt size. Trojan Unit 1 is in the process  
18 of being decommissioned as a 100 megawatt unit in  
19 Maryland. We were involved in that. Yankee Rowe was about  
20 500 megawatts. We were involved in that project. That's  
21 almost completed. The Shoreham plant was 800 megawatts.  
22 That is completed.

23 The Fort Saint Glen project was 350 megawatts.  
24 That's been completed. Maine Yankee and Big Rock Point are  
25 currently in the process of planning stages and we are

1 doing some of that work right now. Maine Yankee is about  
2 800 megawatts. Big Rock Point is about a hundred  
3 megawatts. So they bracket the Beaver Valley station.

4 Q What megawatt units are Beaver Valley 1 and 2 and  
5 Perry?

6 A Totally about 758 megawatts.

7 Q I believe when responded to my question about how  
8 many nuclear facilities comparable to Beaver Valley 1 and 2  
9 and Perry have been decommissioned so far, I think you  
10 mentioned your firm's involved or bidding on those  
11 projects.

12 Were there any others that you were involved in  
13 other than those that have been decommissioned so far in  
14 the United States?

15 A He we have been involved in every nuclear project  
16 in one way or another.

17 Q But that have been decommissioned so far?

18 A That have been decommissioned so far?.

19 Q Actually been decommissioned.

20 A I think I mentioned every one of them that have  
21 been decommissioned. We did another research reactor very  
22 large research reactor which was probably more difficult  
23 than any of the other nuclear power plants in the country  
24 from the amount of radioactivity that we had to deal with.  
25 Centichem, C-e-n-t-i-c-h-e-m reactor.

1           We have just completed that work. That was a ten  
2 megawatt thermal research reactor; very, very difficult  
3 project which we completed successfully.

4           Q Is there a difference between decommissioning and  
5 dismantling of a fossil fuel plant?

6           A Not really; in terms of the overall process.  
7 We make the distinction, just so it's clear, that  
8 decommissioning which is an NRC term to terminate the  
9 license, that NRC license we use the term decommissioning  
10 fossil units. We distinguish. We call it dismantling.

11           It's the same basic process of removing the facility  
12 safely.

13           Q Can you tell me the number of fossil fuel plants  
14 in Pennsylvania which you or your firm have  
15 decommissioned?

16           A We have not decommissioned any of the units in  
17 Pennsylvania. There have been plants that have been  
18 decommissioned. We have not been involved in those  
19 projects. You did say fossil plants?

20           Q I did say fossil.

21           Am I correct that your cost estimates for  
22 decommissioning Duquesne's nuclear facilities include a 25  
23 percent contingency factor add-on?

24           A No. I believe our contingency value is about 22  
25 percent.

1 Q Is that an average?

2 A That's the extracted value. We calculate  
3 contingency on the line item basis and each type of  
4 activity we have a separate contingency ranking in value  
5 from 5 percent up to as high as 75 percent, 75 percent  
6 would be associated with cutting the reactor vessel into  
7 pieces internally, which is an activity that's prone to  
8 problems associated with tool breakdown and problems in  
9 handling and packaging of the segmented pieces as you take  
10 them apart.

11 And we have a range of contingency factors that  
12 apply to the whole segment of activities about 14  
13 categories of activities and we apply those contingency  
14 percentages to those activities,. To sum up, the total  
15 cost with contingencies in there many with that contingency  
16 in there we have extracted by taking -- we have calculated  
17 the contingency dollars by taking the total cost with and  
18 without contingencies and comparing it to -- it comes out  
19 to about 22 percent, I believe.

20 Q And that would be for the nuclear facilities?

21 A For the nuclear facilities, yes.

22 Q And the same question with regard to --

23 A It's almost 25 percent. I am sorry.

24 Q It is almost 25 percent?

25 A In one case.

1 Q How close is it to 25? Is it 24 points?

2 A Beaver Valley Unit 1 was 21.7 percent  
3 contingency. Beaver Valley Unit 2 was 24.7, if I read this  
4 correctly, and Unit 2 carried the common structure so  
5 there's more activities that could go on. There were some  
6 additional activities.

7 Q You said 21.7 percent contingency for Beaver  
8 Valley 1 and 24.7 percent for Beaver Valley 2, is that  
9 correct?

10 A That's correct.

11 Q What about Perry?

12 A I believe there's 16.7 percent is the latest  
13 update. I am not sure, reading these numbers.

14 Q We did the best we could.

15 A I apologize. It's a fax. It looks like 20  
16 percent average.

17 Q So with those numbers, what would be your  
18 extracted value for these dollars? Well, what would be the  
19 percentages?

20 A Those were the percentages I gave to you.

21 Q Those were the percentages. Did you average  
22 those at any point or those are just the numbers that fall  
23 out from your extraction?

24 A That's correct. It's a backed in percentage of  
25 contingency dollars compared to the base case without

1 contingencies. That percentage is the contingency value.

2 Q Same question for the fossil fuel plants.

3 A On the same page we provide contingency on a line  
4 item basis. The averages of contingency are not as high  
5 typically. Maximum level is about 50 percent, contingency  
6 when removed asbestos and PCBs and other hazardous and  
7 toxic material ranging now to as low as 5 percent for all  
8 the simple tasks.

9 But there was less opportunity for things to occur  
10 in the field, which is what our contingency applies to. It  
11 is not an estimate to account for anything that we don't  
12 understand on the plan.

13 Q Right.

14 A It includes for events that occur in the field.

15 Q Do you have as you gave me for each of the units  
16 for the nuclear units do you have an extracted value of  
17 contingency for each of the fossil fuel plants? You said  
18 you gave me a range of five to 50 percent?

19 A Yes. Those should be listed on these sheets, I  
20 believe. If I can capture the right pages. Cheswick, for  
21 example.

22 Q Okay.

23 A The contingency was 15.4 percent for El Rama,  
24 15.7 percent and for Bruce Mansfield, we didn't break those  
25 out separately. Some reason we didn't break out the

1 contingency there separately. It's on the order of 15  
2 percent. Bruce Mansfield was 15 percent. There it is.  
3 That's for the site. Brunot Island was 15 percent.  
4 Eastlake Unit 5 was 15 percent and Sammus Unit 7 was 15  
5 percent.

6 Q Thank you.

7 A So that's all.

8 Q Please turn to page 22 of your direct testimony.  
9 And continuing on to page 23, beginning at line 19 on page  
10 22, then you list problem areas which you believe lead to  
11 the need for contingencies of cost estimates for nuclear  
12 and fossil fuel decommissioning. Is that correct?

13 A That's correct.

14 Q If you would look at those eight categories that  
15 you have listed there, is it your position that problems in  
16 these identified areas may occur in and because of that  
17 contingency for nuclear fossil fuel decommissioning is  
18 required to be added to the cost estimates?

19 A Yes. Included in the cost the of these are costs  
20 that we expect to incur in the field as we performed work.  
21 Schedule slippages is something we deal with every day and  
22 every day you are spending some contingency dollars because  
23 of the schedule slippage which could -- because you are  
24 waiting for some critical piece of heavy lifting equipment  
25 to arrive roared on site either due to weather delays or

1 scheduling problems.

2 On the one site, a heavy rigger didn't show up  
3 that day and you have got a crew literally waiting for that  
4 crane to arrive so that they can do their work.

5 Q If you would look at those eight categories, Mr.  
6 LaGuardia, is it true that you can't state at this point  
7 with regard to the decommissioning estimates that you give  
8 in this proceeding that each of these problem areas is  
9 absolutely certain to occur? Can you --

10 A We cannot say with certainty that they will all  
11 occur and will all occur to the exact percentage that we  
12 used for our estimates but on average we have found these  
13 types of activities cause the types of contingencies that  
14 we have included.

15 Now, in some case on a job to job basis, some  
16 particular areas may be easier. Others may be lower than  
17 others but on average, which is what all these estimates  
18 are based on the percentages that we have included properly  
19 reflect the types of problems we expect to find in the  
20 field. Currently encountered in the field, and we have  
21 encountered.

22 Q Can you state with absolute certainty as you sit  
23 here today and as you presented costs estimates for  
24 decommissioning these plants that any of these will occur?

25 MR. MOOT: I think it was asked and answered.

1 MS. MELILLO: No. I said that all of them; now any  
2 of them two questions.

3 MR. MOOT: Fair enough.

4 THE WITNESS: All of them or any of them can occur  
5 and we account for that

6 BY MS. MELILLO:

7 Q My question is simply directed to can you state  
8 with absolute certainty today that any of these problem  
9 areas listed on pages 22 and 23 in your direct testimony  
10 will, in fact, absolutely occur with respect to  
11 decommissioning the plants.

12 MR. MOOT: Could I just ask for a clarification  
13 whether by any you mean that any sometimes is used  
14 equivalent to all or any particular one? Is it the  
15 latter?

16 MS. MELILLO: It's any of these in particular. I  
17 had asked him originally whether all of them and now any  
18 one of them in particular if he's absolutely certain that  
19 any one of these in particular would occur with respect to  
20 decommissioning a plant.

21 THE WITNESS: It is my testimony that I believe  
22 these, any of these will occur.

23 BY MS. MELILLO:

24 Q Absolutely occur. You can --

25 A I am convinced.

1           Q You are positive that these -- one of these will  
2 occur, if not all of them?

3           A Yes. Not, as I said, not necessarily to the full  
4 contingency percentage that I indicated. To some  
5 percentage on one day, and a larger percentage on another  
6 day or more on one topic on one occasion, or less on  
7 another in another occasion. But any one of these will  
8 definitely occur.

9           Q Okay. And do you know as you are sitting here  
10 what the cost of that occurrence will be?

11          A No.

12          Q What it will cost?

13          A What we do is we provide a contingency based on  
14 our experience of having worked in the field, of what the  
15 appropriate level of contingency should be included because  
16 we will spend those dollars, every single day. Sometimes  
17 it's minutes a day or hours a day.

18                 If my crew is held up because of bad weather or a  
19 crane that doesn't show up or in the case of Shippingport,  
20 the day we were going to make a maneuver, lift the  
21 hydraulic system and the crane froze up on it and it took  
22 us a whole half day to get it unfrozen and we had found a  
23 leak in the hydraulic system.

24                 It took that time to get it fixed. My crew wasn't  
25 working and I was paying contingency dollars out of my

1 contract to keep that crew there and pay for repairs and  
2 everything else that had to be done. Those are contingency  
3 dollars that we spend every single day.

4 Q So you are basing your position with respect to  
5 contingency on what your experience has been in the past.  
6 Is that correct?

7 A As best as anybody can do, certainly.

8 Q Is it possible that future technological  
9 advancements could reduce the cost of decommissioning as  
10 that type of plants are actually decommissioned?

11 A It's possible. It's also possible that future  
12 advances could cost more. For example, there are  
13 techniques being developed to remove asbestos first play  
14 encapsulating remotely and then by removal remotely, to  
15 save workers exposure to asbestosis but it costs more to do  
16 that and that's a price we, as a society are willing to  
17 pay, generally to protect the worker and give him a safe  
18 working environment. So new technology could cost more.  
19 But save worker exposure and that is a benefit to society,  
20 and therefore it's worth pursuing.

21 Q But it could also reduce costs, couldn't it?

22 A And it's possible its could reduce costs, yes.  
23 And as those technologies become available to us and we see  
24 that they are working in fact, and do reduce costs we adopt  
25 them as our method for dismantling these plants.

1           Q But the new technologies that could be developed  
2 in the future, could not have been considered in your  
3 estimates today because they are unknown at this point. Is  
4 that correct?

5           A Absolutely correct. We try not to speculate on  
6 future events that we are not quite sure will occur.

7           Q Am I correct that your cost estimates will  
8 incorporate many assumptions?

9           A Identify --

10          Q That's correct?

11          A We identify all of the assumptions or  
12 preconditions to make sure that it's clear what our costs  
13 include and what they do not include. So that there's no  
14 question as to what's the basis for the estimates.

15          Q And there is no guarantee that all these  
16 essentials will turn out to be accurate. Is there?

17          A Assumptions, the assumptions wherever identified,  
18 are generally very, very close to what we expect to  
19 encounter. For example, we assume on the coal plants that  
20 all the coal in the coal field will be burned off by the  
21 operating plant.

22          It's up to the end of retirement date. That's a  
23 pretty realistic expectation. Certainly the company would  
24 not go out and buy a field of coal when they are going to  
25 shut the facility down. Try to burn off the residual so

1 the coal field will be essentially level and that's how we  
2 have adapted the situation.

3 Just a function of good planning and what we have  
4 identified with Duquesne Light and all our other clients,  
5 frankly, what the proper assumption should be.

6 Q Okay. I believe that's all I have. Thank you.  
7 I would like to move OTS Cross Examination Exhibit Number  
8 2.

9 JUDGE CORBETT: Hearing no objection, it will be so  
10 admitted

11 (OTS Cross Examination Exhibit No. 2 was admitted in  
12 evidence.)

13 JUDGE CORBETT: Mr. Berger.

14 MR. BERGER: We have decided we have no cross after  
15 all.

16 JUDGE CORBETT: Okay. Ms. Jones, OSBA is listed as  
17 having no cross for this witness.

18 MS. JONES: That's correct, Your Honor.

19 JUDGE CORBETT: All right. Mr. Akers, the City is  
20 listed as having no cross for this witness.

21 MR. AKERS: That is correct, Your Honor.

22 JUDGE CORBETT: Ms. Polacek, I believe you are up  
23 next.

24 MS. POLACEK: Good morning, Mr. LaGuardia.

25 THE WITNESS: Good morning.

1 BY MS. POLACEK:

2 Q In an answer that you gave to Ms. Melillo, a few  
3 minutes ago you discuss I had an NRC operating license for  
4 nuclear facilities.

5 A Yes.

6 Q Now, in performing a nuclear decommissioning  
7 study is that NRC operating license used to establish the  
8 anticipated retirement date for the unit?

9 A Generally that's correct, yes.

10 Q And under what conditions can a nuclear unit  
11 operate after the expiration date of that license?

12 A If the utility chose to extend the life of the  
13 plant they have to make a formal application to the Nuclear  
14 Regulatory Commission to extend the life of the unit.

15 It would require a redesign of the facility, what  
16 systems would have to be upgraded to meet current design  
17 criteria or new design criteria.

18 There would perhaps be some replacement of major  
19 equipment to permit that to go forward or some major, I'll  
20 call it, backfitting of the existing equipment. They would  
21 most likely be a public hearing process to renew the  
22 license and if all those conditions were satisfied, the NRC  
23 would openly approve extending the life of the units for a  
24 specified period of time.

25 Q And is it correct that a similar license does not

1 exist with respect to fossil units?

2           A It's not in the same sense. There are state  
3 licenses that are given, granted relative to environmental  
4 conditions. Use of the facilities, but not quite as  
5 formally structured as the Nuclear Regulatory Commission's  
6 licensing process.

7           Q And do those state licenses establish a date by  
8 which the company would have to go back in and file a  
9 petition for extension of a license?

10           A In general, they do not.

11           MS. POLACEK: Thank you. No more questions.

12           JUDGE CORBETT: All right.

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1 JUDGE CORBETT: Mr. Wiseman. Go ahead,  
2 Mr. Wiseman.

3 CROSS-EXAMINATION

4 BY MR. WISEMAN:

5 Q Good morning, Mr. LaGuardia. I'm Kenneth  
6 Wiseman. I represent Hospital Shared Services/  
7 Administrative Resources, Inc.

8 Would you refer to Page 13 of your direct  
9 testimony, please, specifically Lines 8 through 9?

10 A Thirteen, eight through nine. Yes.

11 Q Am I correct that what you say there is  
12 that you assume that dismantling will occur upon the  
13 retirement of the last unit of that plant where there  
14 are multiple units?

15 A Yes. That's correct.

16 Q If you could refer briefly to Page 4 of  
17 your rebuttal testimony, Lines 6 through 11.

18 A One moment, please.

19 Q Certainly.

20 A I'm sorry. What page was that?

21 Q Page 4, Lines 6 through 11.

22 A Yes.

23 Q You were asked a question there whether the  
24 timing of dismantling would affect the costs of  
25 dismantling. Is it a fair characterization of your

1 answer that you say there would not be a substantial  
2 difference in the dismantling costs?

3 A That's correct. We would assume that all  
4 the work would be done at one time. All the plants  
5 are shut down at a site, and all the units would be  
6 decommissioned or dismantled at that time. From a  
7 cost estimating standpoint, there would be no  
8 difference in cost.

9 Q Would you agree with the proposition that  
10 even if there isn't a difference or a substantial  
11 difference in the costs of decommissioning that the  
12 deferral of decommissioning would affect the net  
13 present value calculation of decommissioning costs?

14 A That's not part of my testimony, but I know  
15 that to be a fact, yes.

16 Q In fact, the longer out in time that the  
17 decommissioning would occur the less the net present  
18 value calculation would be; is that correct?

19 A Depending on the assumptions one makes with  
20 respect to the inflation rate and discount rate on  
21 the return on investment, that is sometimes the  
22 conclusion that economists come to. I have not made  
23 that calculation. It is not part of my testimony.

24 Q I understand. I'm hesitant to get into  
25 this, but I'll do it very quickly and see where it

1 goes.

2 Have you read reports that as a result of the  
3 -- or heard reports that as a result of the Kyoto  
4 accord --

5 A The what? Give me --

6 Q Kyoto accord. Are you familiar with that?

7 A I can't say that it jumps out at me, no.  
8 For my information, what is it?

9 Q These are the environmental discussions  
10 that took place in Japan.

11 A Okay. I'm sorry. Go ahead.

12 Q So you are familiar with that generally?

13 A Yes. Now it's clicking. Thank you.

14 Q You're welcome. Have you either read or  
15 heard reports that as a result of the Kyoto accord  
16 that there is a potential for the extension of  
17 nuclear licenses in this country by as much as 20  
18 years?

19 A There has been some discussion about that,  
20 yes. I have not heard Vice President Gore nor  
21 President Clinton use that word "nuclear," but I have  
22 heard discussion regarding that issue, yes.

23 Q Do you feel that within your expertise that  
24 you are qualified to offer an opinion on the  
25 likelihood of the extension of those licenses?

1           A My professional opinion is I would like to  
2 see it occur personally. I'm very pro-nuclear, and I  
3 believe it's a good thing for this country. Whether  
4 it occurs, it's going to be something of the  
5 economics of nuclear power versus coal, oil, and gas,  
6 and the other alternative sources of power will  
7 dictate at that time.

8           Q Thank you. If you can refer to Page 34, I  
9 think -- I believe this is of your direct testimony.  
10 Yes, Page 34 of your direct testimony. You describe  
11 down toward the bottom part of the page three  
12 different methodologies for decommissioning nuclear  
13 plants; is that correct?

14           A Yes. That's correct.

15           Q Are the costs of each of those  
16 methodologies the same?

17           A No, certainly not.

18           Q Now, if you could refer to your rebuttal  
19 testimony at Page 15, specifically Lines 19 through  
20 21.

21           A Page 15. Bear with me a second.

22           (Pause)

23           A Yes.

24           Q You say there that advances in technology  
25 do not necessarily equate to decreases in uncertainty

1 or guaranteed cost savings. Is that a fair summary  
2 of that testimony?

3 A That's correct.

4 Q Can you give us some examples of the  
5 advances in technology that you're aware of that  
6 either did not provide cost savings or, in fact,  
7 resulted in higher costs?

8 A Yes. I think I gave one example this  
9 morning with respect to asbestos removal, which  
10 applies to both nuclear and fossil units, where they  
11 came up with remote technologies for encapsulating  
12 and, in fact, removing asbestos. It costs more, but  
13 there is a benefit to society, to the worker, and so  
14 on.

15 There are examples where we have found  
16 improved methods of cutting metals under water, the  
17 active vessel internals, for example, under water,  
18 that reduce exposure. Even though they cost more to  
19 use, they reduce exposure, which is a very important  
20 factor. The tools themselves cost a million to a  
21 million and a half dollars to do the cutting, as  
22 opposed to the former tool, which was --

23 I'll give you two examples. The older tool  
24 was the plasma arc torch, which probably costs about  
25 \$800,000 to build. A newer tool that we propose and

1 we're apparent low bidder on for Trojan was the arc  
2 saw. It's a much faster tool. It cuts easier and  
3 faster and in many different ways, but it costs about  
4 a million and a half to build. But it does the job  
5 better, and exposure to workers should be lower  
6 because there's less time involved in cutting up the  
7 internals.

8 Those are some examples of the kinds of new  
9 technologies that could increase costs.

10 Q Thank you. Now, if you could refer to Page  
11 18 of your rebuttal testimony, Lines 18 through 19.

12 A Page 18?

13 Q Yes, Page 18, Lines 18 through 19.

14 A Yes.

15 Q I'm sorry. It should be Lines 8 through  
16 19.

17 A Eight, yes.

18 Q All right. I believe that you're saying  
19 there that you assume that land sites where  
20 Duquesne's generation units are located would not be  
21 restored completely. Is that correct?

22 A That's generally correct. They would be  
23 restored to the eye. Certainly you could grow grass  
24 over the site when they're finished. That's the  
25 so-called green field condition.

1           But underneath those sites, frankly, are the  
2 embedded foundation structures of the buildings three  
3 feet below grade. For the fossil units, in  
4 particular, the ash ponds that are typically located  
5 on site would be covered over with soil. We would  
6 not recommend releasing those lands for housing  
7 developments or farming, for that matter. You  
8 wouldn't want to sink a drinking water well through  
9 those properties. It's not suitable for that  
10 application.

11           But those properties could be used as green  
12 field area for the new development of an office  
13 complex, for example, and have this as a grassy area,  
14 attractive looking, grow plants and decorative  
15 vegetation, rather than a crop, for example.

16           So, to that extent, it could be released for  
17 unrestricted use but with some restrictions of what  
18 kinds of things you would do on that site.

19           Q Did you make a valuation of the land sites  
20 where Duquesne's individual generation units are  
21 located?

22           A In terms of land value?

23           Q Yes.

24           A No, we did not.

25           Q Could you please refer to the next page in

1 your rebuttal testimony, Page 19, and I would refer  
2 you to Lines 12 through 15.

3 A Yes.

4 Q Am I correct that what you say there, in  
5 summary, is that an existing generation site may not  
6 be the most advantageous location for a new  
7 generation site depending upon the redistribution of  
8 industry and commercial customers and load growth; is  
9 that correct?

10 A That's correct.

11 Q Do you think that those factors,  
12 specifically redistribution of industrial and  
13 commercial customers and load growth, are too  
14 difficult to predict with certainty? Is that the  
15 reason why you did not -- Well, do you think those  
16 are too difficult to predict with certainty?

17 A Without an exhaustive site specific  
18 evaluation, I think that would be a tough decision to  
19 try to make at this point. You would have to look at  
20 when these plants would be retired, what the  
21 economics of that region would dictate, whether  
22 there's going to be a residential area, which has  
23 happened in many cases.

24 Some of these plants were built in some  
25 cities. I've seen the power plants built right

1 downtown. There's no way you could build a power  
2 plant downtown in any city today or keep some of  
3 these older plants going beyond that point.

4 It's that type of evaluation that one would  
5 have to make, which would be a fairly exhaustive  
6 analysis, which is much beyond the scope of what we  
7 were asked to look at.

8 Q When we're off the record, I'll tell you  
9 about a power plant that was built in a downtown  
10 area.

11 MR. WISEMAN: I have no further questions,  
12 Your Honor. Thank you.

13 JUDGE CORBETT: Mr. Zielonis, on behalf of  
14 PRA, I take it you have no cross-examination.

15 MR. ZIELONIS: That's correct, Your Honor.

16 JUDGE CORBETT: Mr. Barak.

17 MR. BARAK: Yes, Your Honor, I have some  
18 cross.

19 CROSS-EXAMINATION

20 BY MR. BARAK:

21 Q Good morning, Mr. LaGuardia.

22 A Good morning again, Mr. Barak.

23 Q I just saw you down the hall in the other  
24 case, so I won't introduce myself again.

25 Let me just follow up on that one comment you

1 made a moment ago that there is no way you could  
2 build a power plant downtown today. Did you have a  
3 certain size or a certain type of building in mind  
4 when you said that?

5 A No. I was thinking in terms of a large  
6 coal plant, for example. That would be very  
7 difficult to do. Actually, there's no way. I mean  
8 very, very difficult to accomplish that.

9 Q So fuel cells, which are power plants --  
10 You're familiar with them; right?

11 A Right, very much so.

12 Q That is not included in your response?

13 A No. Small plants, certainly packaged  
14 units, combustion turbines, even there they have a  
15 problem with noise, perhaps. But those kinds of  
16 plants conceivably could be done, but it gets more  
17 and more difficult these days, because of noise  
18 concerns and environmental concerns and such, to do  
19 those plants in a downtown area.

20 Q This may sound familiar. You used the term  
21 "green field" earlier, and you defined it a few  
22 moments ago. Green field also is used to apply to --  
23 I don't want to use the term pristine, but land that  
24 has not been developed for commercial-industrial  
25 purposes; correct?

1 A Not ever been developed, that's true.

2 Q The term "brown field," are you familiar  
3 with it?

4 A Generally, yes.

5 Q What does that mean to you?

6 A It is any of the spectrum from not planting  
7 grass to a facility that's been totally dismantled,  
8 leaving soil, bare soil, or rock and rubble, for that  
9 matter, to potentially some non-demolished buildings  
10 that a utility or an owner might have some potential  
11 use for for a limited period of time.

12 For example, the office building that was the  
13 office building for the power plant might conceivably  
14 be used for a training facility for a few years if it  
15 would meet current design and state code requirements  
16 for all the current regulations that are necessary.  
17 That might be done, and that might be included in a  
18 brown field definition. It's the spectrum of any of  
19 those possibilities.

20 Q The fossil sites that you contemplate  
21 decommissioning for in this case would be placed in a  
22 brown field state, as you have defined green field  
23 and brown field; right?

24 A It would perhaps be closer to a green field  
25 condition in what we've estimated, with the exception

1 of leaving in place the switch yard which would  
2 continue, likely continue to be used for wheeling  
3 power in and out, switching power to the various  
4 distribution lines. That facility would probably  
5 remain in place.

6 In fact, if we backfilled the voids where  
7 buildings formerly existed with rock and rubble and  
8 backfilled them with soil, we would probably grow  
9 grass, literally grow grass to stabilize the soil to  
10 keep it from blowing, becoming a dust problem, and  
11 keep it from eroding away from the site until some  
12 future use, if any, were identified for the site.

13 So we'd probably come closer to a green field  
14 definition in your definition that you described, at  
15 least to the eye.

16 Q When you described switch yard, you used  
17 the term distribution?

18 A Yes.

19 Q With respect to the switch yards for these  
20 fossil facilities, are you contemplating connections  
21 only to the distribution system or to the higher  
22 voltage transmission system?

23 A Higher voltage, higher voltage, wheeling in  
24 power through the switch yard to other areas which  
25 would then be distributed, of course.

1           Q   As you use the term "wheeling," it could be  
2 from a power generating facility on the site through  
3 the switch yard and out; is that right?

4           A   In the scenario that we looked at, we  
5 assume that when the plants were dismantled all the  
6 plants on the site were dismantled at the same time.  
7 So I'm assuming there's nothing else operating on the  
8 site.

9           We would be bringing in power from another  
10 site, bringing it through the switch yard, and  
11 sending it down other power lines that exist in the  
12 grid. That's how I used the term retaining the  
13 switch yard as a source of wheeling power in and out,  
14 switching power in and out.

15          Q   Just for clarification, do you have in mind  
16 some construction or reconstruction that would  
17 prohibit the transmission into the switch yard from  
18 that site of electricity?

19          A   No. That capability exists right now.

20          Q   Back to brown fields and green fields, are  
21 you aware of a Pennsylvania state policy that  
22 encourages the use of brown fields or, using your  
23 terminology, green field sites that might have had  
24 construction on them before, as opposed to taking  
25 new, say, farmland or forest land, and turning it

1 into commercial or industrial facilities?

2 A During a break, I was advised there is such  
3 a statute in Pennsylvania that I was unaware of.

4 Q The term "decommissioning" as you have used  
5 it with respect to nuclear plants, does that term,  
6 for your use in this case, include the disposal of  
7 low-level nuclear waste from the facility?

8 A Yes, it does.

9 Q Does it include the disposal of all low-  
10 level nuclear waste that may have been stored on the  
11 site, say, in containers prior to the beginning of  
12 the types of activities you describe?

13 A No. Our decommissioning costs identify  
14 only the wastes -- identify and cost only the wastes  
15 that would be generated during decommissioning  
16 activities.

17 If there are wastes left over from operations  
18 such as spent resins, plastic beads that are used to  
19 clean up water, filter water and so on, those left  
20 over from operations would be shipped off site and  
21 disposed of under operating costs, not under  
22 decommissioning costs.

23 Q Similar answer with respect to spent fuel  
24 that had been stored on site?

25 A That's right. Spent fuel, the disposal of

1 spent nuclear fuel is a cost that the company is  
2 paying to the U.S. Department of Energy. Some day  
3 the Department of Energy will come along and take  
4 that fuel off site.

5 But the costs for storing that fuel on site is  
6 currently included as a decommissioning expense  
7 because we can't do anything else except store it.  
8 If we could ship the fuel off site today, it would  
9 not be a decommissioning expense. We cannot  
10 decommission the plant until that fuel is removed  
11 from the site. So it, de facto, becomes a  
12 decommissioning expense, and we've included it as  
13 such.

14 Q In your rebuttal testimony, Page 19.

15 A Yes.

16 Q You're discussing land value in this  
17 question, a series of questions and answers; right?

18 A Yes.

19 Q Now, your decommissioning estimating for  
20 this case does not include valuing the land's use  
21 after decommissioning activities are done; right?

22 A That's correct.

23 Q The costs that you estimate, are they  
24 typically described as part of something you might  
25 term net negative salvage?

1 A Yes.

2 Q And you don't undertake any kind of  
3 calculation that would offset future value from the  
4 use of the land to the net negative salvage figure;  
5 is that right?

6 A That's correct.

7 Q On Pages 20 and 21 of your rebuttal  
8 testimony, you begin there asking yourself whether  
9 the Commission should approve funding of dismantling.  
10 Do you recall that question and answer?

11 A Yes.

12 Q Are you presenting your testimony as a  
13 regulatory policy expert, as opposed to a specialist  
14 in the physical dismantlement of facilities?

15 A No. I'm representing the latter case.  
16 Expert in physical dismantling of the facilities, not  
17 in terms of regulatory policy.

18 Q You state on Page 21, Line 3, "It is  
19 neither realistic nor equitable to postpone recovery  
20 of such costs." Do you recall that?

21 A Yes. That's correct.

22 Q Are you attempting to suggest -- Let me  
23 rephrase that. Are you suggesting that there is some  
24 weakness in Duquesne's finances so that, absent a  
25 Commission order or approval as you urge in these two

1 pages, 20 and 21, the activities that you address  
2 simply would not be undertaken?

3 A I'm not suggesting a weakness in Duquesne's  
4 financing. I'm just pointing out that the costs for  
5 decommissioning are well established. We know what  
6 the costs are. It has to be accomplished.

7 Rather than postpone it and leave this  
8 activity to some future uncertainty, which could be a  
9 regulatory uncertainty, what EPA may require, NRC may  
10 require on the nuclear side, in terms of additional  
11 costs of decommissioning these facilities, it could  
12 likely be much more expensive than we're anticipating  
13 today.

14 The delay of decommissioning would only  
15 provide more opportunity for those additional costs  
16 to be incurred. The sooner you dismantle and  
17 decommission these facilities, the less uncertainty,  
18 the less risk there is to the company and to the  
19 public of these costs going higher or getting more  
20 costly. That's all I'm recommending.

21 Q But I'm having some difficulty with the  
22 connection of the two concepts here. Are you  
23 suggesting that the engineering activities that you  
24 focus on will not take place absent some regulatory  
25 decision-making by the Commission?

1           A    The monies need to be in place to start the  
2 job.  No one wants to start a project that is  
3 unfunded or not sufficiently funded by some  
4 mechanism.

5           The sooner you have that funding in place, the  
6 more assurance the work will be done safely and  
7 completely without interruption.  Interruptions cost  
8 more money, obviously, because of the need to  
9 demobilize and remobilize a crew and to lose  
10 personnel and so on.

11           So the sooner that gets done, the better.  If  
12 the monies are in place to do this promptly at the  
13 time of shutdown, the safer and the lower cost  
14 approach would be available to us.

15           Q    Would you agree with me that the company is  
16 capable of making those monies available to undertake  
17 the work that you've scoped out in your testimony?

18           A    They are collecting monies for the nuclear  
19 plants, certainly, under the NRC requirements to do  
20 that over the operating life of the facility.  But  
21 that's in a preplanned program to do that, an NRC-  
22 mandated program to do that.

23           The same type of program needs to be  
24 established in principle for the fossil plants, that  
25 money is to be set aside for decommissioning, for

1 dismantling of the fossil units in the same manner,  
2 in a similar manner.

3 Q In your view, but for the Commission  
4 ordering of some fund chargeable to the ratepayers,  
5 this company cannot undertake the physical activities  
6 that you discuss in your testimony for fossil plants?

7 A That is not part of my testimony. What my  
8 testimony is is that to do this work it should be  
9 done. The money should be set aside for it.

10 It is my opinion that those customers who have  
11 gotten the power from the benefit -- benefit of the  
12 power generated from these facilities should be  
13 paying for its decommissioning. That should be  
14 established and be part of the cost of operation, if  
15 you will, of these plants so those funds will be  
16 available when the plant is ready to be  
17 decommissioned.

18 Those that have gotten the benefit of the  
19 power should pay for its decommissioning. That's the  
20 principle that the NRC established in allowing public  
21 utility commissions to -- requiring, I should say,  
22 public utility commissions to assess ratepayers with  
23 the cost of decommissioning. The same type of  
24 mechanism should be in place, whatever structure it  
25 takes financially, to accomplish the same objectives,

1 in my opinion.

2 Q You haven't undertaken an analysis of the  
3 finances of this company for the period during which  
4 these fossil decommissioning activities would take  
5 place, have you?

6 A No.

7 Q Just, I think, one more question here.  
8 Your direct, Page 25, Lines 1 and 2, you answer a  
9 question about your contingency. You state that  
10 you've come within four percent of "recent work  
11 performed." Do you recall that testimony?

12 A Yes.

13 Q What recent work, specifically, are you  
14 referring to there?

15 A Very specifically, going back to 1989 where  
16 we did the estimate for the Pathfinder nuclear plant,  
17 we estimated that project at \$15 million. Northern  
18 States Power, the owner of that company,  
19 decommissioned that plant for \$13.8 million because  
20 they chose to do the management of the project  
21 themselves, rather than use an outside contractor as  
22 we had put into our estimate, and they saved the  
23 decommissioning contract this fee, which is about 10  
24 percent.

25 The Shoreham nuclear plant, we estimated that

1 cost at \$186 million. They did the actual  
2 decommissioning for \$182.4 million, and they got a  
3 little bit better burial rate than we were able to  
4 estimate from the contractor, Environmental of South  
5 Carolina, for disposal. That was for complete  
6 decommissioning of that facility. They did not  
7 dismantle the structures.

8 For the Yankee Rowe plant where they removed  
9 the steam generators, the pressurizer, and the active  
10 vessel internals, we estimated \$32 million. They did  
11 it for \$28 million because they hired the company  
12 that runs the burial ground down in South Carolina to  
13 do the field work, and they gave them a cut in burial  
14 costs to get the work to do the on-site labor. So  
15 they did a deal, which we had no way of predicting  
16 that would occur.

17 For the Trojan steam generator project which  
18 we were actively involved in, we estimated that job  
19 at \$14.8 million, the complete disposal of four steam  
20 generators and the pressurizer. They did the job for  
21 \$14.2 million. We bid the preparation of the steam  
22 generators and all the licensing activities at \$3.8  
23 million, and we fixed-priced and brought that job in  
24 on schedule within budget.

25 Those are probably the key jobs that were

1 very, very current. Those are all within the  
2 percentage range that I identified, within a few  
3 percent.

4 Q Did Shoreham go commercial?

5 A Not -- Well, they did, actually. They  
6 actually had a commercial operating license. They  
7 only operated for two effective full power days, and  
8 they shut the plant down. Officially they were  
9 commercial.

10 MR. WISEMAN: Thanks very much.

11 That's all I have for the witness, Your Honor.

12 JUDGE CORBETT: Okay. Mr. Stewart, for MAPSA,  
13 I take it that you have no cross-examination,  
14 according to this schedule.

15 MR. STEWART: That's correct, Your Honor.

16 JUDGE CORBETT: Mr. Clearfield, the same thing  
17 holds true for you on behalf of ENRON?

18 MR. CLEARFIELD: Yes, sir.

19 JUDGE CORBETT: Mr. Rubin, the same holds true  
20 for you for IBEW?

21 MR. RUBIN: Yes, Your Honor.

22 JUDGE CORBETT: Any redirect, Mr. Moot?

23 MR. MOOT: No, Your Honor.

24 JUDGE CORBETT: Mr. LaGuardia, thank you very  
25 much, sir, for coming in. You are excused.

1 MR. MOOT: Your Honor, seeing Mr. Rubin in the  
2 room, I suggest that we put Mr. Nelson back on the  
3 stand and begin with him.

4 JUDGE CORBETT: I agree.

5 Mr. Nelson. Mr. Nelson, you were previously  
6 sworn, and you're still under oath, sir.

7 (Ralph L. Nelson resumed the witness stand.)

8 MR. MOOT: Your Honor, one housekeeping matter  
9 with regard to Mr. Nelson, and I just don't know  
10 whether the record will bear my recollection correct,  
11 but I do not believe that I asked Mr. Nelson whether  
12 his testimony and exhibits were true and accurate to  
13 the best of his knowledge, information, and belief,  
14 and I would like to ask him that now.

15 THE WITNESS: They are.

16 MR. MOOT: He's available for cross-  
17 examination.

18 JUDGE CORBETT: Ms. Melillo, I take it from  
19 the schedule that you have no cross on behalf of the  
20 OTS.

21 MS. MELILLO: That's correct, Your Honor.

22 JUDGE CORBETT: Mr. Berger.

23 MR. BERGER: We've decided we have no cross  
24 for Mr. Nelson either.

25 JUDGE CORBETT: Ms. Jones, on behalf of OSBA,

1 according to the schedule, it indicates you have no  
2 cross.

3 MS. JONES: That's correct, Your Honor.

4 JUDGE CORBETT: Mr. Akers, do you have any  
5 cross of this witness?

6 MR. AKERS: The City of Pittsburgh has no  
7 cross.

8 JUDGE CORBETT: Ms. Polacek.

9 MS. POLACEK: We have no cross, Your Honor.

10 JUDGE CORBETT: Mr. Wiseman.

11 MR. WISEMAN: No cross, Your Honor.

12 JUDGE CORBETT: Mr. Zielonis.

13 (No audible response.)

14 JUDGE CORBETT: Okay. He seems to have  
15 disappeared.

16 Mr. Barak.

17 MR. BARAK: Nothing, Your Honor.

18 JUDGE CORBETT: Mr. Stewart, you indicate no  
19 cross on the schedule.

20 MR. STEWART: That's correct, Your Honor.

21 JUDGE CORBETT: Mr. Clearfield, the same thing  
22 holds true for you?

23 MR. CLEARFIELD: Yes, sir.

24 JUDGE CORBETT: No cross?

25 MR. CLEARFIELD: That's correct. No cross.

1 JUDGE CORBETT: And Mr. Rubin.

2 MR. RUBIN: Let's make it a clean sweep.

3 JUDGE CORBETT: That was relatively easy,  
4 Mr. Nelson.

5 THE WITNESS: I'm disappointed, terribly.

6 MR. MOOT: I have a little redirect, though,  
7 Your Honor.

8 MS. MELILLO: Don't try it.

9 JUDGE CORBETT: Thank you very much,  
10 Mr. Nelson. You are excused, sir.

11 MR. MOOT: He's my best witness.

12 Your Honor, at this time I'd like to call the  
13 next witness, which is Mr. Duckworth.

14 RALPH E. DUCKWORTH, JR., called as a witness,  
15 being duly sworn, testified as follows:

16 JUDGE CORBETT: Please have a seat. Would you  
17 begin by giving the court reporter your full name,  
18 please.

19 THE WITNESS: My name is Ralph E. Duckworth,  
20 Jr.

21 JUDGE CORBETT: Mr. Moot, you may continue.

22 DIRECT EXAMINATION

23 BY MR. MOOT:

24 Q Good morning, Mr. Duckworth.

25 A Good morning.

1 Q Did you previously file direct and rebuttal  
2 testimony in this case?

3 A Yes, I did.

4 Q Do you have any corrections to that  
5 testimony?

6 A I do not.

7 Q Is that testimony true and accurate to the  
8 best of your knowledge, information, and belief?

9 A Yes, it is.

10 MR. MOOT: Your Honor, at this point I would  
11 hand to the reporter two copies of Duquesne Statement  
12 Numbers 11 and 11-R and accompanying exhibits and  
13 move them into evidence.

14 JUDGE CORBETT: All right. These statements  
15 and accompanying exhibits will be so marked and  
16 identified, and they will be admitted subject to any  
17 proper motions.

18 (Duquesne Statement Numbers 11 and 11-R were  
19 marked and admitted into evidence.)

20 MR. MOOT: Your Honor, I have no rejoinder.  
21 Therefore, the witness is available for cross-  
22 examination.

23 JUDGE CORBETT: According to the schedule,  
24 Ms. Melillo, you have no cross for this witness on  
25 behalf of OTS.

1 MS. MELILLO: That's correct, Your Honor.

2 JUDGE CORBETT: Mr. Berger.

3 MR. BERGER: We've decided we have no cross.

4 JUDGE CORBETT: We're on a roll.

5 MS. MELILLO: We promised you, Judge, so we're  
6 keeping our word.

7 JUDGE CORBETT: Okay. I didn't expect the  
8 list to collapse here.

9 Ms. Jones, I take it you have no cross.

10 MS. JONES: That's correct, Your Honor.

11 JUDGE CORBETT: The City has no cross?

12 MR. AKERS: That is correct, Your Honor.

13 JUDGE CORBETT: Ms. Polacek.

14 MS. POLACEK: I'm going to break the cycle  
15 here and actually ask very, very limited cross.

16 JUDGE CORBETT: Okay. I wasn't counting, but  
17 that was about 16.

18 CROSS-EXAMINATION

19 BY MS. POLACEK:

20 Q Mr. Duckworth, if you could refer to Page  
21 14 of your rebuttal testimony, Lines 18 through 20.

22 A Yes.

23 Q There you are discussing an increase in  
24 decommissioning costs if the Perry unit is shut down  
25 prematurely; correct?

1 A That is correct.

2 Q You state there would be an initial capital  
3 cost of 20 million to construct the storage  
4 facilities and .4 million per year to maintain. I  
5 noticed the 20 million, after that in parens it  
6 indicates the Duquesne share of that portion.

7 A That's correct.

8 Q Would a similar adjustment occur to the .4  
9 million?

10 A No, that would not be correct. The .4  
11 million is already stated in Duquesne Light's share.

12 MS. POLACEK: Thank you. That's all I have.

13 JUDGE CORBETT: Mr. Wiseman, I take it you  
14 have no cross.

15 MR. WISEMAN: That's correct, Your Honor.

16 JUDGE CORBETT: Mr. Zielonis, do you have no  
17 cross?

18 MR. ZIELONIS: That's correct, Your Honor.

19 JUDGE CORBETT: Mr. Barak.

20 MR. BARAK: No cross, Your Honor.

21 JUDGE CORBETT: Mr. Stewart, on behalf of  
22 MAPSA, I take it, according to the schedule, you have  
23 no cross.

24 MR. STEWART: That is indeed correct, Your  
25 Honor.

1 JUDGE CORBETT: Mr. Clearfield, the same thing  
2 holds true?

3 MR. CLEARFIELD: Yes, sir.

4 JUDGE CORBETT: Mr. Rubin, the same thing  
5 holds true?

6 MR. RUBIN: Yes, Your Honor.

7 JUDGE CORBETT: Mr. Duckworth, you are --

8 MR. HUGHES: Your Honor, I have just one  
9 question.

10 JUDGE CORBETT: Okay. I'm sorry. I've  
11 overlooked you, Mr. Hughes.

12 CROSS-EXAMINATION

13 BY MR. HUGHES:

14 Q Mr. Duckworth, in your rebuttal testimony  
15 where you are -- actually, Page 1. You do rebut my  
16 direct testimony.

17 A Yes.

18 Q Hopefully, we can just do this very  
19 quickly. You are pointing out some operating  
20 statistics on the Perry plant O & M, Page 3, and you  
21 deal with availability factors and fuel costs and  
22 those kinds of things in that rebuttal.

23 A Yes.

24 Q It appears to me that what you're trying to  
25 say is that this is a unit that's had some problems

1 but it's improving. Would that be a fair  
2 characterization?

3 A I am pointing out that the performance at  
4 Perry in terms of its costs and capacity factors has  
5 improved in recent years.

6 Q And would you agree that Perry has been a  
7 significant drain on the financial resources of  
8 Duquesne?

9 A Perry has been in a situation where it has  
10 been over budget, particularly in 1993 and 1994, and  
11 had caused Duquesne to spend unanticipated  
12 expenditures, yes.

13 MR. HUGHES: That's all. Thanks.

14 JUDGE CORBETT: Is there any other party who  
15 has any cross-examination for this witness who I have  
16 not called?

17 (No audible response.)

18 JUDGE CORBETT: Any redirect, Mr. Moot?

19 MR. MOOT: No, Your Honor.

20 JUDGE CORBETT: Mr. Duckworth, thank you very  
21 much, sir. You, also, are excused.

22 JUDGE CORBETT: Do you have a witness?

23 MR. MOOT: I know he's here. He's just not in  
24 the room.

25 JUDGE CORBETT: One moment. Let's go off the

1 record.

2 (Pause)

3 JUDGE CORBETT: We're back on the record.

4 JAMES A. LAHTINEN, called as a witness, being  
5 duly sworn, testified as follows:

6 JUDGE CORBETT: Would you begin by giving the  
7 court reporter your full name, please.

8 THE WITNESS: Yes. My name is James A.  
9 Lahtinen. I'm general manager of regulatory and  
10 economic analysis at Duquesne Light Company.

11 JUDGE CORBETT: Mr. Moot.

12 DIRECT EXAMINATION

13 BY MR. MOOT:

14 Q Good morning, Mr. Lahtinen.

15 A Good morning.

16 Q Did you file direct testimony and exhibits  
17 in this case?

18 A I did.

19 Q Do you have any corrections to those  
20 testimonies or exhibits?

21 A No, I don't.

22 Q Are those testimonies and exhibits true and  
23 correct to the best of your knowledge, information  
24 and belief?

25 A Yes, they are.

1 MR. MOOT: Your Honor, I am handing to the  
2 reporter two copies of a set of testimonies and  
3 exhibits, the statements which are Statement Number 5  
4 and Statement Number 5-R. I would move them into  
5 evidence subject to any appropriate motion.

6 JUDGE CORBETT: All right. They will be so  
7 marked and identified, and they will be so admitted.

8 (Duquesne Statement Numbers 5 and 5-R were  
9 marked and admitted into evidence.)

10 MR. MOOT: Your Honor, Mr. Lahtinen has  
11 rejoinder testimony, and consistent with the request  
12 of one party in this case and because of the nature  
13 of the rejoinder rendered it much more clear and  
14 accurate to reduce it to writing, we have a very  
15 short piece of rejoinder and one exhibit that I will  
16 now hand to the witness, Your Honor, and the court  
17 reporter.

18 The rejoinder is indicated and marked as  
19 Duquesne Statement 5-Rejoinder. Mr. Lahtinen's  
20 exhibit has been copied separately and is indicated  
21 as Exhibit JAL-18. I have handed a copy of that  
22 exhibit to the witness, Your Honor, and two copies to  
23 the court reporter. I am now circulating copies of  
24 each to the parties.

25 BY MR. MOOT:

Q Mr. Lahtinen, are you familiar with the

1 documents I've just handed to you?

2 A Yes.

3 Q Did you prepare them?

4 A Yes, I did.

5 MR. MOOT: Your Honor, at this time I would,  
6 first, move the admission of the rejoinder testimony  
7 and exhibits subject to appropriate motions and,  
8 second, consistent with the practice that we've been  
9 using, request that the intervening parties be  
10 permitted, if they wish, to take a break. That may  
11 well constitute our lunch break today, but the latter  
12 being their choice.

13 (Duquesne Statement Number 5-Rejoinder was  
14 marked and admitted into evidence.)

15 (Duquesne Exhibit Number JAL-18 was marked and  
16 admitted into evidence.)

17 JUDGE CORBETT: Okay. Let's go off the record  
18 for a minute.

19 (Discussion off the record.)

20 JUDGE CORBETT: All right. We're back on the  
21 record. We'll take a luncheon break now until 1:05.

22 (The hearing recessed at 12 noon and  
23 reconvened at 1:10 p.m. the same day.)

24 JUDGE CORBETT: We're back on the record.

25 Ms. Melillo, looking at the schedule, OTS

1 indicates that it has no cross-examination of  
2 Mr. Lahtinen.

3 MS. MELILLO: That's correct, Your Honor.

4 MR. MOOT: Your Honor, we have identified one  
5 error. If I could ask two questions, we could get it  
6 corrected.

7 JUDGE CORBETT: Sure.

8 BY MR. MOOT:

9 Q Mr. Lahtinen, have you had an opportunity  
10 to review your rejoinder over the lunch break?

11 A Yes, I have.

12 Q Have you identified anything that needs to  
13 be corrected?

14 A Yes. There's a typographical correction  
15 that needs to be made at Page 6, Line 5. Within the  
16 parentheses we need to insert a prefix before  
17 defensible.

18 Q And that prefix would be --

19 A I-N.

20 JUDGE CORBETT: Mr. Berger.

21 MR. BERGER: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. BERGER:

24 Q Good afternoon, Mr. Lahtinen. Is that  
25 correct?

1           A    Close enough.  I don't even pronounce my  
2 name correctly.  It's Finnish.  I was informed by a  
3 Finlander, whatever they call themselves, that I  
4 don't even pronounce my name correctly.  Lahtinen is  
5 fine.

6           Q    I guess I'm more interested in how you  
7 pronounce it.

8           A    That's how I pronounce it.

9           Q    Would you agree with me, Mr. Lahtinen, that  
10 the calculation of a two-part CTC is a more complex  
11 process than the calculation of a simple per kilowatt  
12 hour CTC?

13          A    No, I wouldn't.

14          Q    Well, how would you calculate the simple  
15 per kilowatt hour CTC for a customer?

16          A    Well, that would require an unbundling of  
17 the existing rates, the current bundled rates.  I  
18 will tell you in our work for the compliance filing  
19 in the pilot we probably spent almost as much time  
20 calculating the unbundled rates for the pilot as we  
21 did for the restructuring case.

22          Q    Maybe I should make my question a little  
23 more clear.  Assuming you have a fixed level of  
24 stranded costs applicable to a particular customer,  
25 would you agree with me that you would take that

1 annual level of stranded costs for that customer and  
2 divide it by the kilowatt hour suggested usage for  
3 that customer to calculate the CTC in a one-part CTC  
4 situation?

5 A No, I wouldn't. But if I could explain, I  
6 will tell you why I don't agree with that. I think  
7 it will help us.

8 Q Okay. That's fine.

9 A I have problems when you refer to a  
10 stranded cost number for a particular customer and  
11 then the calculation of what I would refer to as a  
12 simple unbundling of the rates. Without customer-  
13 specific CTCs, the unbundling process starts with the  
14 bundled rates at the class level. There are no  
15 customer-specific rates in that case.

16 So, if I could explain the process,  
17 essentially what we would do, which we did in the  
18 compliance filing of the pilot, would be to take the  
19 bundled rates. We then would take the allocated cost  
20 of service and identify the cost components by  
21 function between production and transmission and  
22 distribution, identify a CGC or a competitive market  
23 value to get the amount that's recoverable in the  
24 generation component, look at the rate cap and  
25 compute them as such and set forth specific rates for

1 classes.

2 Our unbundled rates, as you know, have  
3 proposed customer-specific CTCs, but there are  
4 elements in all the other classes where there are  
5 class-specific rates. Transmission rate is class  
6 specific. Distribution rate is class specific. The  
7 variable CTC is class specific, and the CGC is class  
8 specific.

9 But in terms of the arithmetic calculation, I  
10 really don't believe it's a whole heck of a lot  
11 different. Really, I'm basing it on the experience  
12 that I had in filing compliance --

13 Q I'm just trying to get to the mathematics.  
14 I think I was trying to focus on that.

15 Once you have the class-specific CTC, you  
16 then, under your methodology, determine a specific  
17 per kilowatt hour rate applicable to each volume of  
18 usage within that class? Is that how you're doing  
19 it?

20 A What we're doing is we're taking for each  
21 customer the baseline revenues at the current bundled  
22 rates. I explain this in some depth in my testimony.  
23 We're calculating the total baseline revenues for  
24 each customer.

25 In the cost of service study, we are

1 subtracting from that number the allocated  
2 transmission costs, the allocated distribution costs  
3 to be left with the unbundled generation costs.

4 We then break that up into two components.  
5 One would be the market piece of that, which is  
6 determined by the CGC. The residual is the stranded  
7 costs of generation. Then that is broken up into a  
8 variable CTC and into a CGC.

9 Q That's the part I'm talking about, when you  
10 get down to that. I think you're talking here about  
11 the customer-specific level.

12 A Yes.

13 Q And you have a certain amount of costs that  
14 are in there, that residual amount that you've talked  
15 about as being the CTC. Let's say that it's \$100 for  
16 a customer. Let's say that you are --

17 If you were going to do a single variable  
18 charge, rather than doing a two-part charge as you've  
19 proposed, would you simply take that dollar amount  
20 for that customer and divide it by the projected  
21 usage of that customer during the year?

22 A You certainly could do that calculation.  
23 As I stated at length in my testimony, we do not  
24 recommend that because of our efficiency consequences  
25 by simply dividing the CTC by a flat kilowatt hour.

1           Q But your variable charge takes, basically,  
2 half of the CTC residual and determines the variable  
3 component in that way, doesn't it?

4           A That may be the result for some classes.  
5 That was not the intent. The intent was to set a  
6 target volumetric or usage base rate based upon  
7 competitive market prices as well as the elasticity  
8 effects that we considered to maximum mitigation and  
9 stranded costs.

10           When we got the target level and netted out  
11 the transmission and the distribution costs and the  
12 CGC, what fell out of that was a variable CTC which  
13 would hit our target or our efficient usage price  
14 level.

15           The end result, of course, when we have that,  
16 we deduct it from the total stranded cost component,  
17 and the residual naturally falls into a fixed CTC.

18           But I did not have any preconceived notion  
19 that I wanted to split the variable and fixed CTC  
20 50/50, 40/40.

21           Q No. I was just giving an example.

22           A I think, you know, the numbers are laid out  
23 in the Exhibit JAL-4, where you can go in, if you  
24 want, and you can do the calculation. We can  
25 calculate a typical bill, what percentage of that

1 typical bill is represented by variable CTC, fixed  
2 CTC, transmission, distribution. We can do that.

3 I believe the RS class, for usage levels, I  
4 think the number is about 50 percent, maybe slightly  
5 above it, and it varies a little bit by class, I  
6 believe.

7 Q Will the variable and fixed CTC charges be  
8 different, generally, for every customer?

9 A The variable CTC charges will not be  
10 different. They are class specific. They will be  
11 the same for any customer with -- any customer who  
12 takes service within a particular class.

13 Interestingly, with a flat kilowatt hour rate,  
14 like the RS class, the cents per kilowatt hour of the  
15 fixed CTC is exactly the same. It's 5.83 cents a  
16 kilowatt hour. Now, of course, the amount of the  
17 fixed CTC varies depending upon the kilowatt hour  
18 usage, but it's just due to the arithmetic. It  
19 actually drops out. The fixed CTC is a flat cents  
20 per kilowatt hour rate for a single kilowatt hour  
21 block -- single block kilowatt hour rate classes.

22 Q Mr. Lahtinen, would you agree with me that  
23 in establishing rates in the company's previous rate  
24 cases the company did not seek and that the  
25 Commission did not establish different rates for

1 different functional elements of the company's cost  
2 of service?

3 A I would agree in the last cost of service  
4 study -- in the last base rate proceeding that the  
5 Commission approved a given level of revenue  
6 requirement and bundled rates.

7 Q So you would agree with my statement?

8 A Yes, and I think I state that in my direct  
9 testimony, if you would like the citation for it.

10 Q No. That's all right, as long as you agree  
11 with the statement.

12 Is it your objective in this case,  
13 Mr. Lahtinen to establish the same charges for  
14 transmission and distribution service for customers  
15 taking generation service from West Penn and for  
16 customers not taking generation service from West  
17 Penn -- I'm sorry, from Duquesne and for customers  
18 not taking generation service from Duquesne?

19 A If I understand the question now, I think  
20 so. The whole idea was to set forth comparable  
21 transmission and distribution rates and that those  
22 transmission and distribution rates would not vary  
23 depending upon whether that customer took generation  
24 from Duquesne under its supplier of last resort  
25 obligation or purchased power from an alternative

1 supplier.

2 We believe we're under a requirement to  
3 provide comparable transmission and distribution  
4 rates for retail customers whether they buy power  
5 from Duquesne or whether they buy it from a  
6 competitive supplier.

7 Q I'm sure you've faced the difficulty of  
8 defining non-generation charges as that term is used  
9 in the statute. Are you familiar with that term as  
10 used in the statute?

11 A Yes. I believe we did, if you are  
12 referring to transmission and distribution rates and  
13 delivery charges.

14 Q Well, that's my question. Your  
15 understanding of non-generation charges is that it's  
16 simply limited to transmission and distribution  
17 rates?

18 A Let me check the statute.

19 MR. MOOT: Mr. Berger, could you indicate a  
20 specific section to which you're referring?

21 MR. BERGER: Sure, I will. Specifically,  
22 Section 2804(4)(i)(B). I know it's used in other  
23 sections.

24 A I have the section of the act. In my  
25 direct testimony at Page 27, I set forth the reasons

1 why I believe that our unbundled rate structure is in  
2 compliance with the act, the requirements of the act.

3 BY MR. BERGER:

4 Q Well, I'm just seeking to establish your  
5 definition of non-generation charges. Is that just  
6 transmission and distribution?

7 A If I could read the act -- You want me to  
8 read 2804(4)(i)(B).

9 (Pause)

10 A Yes, I generally agree that that would  
11 refer to a transmission and distribution cap. I  
12 discuss that, again, with regard to the difficulties  
13 one has with dealing with that. The Commission, as I  
14 said earlier, has never approved unbundled rates, and  
15 it certainly didn't approve unbundled rates in our  
16 last rate base proceeding.

17 Q At the time of this case, the company is  
18 not billing a portion of its revenues for generation  
19 and a portion of its revenues for non-generation  
20 services?

21 A Well, we are now under the pilot, and we do  
22 have an unbundled structure.

23 Q Well, at the time that this act went into  
24 effect.

25 A Clearly, the company has been charging

1 their approved base rates.

2 Q Now, I understand from your supplemental --  
3 your surrebuttal testimony that if a customer  
4 purchases ancillary services from an alternative  
5 supplier you offer to reduce that customer's bill by  
6 a market-based credit.

7 A Could you give me a reference to that?

8 Q It's on Page 21 of your rebuttal.

9 A Do you have a specific line? Are you  
10 referring to --

11 Q I guess I'm really referring to 21 and 22.

12 A Starting at Line 17?

13 Q Yes, that question and answer starting at  
14 Line 17. I don't think you really get to the point  
15 until the top of the page on Page 22.

16 A Yes. This discussion concerns our initial  
17 proposal and my response to some of the objections  
18 that were raised, particularly by OCA witness Lee  
19 Smith and others.

20 As I note on this page at Line 6, Duquesne, in  
21 response to Environmentalist 3-157, explained why we  
22 had originally included the distribution losses in  
23 the distribution rate and why we would be willing to  
24 take the distribution losses out and include them in  
25 CGC.

1 I have an Exhibit 15 to this rebuttal  
2 testimony, which is a copy of the response to OSBA  
3 2-17, which shows the effect of incorporating the  
4 distribution losses into the CGC.

5 MR. MOOT: I would just note for the record  
6 that I think the generic discussion about ancillary  
7 services which was in the question begins at Page 18.

8 MR. BERGER: Okay.

9 BY MR. BERGER:

10 Q So am I correct that you would remove these  
11 costs from the transmission and distribution rates,  
12 or distribution rates?

13 A We will remove the -- In effect, we are  
14 providing a credit to the CGC for the distribution  
15 losses at the market price.

16 Q And you would propose to do this based upon  
17 the annual auction; is that correct?

18 A That's correct.

19 Q So this factor or this market-based credit  
20 might change every year, or would change every year  
21 under your proposal?

22 A Yes. It's no different than the proposals  
23 set forth by all the other utilities in the state in  
24 the pilot in other cases.

25 I mean Duquesne was different than everybody

1 else. I believe in the pilot every other company did  
2 a CGC with an adjustment for distribution losses. We  
3 were the only one that didn't do it. I thought our  
4 proposal was reasonable. We were not double  
5 counting. We had no intention of double counting.

6 Q I don't think I'm raising an issue about  
7 this.

8 A No, no. I understand. There's been a lot  
9 of confusion about this point. It just seemed  
10 natural to me when we did it. The only thing that I  
11 knew of that would be -- The only losses at the time  
12 that I was aware that could be supplied by  
13 competitive suppliers was transmission losses, and it  
14 just naturally followed.

15 Again, as I stated, we have no problem  
16 adjusting the CGC for the distribution loss factors.

17 Q Would you agree with me that what is  
18 currently in transmission and distribution rates  
19 under your original filing is the embedded costs  
20 associated with the losses?

21 A No. We'll have to break that question up  
22 into two pieces, and I prefer to take transmission  
23 and distribution.

24 Q Okay.

25 A Transmission, we've never included the

1 transmission line losses in our transmission rate.  
2 It has never been in there. I can show you the cost  
3 of service summaries. It's not in there. Wouldn't  
4 do it. Never intended to do it. If I intended to do  
5 it, you could flog me to death because it shouldn't  
6 be in there.

7 Q Okay. Let's talk about distribution.

8 A Distribution, yes. The capacity costs  
9 associated with distribution losses as well as the  
10 energy losses were included in the distribution rate.  
11 No question about that. Those were included in the  
12 initial filing.

13 This proposal by crediting the distribution  
14 losses through the CGC would, in effect, now move the  
15 difference between those total distribution-related  
16 losses and the market price of distribution. That  
17 differential now is going to go into the CTC or the  
18 production category. I believe Ms. Smith recommended  
19 that we do that in her testimony.

20 Q So you're proposing to put that difference  
21 into the CTC, rather than collecting it through the  
22 distribution rate?

23 A Absolutely, because it is a stranded  
24 generation cost. Now, if these services are  
25 competitively -- available for competitive

1 procurement.

2 Q Mr. Lahtinen, am I correct that you're  
3 recommending the customers who switch from an  
4 alterative supplier back to Duquesne must remain on  
5 the company's system for at least 12 months?

6 A Do you have a cite in my direct? I know I  
7 talked about that. I think it's towards --

8 Q I think it's on Page 69 of your direct.

9 A I know it's not on Page 75.

10 Q It's not on Page 75?

11 A No. If you'd just give me a second, could  
12 I read this?

13 Q Please.

14 (Pause)

15 A Yes. Starting at Line 15 and going over to  
16 Page 70, Line 7, is the explanation as to why I  
17 believe that's necessary.

18 Q Are you considering altering the 12-month  
19 rule contained in your testimony for certain  
20 categories of customers for certain situations, or  
21 would this, in your viewpoint, be applied on a strict  
22 basis?

23 A If you have some examples -- I mean I  
24 believe this testimony was generic. Again, I'm just  
25 trying to think of an example where it wouldn't

1 apply. I don't --

2 Q Well, before you say that, would you look  
3 at your response to OCA Interrogatory Set 2, Number  
4 1. Do you have that?

5 A No, I don't.

6 Q Let me give you a copy of that. Would you  
7 just take a minute to review that, please, and let me  
8 know when you're done reviewing it.

9 (Pause)

10 A Yes. I don't see anything inconsistent  
11 with what I have said. At the bottom of that  
12 response, in response to the hypothetical, I was  
13 assuming that the scenarios appear to be ones where  
14 the customers have made a good faith effort to make  
15 necessary arrangements with alternative power  
16 suppliers, was unable to precisely match the need for  
17 power with arrangements for deliveries. I would  
18 assume that neither customer nor supplier was engaged  
19 in "gaming" activities designed to take advantage of  
20 the rate cap provisions and supplier of last resort  
21 provisions under the electricity Customer Choice and  
22 Competition Act.

23 Q Are you saying you would or would not apply  
24 the 12-month restriction to these customers?

25 A For this I think it's clear that I

1 wouldn't, because these are not the situations that  
2 I'm talking about. These are situations where a  
3 customer and supplier has made a good faith effort to  
4 match up supply with demand.

5           There might be a two-day lag. We simply  
6 charge them at the posted price, and they would go to  
7 the supplier. In other words, the customer contracts  
8 with a supplier. He leaves Duquesne and goes with a  
9 supplier. He schedules for the supplier to start  
10 deliveries February 13th. For whatever reason, the  
11 supplier can't get deliveries to him until February  
12 15th. Duquesne has no problem putting him on the  
13 posted tariff for two days until that supplier starts  
14 the supply. I don't have any problem.

15           But, again, as I said, this is not a situation  
16 -- This is not the situation or these are not the  
17 situations I was concerned about on Page 69, which  
18 was customers taking power from Duquesne during high  
19 cost -- from alternative suppliers in low-cost  
20 periods and switching to us during high-cost periods.

21           Q Well, I understand your concern. But does  
22 the tariff allow that kind of flexibility?

23           A I believe it does. I don't think there's  
24 anything that would restrict it. I would offer this:  
25 If in the compliance phase you think there needs to

1 be a provision in there which would cover these  
2 unique, non-frequent -- or infrequent instances, I  
3 would be happy to consider it and take a look at it.

4 But I did not view Page 69 as restricting  
5 flexibility under these situations.

6 Q Now, these situations talk about, as I  
7 think you indicated, short gaps in service of a  
8 customer when they're trying to sign up with a new  
9 supplier but they're unable to get that service until  
10 after they've already come back onto the company's  
11 services, basically.

12 A That's right.

13 Q Do you have any specific guidelines for how  
14 short or long that gap in service could be, or would  
15 you evaluate it on a case-by-case basis?

16 A Well, I mean I don't have any particular  
17 guidelines. I mean, clearly, if we found instances  
18 where people are saying, ENRON is going to start  
19 supplying power, and six weeks they're still on the  
20 tariff and then I find them doing that again two  
21 months down the road, three months down the road, I'd  
22 be concerned.

23 But I don't believe -- I mean it's a matter  
24 of judgment. But these situations, at least the way  
25 I was interpreting them, I don't have a problem

1 putting them on the company's tariff.

2 Q Am I correct that, in general, Duquesne has  
3 proposed no fees for customers switching suppliers?

4 A That's a question probably best addressed  
5 to Fred Allison. There's no need for me to  
6 speculate. Mr. Allison can answer that question  
7 better than I can.

8 Q Would you agree with me that one of your --  
9 that a reasonable objective of rate design should be  
10 to prevent confusion of customers about what's on  
11 their bill?

12 A Certainly. Before rates are changed, the  
13 company will have to explain any rate changes to the  
14 customers, which Duquesne has started. I mean it did  
15 it for the pilot. It continues to do it. Again, I'm  
16 not trying to pass the buck, but Mr. Hoffman is  
17 involved intimately with those activities and would  
18 be happy, I'm sure, to explain those to you.

19 Yes. I mean Duquesne would certainly have to  
20 explain the rate design, explain the opportunities  
21 for customers under Duquesne's proposed rate design,  
22 and answer any questions that the customers would  
23 have through focus groups, through mailings, inform  
24 customers.

25 But yes. I mean, again, as I say in my

1 testimony, I mean with regard to rate design the  
2 three main objectives I see are efficiency, adequacy,  
3 and fairness. The rest of these are ancillary to  
4 those objectives.

5 Customer confusion, rate stability, and a  
6 bunch of other ones are all ancillary to the three  
7 main objectives. Duquesne certainly would have an  
8 objective, certainly would have an interest in making  
9 sure customers understood what the rates provide for.

10 After all, I strongly believe and I think the  
11 company believes that this rate design would promote  
12 sales growth, which will increase net margins, which  
13 will increase mitigation stranded costs and be better  
14 for the customer.

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

16 JUDGE CORBETT: Ms. Jones.

17 MS. JONES: Yes, Your Honor. Thank you, Your  
18 Honor.

19 CROSS-EXAMINATION

20 BY MS. JONES:

21 Q Good afternoon, Mr. Lahtinen.

22 A Yes. Good afternoon.

23 Q I'll just be asking a couple of questions  
24 on behalf of OSBA.

25 A Okay. My good friend Mr. Kalcic.

1           Q Yes. As the general manager of regulatory  
2 and economic analysis, you are aware that there are  
3 several other Pennsylvania investment-owned companies  
4 that are filing restructuring plans; correct?

5           A Yes, I am.

6           Q Do you know what those companies -- the  
7 names of those companies?

8           A All of them in Pennsylvania will have to  
9 file restructuring plans. Well, I think they all  
10 have filed. I think the last ones were September  
11 30th, and I think that was Penn Power and --

12           MS. MELILLO: Pike County filed fairly  
13 recently.

14           A Thank you.

15 BY MS. JONES:

16           Q So you know PECO filed.

17           A Yes.

18           Q You know UGI filed.

19           A Yes.

20           Q You know PP&L filed.

21           A Yes.

22           Q West Penn.

23           A Yes.

24           Q Okay. Focusing your attention specifically  
25 on the distribution revenue requirements, would you

1 accept subject to check that PECO's originally  
2 proposed filing requested realized rate of return for  
3 its distribution revenue requirements?

4 MR. MOOT: Your Honor, I would object to any  
5 question of this nature that would ask for the  
6 witness to accept something subject to check. We're  
7 on such a schedule that there simply is no fair  
8 opportunity to do that and to bring the witness back  
9 to correct the record.

10 I have no objection if the question is, Will  
11 you assume with me for purposes of my question that  
12 this is a fact? I think that's a lot more fair to  
13 the witness and better for the record.

14 MS. JONES: Your Honor, I don't have a problem  
15 with that proposal.

16 JUDGE CORBETT: All right.

17 BY MS. JONES:

18 Q Will you assume with me for fairness of  
19 fact that PECO's original proposed filing requested  
20 realized rate of return for distribution revenue  
21 requirements?

22 A I would. I'd be interested to know what  
23 PECO filed on the second round, but I will assume  
24 that for purposes of this cross.

25 Q Okay. Would you also assume with me for

1 purposes of fact that UGI filed a proposal based on  
2 realized rate of return for distribution revenue  
3 requirements?

4 A I will.

5 Q And would you assume with me for purposes  
6 of fact that PP&L filed a proposal referencing  
7 realized rate of return for distribution revenue  
8 requirements?

9 A I will.

10 Q Okay.

11 A Would you assume with me that West -- No.  
12 Sorry.

13 Q Would you turn to your rebuttal testimony  
14 on Page 35, the sentence starting at Line 17. You  
15 state that "Duquesne prepared its unbundled cost of  
16 service study on the basis of its estimated required  
17 cost of capital," approximately 9.61 percent. Do you  
18 recall that?

19 A Yes. Just let me read the whole thing  
20 first, please. I mean the answer.

21 (Pause)

22 A Yes, we did.

23 Q Would you turn over to Page 36, the two  
24 sentences contained on Lines 13 through 15. You  
25 explained in your direct testimony the Commission

1 never approved rates on an unbundled basis; it only  
2 approved revenue on rates on a bundled basis. Is  
3 that your testimony?

4 A That is. When we get done, I'd like to add  
5 some additional things, but that's fine.

6 Q Would you agree with me that subsequent to  
7 this testimony that the Commission came out with a  
8 ruling on PECO's filing on the 11th referencing  
9 unbundled rates?

10 A I know they came out with a preliminary  
11 order. I don't know if it's a final order.

12 Q There was a motion that was approved three  
13 to two; correct?

14 A That's correct. I don't -- I take it  
15 there's still a final vote that needs to be made. I  
16 don't know. There certainly was a motion that was  
17 approved three to two, a motion by Commissioner  
18 Hanger. I don't recall what they approved or didn't  
19 approve with regard to rates of return with regard to  
20 PECO distribution rates.

21 Q Let me back up. Would you accept as a  
22 matter of fact as far as procedure that the  
23 Commission approved a motion and there will be a  
24 subsequent final order that contains that approval?

25 A Well, since I already started, I will. But

1 I would just add one thing that's important to keep  
2 in mind. Again, I don't want to delay or make life  
3 tough for Mr. Kalcic.

4 But Duquesne's last base rate proceeding was  
5 in 1987. A lot of these other companies have had  
6 rate proceedings much closer, certainly have had rate  
7 proceedings that were much closer to today than  
8 Duquesne.

9 Furthermore, I believe I may have filed in the  
10 pilot. As best we could determine, if you took out  
11 of that old cost of service study the unbundled  
12 transmission and distribution rates, took whatever  
13 was allocated for T, whatever was allocated for D,  
14 summed them, divided by kilowatt hours, I believe  
15 that some of those rates in fact may be lower than  
16 what we filed in this restructuring case once you net  
17 out the distribution losses.

18 Furthermore, we have recently received a  
19 recommendation by the ALJ in the FERC with regard to  
20 our open access transmission tariff. He recommended  
21 the Commission approve a settlement between Duquesne,  
22 the Commission, and the FERC staff.

23 The transmission-related revenue requirements  
24 in that settlement are about \$800,000 less than what  
25 we filed in the restructuring case, which I will

1 change upon final FERC Commission approval.

2 Q Mr. Lahtinen, in that response there were  
3 several issues that you brought up. One was a  
4 reference to the pilot. You are aware that the  
5 Commission can reconcile what was done with the pilot  
6 to what is done with the approval of the  
7 restructuring plan?

8 A But I think that reconciliation is related  
9 to a reconciliation between the approved competitive  
10 generation and customer participation credits and the  
11 actual market values that the utilities experience.

12 I think there's language in the pilot that  
13 will allow utilities the opportunity to reconcile the  
14 difference between the shopping credits that were  
15 allowed in the pilot and what the companies actually  
16 obtained by sales off system.

17 Q So are you saying that that reconciliation  
18 cannot review and correct any set of unbundled  
19 distribution rates?

20 A I guess I don't know what you mean. Are  
21 you saying Can the Commission approve a different  
22 transmission and distribution rate in the utility's  
23 restructuring filing versus its pilot filing? Maybe.  
24 I don't know. I don't have any particular knowledge  
25 about that one way or another.

1 Q Okay. All right. I'll move on.

2 Would you accept subject to check that the  
3 motion of Commissioner Hanger approved realized rate  
4 of return for distribution levels, as opposed to  
5 claimed rate of return for distribution levels, on  
6 PECO's filing?

7 A That's with all the other caveats that  
8 we've had with all of these assumptions? Assume for  
9 purposes of fact?

10 Q Yes.

11 A Yes, I would assume that.

12 Q And would you accept subject to check that  
13 Commissioner Hanger's motion actually modified the  
14 allocation of methodology proposed by PECO as far as  
15 distribution and transmission rates are concerned?

16 A I --

17 Q You have no idea?

18 A I have no idea. I have absolutely no idea.

19 MS. JONES: I have nothing further, Your  
20 Honor.

21 JUDGE CORBETT: Mr. Americus, anything for the  
22 City?

23 MR. AMERICUS: No questions.

24 JUDGE CORBETT: Ms. Polacek.

25 MS. POLACEK: Yes. Thank you, Your Honor.

1 MR. MOOT: Your Honor, before any questions  
2 are asked, could I just have 30 seconds with the  
3 witness?

4 JUDGE CORBETT: All right. No objection.  
5 Sure.

6 (Pause)

7 CROSS-EXAMINATION

8 BY MS. POLACEK:

9 Q Good afternoon, Mr. Lahtinen.

10 A Good afternoon.

11 Q My name is Pamela Polacek. I represent the  
12 Duquesne Industrial Interveners.

13 I believe you have your rebuttal testimony up  
14 there. Could you turn to Page 17, please.

15 A I have it.

16 Q Specifically looking at Lines 14 through  
17 17.

18 A Yes, I see that.

19 Q On those lines you discuss that the RFP  
20 that Duquesne has used represents firm power and that  
21 it is supported by the current level of installed  
22 reserves maintained by the company; correct?

23 A Yes, I do.

24 Q And I think it's also correct that at  
25 present that is 12 percent.

1           A I believe Mr. Karl is the witness who will  
2 address that. But I believe his testimony says that  
3 Duquesne has no installed reserve obligation but for  
4 purposes of transmission period that they will  
5 endeavor to maintain 12 percent reserves, whether  
6 installed or go out in the market buying reserves  
7 necessary, which is no different than what we  
8 promised under the RFP. To the extent that capacity  
9 is not available, we would go out and obtain the  
10 necessary reserves to fulfill the obligations of the  
11 contract.

12           Q Are you aware of -- And this may be more  
13 appropriate to ask Mr. Karl. Are you aware of  
14 whether throughout the transition period all of the  
15 RFPs will be backed up by the 12-percent level, or  
16 will that change? If you're not aware, I can ask  
17 Mr. Karl.

18           A I'm not aware. I'm not sure how to respond  
19 to it, and I'd ask Mr. Karl.

20           Q That's fine.

21           With respect to your rejoinder statement,  
22 after reviewing it and discussing it with our  
23 consultants, we're still a little confused. So I'm  
24 going to ask you a pointed question, and you can give  
25 me a yes or no answer, and then feel free to explain.

1 A Okay.

2 Q It's with relation to generation-related  
3 ancillary services.

4 A Is there a particular page?

5 Q I believe it would probably be in your  
6 responses on Pages 4 through 5 to OCA witness Lee  
7 Smith, was what we were reading through.

8 A Okay. So you'd like me to read Page 4  
9 starting at Line 5?

10 Q Yes.

11 A And through Page 5, Line 7?

12 Q Yes.

13 A Okay. I will do that.

14 (Pause)

15 A Okay. I've read that.

16 Q My question is, Is what you're saying there  
17 that the company is not including any generation-  
18 related ancillary service costs in transmission and  
19 will now include those costs in generation?

20 A No, that is not what I am saying. What I  
21 am saying is that ancillary services that can be  
22 competitively procured will not be included in  
23 transmission. A portion of them will be included in  
24 generation.

25 You know, I know there's so much paper. But,

1 really, if you look at my direct testimony at Page  
2 17, I think there's a table in the body of the  
3 testimony. I think it's around Page -- It's  
4 actually Page 12, which really compares the current  
5 bundled rates to the unbundled charges and where the  
6 costs are.

7 Really what it is is those services, ancillary  
8 services that aren't competitively procured have been  
9 included in the transmission rates; those being  
10 reactive supply, regulation and frequency control,  
11 and spinning reserve.

12 Those services that can be competitively  
13 provided--energy imbalance, supplemental reserve--  
14 those will be in the generation piece.

15 Furthermore, the operating reserve  
16 supplemental, as I've said, we've picked those up in  
17 the CTC portion, and we're going to provide a credit,  
18 based on my latest testimony, through the CGC.

19 Q Thank you. I think that clarifies things  
20 at least.

21 A It is confusing. Believe me, it is  
22 confusing.

23 Q I think from our perspective we just want  
24 to see whether we agree with you or not, and we'll  
25 argue our respective positions.

1 I have one more question for you.

2 A Sure.

3 Q You were discussing with Mr. Berger the 12-  
4 month stay-out provision for customers who return to  
5 the company after shopping in the market.

6 A Yes.

7 Q I think when you were discussing that you  
8 referred to high cost and low cost periods. Were you  
9 referring to high and low cost periods within any 12-  
10 month period?

11 A Yes. I mean essentially what I was  
12 referring to is a situation that Duquesne is  
13 concerned about, and there may be ways to fix it. I  
14 don't know. It's been hard for us to think of one.

15 We're concerned with a customer who selects an  
16 alternate supplier, say, in October, and they  
17 purchase power from that supplier in October and  
18 November and December and let's say maybe January.  
19 It's not our highest cost, but let's say January is a  
20 fairly high load month. When it's cold, a lot of  
21 things go wrong.

22 They decide to drop off their supplier  
23 service, come onto Duquesne, pay the low price during  
24 the low cost period for suppliers. Duquesne is going  
25 to be forced with giving them the tariff rate. Since

1 our RFP is based on an annual average rate, the  
2 ability for the customer to go on and off our system  
3 at high cost periods is going to cause Duquesne some  
4 financial pain.

5 That's what we've been trying to avoid. We're  
6 concerned with the situation if a customer takes  
7 power from the alternate supplier in the low cost  
8 period, whether it's during the peak period in the  
9 winter or the peak period in the summer, and comes  
10 back to Duquesne --

11 Could I have that re-read. I think I've got  
12 --

13 Q I think you have your high and low period  
14 confused.

15 (Answer at Lines 10-15 read by court  
16 reporter.)

17 A Again, let me try to -- What we're most  
18 concerned with is the fact that a customer would,  
19 obviously, switch back to Duquesne during the high  
20 cost period. We would incur high costs, and we would  
21 only charge them a rate based on an annual average  
22 rate. That's the situation we want to avoid.

23 MS. POLACEK: Thank you. I have no more  
24 questions.

25 JUDGE CORBETT: Mr. Wiseman.

1 MR. WISEMAN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. WISEMAN:

4 Q Good afternoon, Mr. Lahtinen.

5 A Good afternoon.

6 Q Could you please refer to Page 4, Line 22,  
7 through Page 5, Line 3, of your direct testimony?

8 A What was the page number again?

9 Q Page 4.

10 A Okay. I've got that.

11 Q If you could review your answer that starts  
12 on Line 5 --

13 A Yes.

14 Q -- and runs over to -- well, as far as Line  
15 3 on the following page, please.

16 (Pause)

17 A I've read that.

18 Q Would you agree with the characterization  
19 of that testimony that what you're saying is that if  
20 the CGC is set less than the actual market price  
21 customers will continue to buy power from Duquesne  
22 for the wrong reasons and, conversely, if the CGC is  
23 set too high, set above the market price, that  
24 customers will choose alternate suppliers for the  
25 wrong reason?

1           A I mean I say that like in the last -- on  
2 the last four or five lines. I thought you wanted me  
3 to start reading at Line 5. I say a lot of things.

4           Q I was only asking you to read that part to  
5 put your answer in context. But would you agree with  
6 the proposition that I just stated?

7           A I think I state that.

8           Q So you agree?

9           A Explicitly, yes.

10          Q And do you also agree with the proposition  
11 that if the CGC is set below actual market prices  
12 that would hinder competition? If you need a  
13 reference --

14          A Yes, why don't you give me a reference.

15          Q Page 56, Lines 9 through 14, of your direct  
16 testimony.

17          A Yes, I do say that there as well.

18          Q Am I correct that the price established  
19 from the June 1997 RFP of the two successful one-year  
20 periods was 1.86 cents per kilowatt hour?

21          A Let me check that. I think I have that  
22 information. I'm sure I have it in an exhibit. It  
23 sounds about right.

24          Yes. The one-year market price -- That  
25 appears at JAL-11. It's at the top of that schedule.

1 It's \$18.16 per megawatt per hour.

2 Q So it would be, then, 1.81 cents per  
3 kilowatt hour?

4 A That's correct, approximately 1.82 cents a  
5 kilowatt hour.

6 Q Can we use that price, 1.81 cents, as a  
7 proxy for the annual solicitations that will take  
8 place under Duquesne's proposal?

9 A No. Let me explain that so you don't get  
10 too upset with me.

11 Q All right.

12 A I mean our proposal is to go out for a  
13 solicitation every year. We plan on going out next  
14 year. I have no idea what the price will be next  
15 year. We don't propose to establish rates using that  
16 price for the first phase of retail, but that's the  
17 process that we proposed.

18 Q I understand that, and I'm not asking you  
19 to accept that the price 1.81 cents is the actual  
20 price that will occur in two, three years. All I'm  
21 saying is, hypothetically, let's assume that that is  
22 the price that's established in a future  
23 solicitation.

24 A For the purposes of the hypothetical, let's  
25 say it's 1.82 cents.

1 Q 1.82 cents. All right.

2 A Or 1.816 cents per kilowatt hour.

3 Q All right. Now, in your rejoinder  
4 testimony at the very bottom of Page 1 and then over  
5 to the top of Page 2, you describe certain -- it's  
6 called adjustments that would occur to the price  
7 established in the annual solicitation. The  
8 adjustments would be made for purposes of  
9 establishing the CGC; is that correct?

10 A I do. I describe what Duquesne's  
11 adjustments are starting at Line 1, Page 2.

12 Q All right. Can you tell me what the  
13 reasons are or the reason is for each of those  
14 adjustments?

15 A Yes. That's set forth in my direct  
16 testimony. Would you like to go right there? I  
17 mean, essentially, the -- I mean I can explain it,  
18 and I'd like to go to the direct.

19 We adjust to reflect retail class time of use  
20 consumption so that the price will be adjusted to  
21 reflect the costs associated with serving different  
22 classes of customers.

23 Those customers that take power predominantly  
24 in higher cost periods will have a higher CGC, all  
25 else equal. The price will be adjusted for

1 transmission losses to recognize getting the power  
2 from the wholesale level down to the meter levels.  
3 Also, as I propose in the rebuttal, we would now  
4 adjust the CGC or the RFP price for distribution  
5 losses and also adjust that price for gross receipts  
6 tax, which the suppliers now will be obligated to  
7 pay, and Duquesne will not have to pay for that  
8 portion of the customer's bill.

9 Finally, we also provide a credit for those  
10 ancillary services. Particularly the operating  
11 reserve supplemental, that can either be purchased  
12 from Duquesne or alternate suppliers.

13 Q Are you proposing those adjustments to the  
14 results of this annual solicitation to try to come up  
15 with a CGC that's supposed to mirror a retail price?

16 A Well, I'm coming up with those adjustments  
17 to reflect the fact that if a supplier sells power at  
18 retail he will have to pay a gross receipts tax. He  
19 will see power loss when transforming it from the bus  
20 bar down to the meter levels, and to the extent he  
21 can go out and procure ancillary service on a  
22 competitive basis, we've made the adjustment there.  
23 It's a generation-related product.

24 If Duquesne does not supply that portion of  
25 the service, they would either save the costs or they

1 will turn around and sell it in the competitive  
2 market at that rate, and that should be adjusted as  
3 well, which is clearly a recognition to bring it from  
4 the wholesale RFP down to the retail to reflect the  
5 appropriate credits.

6 Q Do you have an estimate on a kilowatt per  
7 hour basis, cents per kilowatt hour, of what the  
8 combination of those adjustments would be?

9 A I do. I have that in Exhibit JAL 11 in the  
10 direct testimony, which shows the adjustments for the  
11 transmission losses and gross receipts tax, and in  
12 Exhibit JAL -- In the rebuttal JAL-15, that shows  
13 the adjustments for distribution losses.

14 So the difference between JAL-15 and JAL-11 is  
15 attributable only to including the distribution line  
16 losses in the CGC calculation. It does not include  
17 the adjustment for the competitive price for  
18 supplemental operating reserves.

19 Q I'm not asking you for a hard number now,  
20 but just if you have an estimate that you can tell me  
21 for the combination of these various adjustments.

22 A Well, if --

23 Q I'm really not asking -- I'm not going to  
24 bind you to this.

25 A Let's just go to Exhibit JAL-15. I think

1 you can see it. If you start in the farthest left-  
2 hand column, you'll see a price which adjusts for  
3 customer load shapes, adjusts the RFP price for  
4 customer load shapes.

5 So we're starting for RS class at \$17.59 a  
6 megawatt hour, or 1.759 cents per kilowatt hour.  
7 We're making an adjustment for customers who consume  
8 power in that class of about 10 and a half percent.  
9 Then that brings it up to about \$19.44 a megawatt  
10 hour. Then there's an adjustment for gross receipts  
11 tax at a statutory rate of 4.4 percent. That brings  
12 it up to \$20.33 per megawatt hour. So the adjustment  
13 for RS goes from about 1.76 to 2.03 cents.

14 For Rate L it goes from 1.75 cents to 1.896  
15 cents. For GMH it goes from 1.76 to a little over  
16 two cents. So the adjustment looks to be on the  
17 order of two, three mills. Total adjustments -- I  
18 have not calculated a weighted average of those, but  
19 it looks to me like it's probably a two- or three-  
20 mill adjustment.

21 (Transcript continues on Page 731.)

22  
23  
24  
25

1 Q All right. Then, if we were going to make that  
2 adjustment using the 1.81 cent result of the 1997 RFP, the  
3 price would, the CGC would be set at what. Let's just take  
4 the RS class. It doesn't matter.

5 A I am looking at the --

6 Q I'm saying you take 1.81. You would add two  
7 mills. Is that correct?

8 A That's not what we did. Are you asking me to do  
9 that?

10 Q Yes. I am asking you to do that.

11 A If you add two mills, I don't think it's a proper  
12 calculation.

13 Q What would the proper calculation -- that's what  
14 I am asking you to do is tell me what the proper  
15 calculation is.

16 A Well, then let us go to my direct testimony where  
17 I explain that. I mean, there's a couple adjustments that  
18 have to be made.

19 MR. MOOT: Your Honor, at this point if I might,  
20 just off the record, confer to Mr. Wiseman. We might be  
21 able to speed things up.

22 JUDGE CORBETT: All right. Let's go off the record  
23 a minute.

24 (Discussion off the record.)

25 JUDGE CORBETT: We can go back on the record.

1           THE WITNESS: I explain the adjustments going from  
2 RFP to the CGC starting on page 56 of my direct testimony.  
3 I understand, I think I understand what your question goes  
4 to. The RFP price, the price established in the RFP was at  
5 18.16 dollars a megawatt hour which was for 75 percent  
6 annual capacity factor.

7           The adjustments then, we then convert that to an all  
8 hours price and map it against the price duration curve.  
9 Essentially, take the annual price, map it against that  
10 price duration, come to essentially a scale-up or  
11 scale-down, whatever the hourly prices are.

12           We need the hourly prices based on the annual market  
13 price, in order to take those and map those against the  
14 hourly loads of each customer class because we want to find  
15 out, for example, we want to make a distinction and  
16 indicate the difference in cost of serving a customer who  
17 takes most of his power at all hours and one that takes it  
18 off peak and vice versa.

19           That's what those adjustments are. You have to take  
20 the annual price, convert it an all hours price, apply it  
21 to the price duration curve, apply it against the  
22 customer's load duration curve and then make the  
23 adjustments for that.

24           So you start eighteen sixteen, you go down and you  
25 go back up. It's -- but really, Mr. Wiseman, we could do

1 it. But I went to great lengths in my testimony starting  
2 at page 56 to explain that, and these numerical examples --  
3 I don't really think -- it's not a trivial exercise. I  
4 mean, we spent a lot of time and lots of work in doing  
5 that.

6 I would also say that we did supply in response to I  
7 don't know if it was HSS or some other but we supplied a  
8 substantial amount of documentation to show the step by  
9 step calculations. I don't know what more to tell you, but  
10 it's not a trivial exercise. I just described the process  
11 we went through.

12 Q Mr. Lahtinen, I understand that there are a lot  
13 of details to the CGC proposal and I am not -- and I am not  
14 attempting to diminish the significance?

15 A No, I understand.

16 Q All I am attempting to do is ask you a question,  
17 trying to use a system wide CGC simply for purposes of a  
18 hypothetical. We don't need to get into that level of  
19 detail at this point. So can you, just using the 1.81  
20 cents as the results of the RFP, just give me a, as a  
21 hypothetical, what a system wide CGC would be, roughly? It  
22 doesn't have to be completely accurate.

23 A Recognizing that certainly not, it's not the  
24 process we use and I do not -- I may not agree with it.  
25 Well, let me do this, okay? And again, I don't make any

1 claims as to the accuracy of it. I am simply a  
2 calculator. I will take -- and again --

3 Q Let me simplify it?

4 A Let me do this.

5 Q This will save some time. We can simply --

6 A Let me do this.

7 Q We can save a lot of time, Mr. Lahtinen. Let's  
8 just say, as a result of the RFP and your adjustment to  
9 CGC for a particular customer class is 1.9 cents. All  
10 right?

11 A Wait a minute. How about 20.45 dollars a  
12 megawatt-hour. That calculation does not do the all hours  
13 adjustment or the load -- the adjustment for the load  
14 pattern, but took the eighteen sixteen and simply adjusted  
15 it for the transmission/distribution losses for the system  
16 on average of 7.1 percent.

17 I took 19.1 cent, subtracted 1.971 percent, got that  
18 number and divided that by one minus .044. Again, it does  
19 not do any load adjustment.

20 Q That's fine.

21 A I don't know --

22 Q I apologize. We were talking over each other. I  
23 didn't hear the number you said. 20.14?

24 A I said 20.45 dollars per megawatt hour.

25 Q 20.45 dollars per megawatt hour. So we went down

1 2.05 rounded off?

2 A That's right.

3 Q Per kilowatt hour?

4 A And if you want to compare it to something, I'd  
5 compare it to the numbers I provide in my rejoinder  
6 testimony because that includes distribution losses.

7 Q All right. Let's say hypothetically that the CGC  
8 for a particular customer class is 2.05 cents per kilowatt  
9 hour?

10 A Yes.

11 Q If an alternate supplier could sell to a customer  
12 for less than 2.05 cents, you would agree that the customer  
13 would have an economic incentive to buy power from the  
14 alternate supplier. Is that correct?

15 A He may, yes. He may. I would agree.

16 Q All right. And if the alternate supplier can  
17 only offer power at a price that's above 2.05 cents per  
18 kilowatt hour, then the customer would have an economic  
19 incentive to stay with Duquesne. Is that correct?

20 A I will say a qualified yes but I'd like to  
21 explain. And I am not trying to be difficult. It's  
22 difficult. Alternative supplier might provide a package --  
23 bundle package of services.

24 Q All other things being equal?

25 A All other things being equal. Yes. The

1 assumption would be that they would have incentives that  
2 you set forth.

3 Q All right. Now, can you refer to -- did you have  
4 Mr. Irvin's exhibits here, by any chance?

5 A I don't know.

6 MR. MOOT: Direct or rebuttal?

7 MR. WISEMAN: Direct.

8 MR. MOOT: I'll get them.

9 (Transcript continues on page 737.)  
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1 JUDGE CORBETT: We are back.

2 MR. WISEMAN: Thank you, Your Honor.

3 BY MR. WISEMAN:

4 Q Mr. Lahtinen, just for purposes of  
5 clarification, I want to make sure that you  
6 understood that the two last questions I asked you  
7 were asking what decisions a customer would make  
8 based upon price.

9 Is that correct?

10 A That's correct. You qualified all else  
11 remaining equal.

12 Q Now, could you turn to page nine in Exhibit  
13 RAI-4?

14 A Page nine? Nine, you said?

15 Q Nine, yes.

16 A I have it. I have it.

17 Q Can you describe the document that starts  
18 at page nine?

19 A I guess it looks to me like a bid. It is a  
20 bid form.

21 I mean, Mr. Irvin would be the more  
22 appropriate one to ask questions to.

23 I mean, I certainly don't know as well as he  
24 does.

25 Q Well, Mr. Lahtinen, you offered a very

1 substantial testimony in your rebuttal testimony  
2 about the RFR.

3 Are you saying that you have never seen this  
4 document before?

5 A No. I mean, I offered -- well, first of  
6 all, I certainly reviewed the contracts that Mr.  
7 Irvin purchased power under in terms of doing my  
8 calculations of the pass through advantage.

9 I certainly reviewed those contracts and am  
10 familiar with them.

11 I don't know that these contracts -- these  
12 contracts do not appear to be the contracts that I  
13 reviewed during my testimony.

14 Q So you --

15 A I mean, they very well may be, with the  
16 blanks in it.

17 All that I am saying is that it is not in the  
18 format that I looked at, it doesn't have any company  
19 heading on it.

20 It could be or not be.

21 I mean, you would have to give me a few  
22 minutes to take a look at it.

23 Q Take a look at it, please.

24 Now, this is the bid form for the RFP.

25 Q You could confirm that?

1 A That is what it looks like to me.

2 Q All right. Now, I ask you look at footnote  
3 one on the bid form.

4 Is it correct that the last half of that  
5 footnote says that each bid must conform to the  
6 requirements of the RFP?

7 A That is what it says.

8 Q And could you turn over to the second page  
9 of that bid form?

10 A Yes.

11 Q Specifically, with reference to paragraph  
12 four, is it correct that one of the provisions in  
13 this bid was a requirement that the bidder buy the  
14 electricity at wholesale and resell the power?

15 A It does. It says the bidder will resell  
16 all -- the bidder will resell all firm power to  
17 Duquesne.

18 Q So was your answer yes?

19 A Could I have the question reread?

20 (Record read.)

21 A Yes.

22 Q All right. Now, would you accept the  
23 parties that bid to purchase the power to have  
24 overhead of their own?

25 A Overhead costs?

1 Q Overhead costs, yes.

2 A Sure, certainly, from prior and  
3 administrative expenses. I mean, they might have a  
4 garage.

5 I mean, I knew a marketer that worked out of  
6 his garage in Bizmark, North Dakota.

7 He changed his name to Rainbow Energy, but I  
8 guess you could say that is an overhead expense.

9 I think you could say he did have overhead,  
10 but they certainly could have overhead.

11 Q Well, all parties have to have some  
12 overhead, don't they?

13 A Sure. I mean, the question, I was  
14 referring to the degree, the amount, more or less.

15 Q All right. And all parties that bid for  
16 the electric power are going to want to the sell it  
17 at a profit?

18 Isn't that true?

19 A You know, it is a good question. One would  
20 think so, but the evidence that I have seen, at least  
21 in regard to retail prices and wholesale prices in  
22 New England, would suggest otherwise.

23 There is evidence out there that some of the  
24 suppliers in New Hampshire pilot, for example, sold  
25 below cost to get some experience into the retail

1 generation market.

2 Q Over time, do you think a business can stay  
3 in operation if it doesn't have a profit margin?

4 A No. Over time, long run, when investment  
5 decisions are made, investors will look to the  
6 market, and if they believe they can recover long run  
7 average total costs, they will sell.

8 If they don't believe then can, they won't  
9 sell.

10 The long run average total costs include  
11 reasonable overhead recovery, as well as profits.

12 Q Going back to our hypothetical use of the  
13 2.05 cents per kilowatt hour CGC, would you agree  
14 that if a successful bidder in the annual  
15 solicitation wants to cover its overhead and have a  
16 profit margin, it has to sell the power at something  
17 in excess of 2.05 cents per kilowatt hour?

18 A No, not necessarily. Not necessarily.

19 Q Under what scenario could a bidder sell for  
20 less than two -- who was successful in the annual  
21 solicitation sell for less than 2.05 cents and cover  
22 any portion of overhead or profit margin?

23 A Well, I can think of two situations. One  
24 might be where they combined the power purchase with  
25 another power source.

1           That would be of no value except for linkage  
2 of the power source, in which case they might be  
3 willing to pay a little bit more when you look at the  
4 market price of power. When you calculate overheads,  
5 there might be some decent value there with another  
6 power product.

7           Another situation might be where a competitive  
8 -- the winner, a bidder, a purchaser in the RFP took  
9 the power, the commodity of electricity, packaged it  
10 with other services, and could have sold the  
11 commodity price below two cents, but added other  
12 services in which he more than recovered his  
13 overhead, plus contribution to his profits.

14           Q My hypothetical contemplates a stand-alone  
15 package.

16           There are no additional services sold, and the  
17 seller is not combining the power that was purchased  
18 in the annual solicitation with power from any other  
19 source.

20           Now, with that in mind, that this is a  
21 stand-alone unitary transaction, is it not correct  
22 that the seller has to sell at some price in excess  
23 of 2.05 cents per kilowatt hour if it is going to get  
24 any recovery of overhead costs or profit margin?

25           A Well, I have explained to you why I don't

1 believe that's so.

2 If you qualify this question, no; that is the  
3 only thing in the market.

4 Now, that may be a reasonable assumption.  
5 Now, whether or not the contribution of overhead is  
6 the cost of, you know, a desk and chair and  
7 telephone, or whether it is the cost of renting space  
8 at PPG Place, I don't know, but with those caveats, I  
9 would accept that.

10 Q All right. Now, let's go to a slightly  
11 different topic.

12 Let's go to the -- and I want to talk about  
13 the hourly differential that you discussed at page  
14 sixty of your direct testimony.

15 A Okay.

16 Q All right. Am I correct that in general,  
17 what you are describing, starting, I think, on page  
18 sixty, is that the CGC for a customer class that --  
19 with customers that take a higher percentage of power  
20 during off peak hours will be higher than the CGC for  
21 a customer class that takes more power during on peak  
22 hours?

23 Is that correct?

24 A Let me have a chance to read this here.  
25 You said page sixty-nine?

1 Q Sixty.

2 A Yes. I don't think I can agree to the  
3 question. I think you had it reversed.

4 I think what I say here that is that if they  
5 would consume more of the power on peak, they will  
6 have a higher CGC, instead of consuming the power off  
7 peak.

8 Q I think you are right. I think I did say  
9 it backwards, actually.

10 All right. So we are in agreement, why don't  
11 you state what the proposal is?

12 A Yes. If a customer consumes a greater  
13 portion of its power on peak, which in this example,  
14 the consumer's on peak period, the CGC will be  
15 higher, all other things being equal, than if a  
16 customer consumes a higher proportion off peak.

17 Q So under that proposal, an alternate  
18 supplier who wants to sell power to a customer class  
19 that has a flat load, meaning, the customer class  
20 takes a fairly even amount of power during on peak  
21 and off peak hours, will have to compete against a  
22 lower CGC than would apply to a customer class that  
23 takes a higher percentage of power during peak hours?  
24 Is that right?

25 A You know, in general, yes, but I mean,

1 there is no -- we don't really need to speculate.

2 I mean, we can look at Exhibit JAL-11.

3 That is true in general, but the price  
4 duration curve at Duquesne is very, very flat.

5 It is not -- not a big spread between these  
6 numbers, but if you look, for example, at Rate Class  
7 RS, I might calculate a CGC of \$18.56 a megawatt hour  
8 and HVPS, which is obviously a higher load pattern  
9 for a customer.

10 That is about \$18.48 a megawatt hour, so it is  
11 a little bit lower.

12 Q All right. Now, can you refer to page  
13 twenty-five of your direct testimony, please?

14 A Yes. I have that.

15 Q At lines three through seven, could you  
16 review that testimony momentarily?

17 A Yes. I will do that.

18 Yes.

19 Q All right. Taking this piece by piece --  
20 and this relates to your cost of service, correct?

21 A That is the results from the cost of  
22 service study and the ultimate rates, yes.

23 Q All right. Do I understand that for  
24 certain customer classes, the costs that were  
25 allocated to that class would have violated the rate

1 cap, so when you did your study, you reduced the  
2 costs allocated to that cap, to that class to the  
3 rate cap level?

4 Is that correct?

5 A That's correct.

6 Q Now, there were other classes, as I  
7 understand it, when you allocated the revenues to  
8 them, to those classes, they were below the rate cap?  
9 Is that right?

10 A That is correct.

11 Q And with respect to that, those latter  
12 classes, you then increased the cost up to the rate  
13 cap level?

14 Is that correct?

15 A Well, increased the costs, or just  
16 maintained the same revenue levels, because we  
17 believe that the rate cap provisions of the act allow  
18 us to keep rates at cap levels in order to mitigate  
19 stranded costs.

20 I didn't -- I am not raising the bills of any  
21 customers.

22 I am not raising the rates of any customers.  
23 I am merely maintaining the rate cap level.

24 Q Can you identify the classes that were  
25 affected by that, by maintaining -- going up to the

1 rate cap level?

2 A Well, I would say staying at the rate cap  
3 level --

4 Q All right.

5 A -- in Exhibit JAL-3, pages one, pages one  
6 and two in the direct testimony, this is a comparison  
7 that you are asking for.

8 Page one and page two, JAL-3, let me just  
9 explain a little bit, and I think it will help.

10 Page one is an allocated cost/revenue  
11 comparison for the general services classes, for the  
12 customer service classes, which essentially compares  
13 the revenues and the costs for the Pennsylvania  
14 jurisdiction in the residential classes as a  
15 aggregate, general services as an aggregate, lighting  
16 class as an aggregate.

17 The top half of the exhibit is a comparison of  
18 the allocated cost of service with the actual bill  
19 revenues in 1996.

20 The bottom half of this exhibit compares the  
21 adjusted cost of service with the adjusted 1996  
22 revenues, and those, the adjusted costs of service  
23 adjusts for differences in the rates of return of  
24 cross classes, as well as an adjustment of revenues  
25 for the ECO.

1           Page two, the second page of this exhibit, is  
2 in the same format, only this is broken out by rate  
3 class.

4           It is the rate class level, and I had it --  
5 and I had it shrunk, so nobody could read it.

6           No. It says -- it is very hard to read. I  
7 mean, I can't even -- half the times I can't read it,  
8 but that's just the general format.

9           Q Well, as an example, let's, just so I am  
10 clear which classes are which, let's -- on page two  
11 of exhibit JAL-3, let's just use GL as an example.

12          A Yes.

13          Q Okay. The adjusted cost revenue data,  
14 there is a negative amount as the cost less revenue.  
15 Do you see that?

16          A That's correct.

17          Q What does that indicate --

18          A That means --

19          Q -- that negative level?

20          A You are talking in the bottom half of the  
21 table? You are talking from rate class GL?

22          Q Yes, and so that the record is clear, there  
23 is an amount there that looks like a negative  
24 \$1,577,365.

25          A That's correct. That just says that the --

1 that the revenues are in excess of the allocated cost  
2 of service --

3 Q So for --

4 A -- or the cost of service is below the  
5 revenue level.

6 Q The cost of service is below. Would Class  
7 GL, as an example, since that is a negative, would  
8 that be a class where you, in effect, reduce the  
9 costs to get to the rate cap level, or would that be  
10 a class where you, in effect, increase the allocation  
11 of costs to maintain the rate cap level?

12 A No. I am not -- I am not adjusting any of  
13 the levels.

14 Let me -- this exhibit is a comparison, as I  
15 said, between cost of service and revenues.

16 Where the allocated cost of service exceeded  
17 the rate cap level or the revenue level, I had to  
18 scale that down to the rate cap level, okay, so that  
19 means there are some allocated costs I did not  
20 charge.

21 I did not recover those primarily, those being  
22 generation-related costs.

23 Those classes where the allocated cost of  
24 service fell short of the level of the rate cap  
25 level, I simply maintained the revenue levels, and I

1 allocated transmission, distribution, and I  
2 calculated a competitive transition charge as a  
3 difference between the revenue level and the not  
4 fully allocated cost of service level.

5 Q I understand that, Mr. Lahtinen, and I am  
6 not trying to put words in your mouth.

7 All I am trying to determine is, when I look  
8 at page two of JAL-3, I can figure out which of the  
9 two categories --

10 A Right.

11 Q -- these various customer classes fall  
12 into.

13 A When you say -- do you want me to tell you  
14 what residential, general service, and lighting are?

15 Q No, no, no.

16 A GL, you know --

17 Q No.

18 A -- is large general service.

19 A No. That is not my question. We have been  
20 discussing the fact that for certain, as was  
21 discussed -- I think it is on page twenty-five of  
22 your direct testimony --

23 A All right.

24 Q -- that for certain types of cost  
25 allocations, you either have to reduce, reduce the

1 costs to maintain the rate level, or for the second  
2 category, you, in effect, and --

3 A No. I maintained --

4 Q -- I am paraphrasing your language -- you  
5 in effect raised the costs to maintain the rate cap  
6 level?

7 A I maintained the rate level.

8 Q All right. And all I want to know is, as I  
9 look at this page two at JAL-3 --

10 A Uh-huh.

11 Q -- how can I determine, for the various  
12 classes that are listed there, which customer classes  
13 fall into one category versus the other category?

14 A Well, for example, if you look at rate  
15 class RA, their allocated cost of service is 3.96.

16 Their adjusted revenues are 3.4, so I adjusted  
17 the costs down to the rate level.

18 This is on the bottom half of the page, the  
19 adjusted revenues, so allocated costs of 3.96 million  
20 for RA.

21 I had a revenue cap of 3.4, an adjusted cost  
22 of service from 3.9 down to 3.4.

23 The other class is just the opposite, the ones  
24 that were negative.

25 Q Thank you. I understand that. Thank you

1 very much.

2 Can you look at page eight of your direct  
3 testimony, line ten?

4 A Yes.

5 Q All right. I just wanted to try to  
6 understand what you did in your cost of service  
7 study.

8 First of all, you began with the revenue  
9 requirement that you took from Mr. O'Brien? Is that  
10 right? That was --

11 A Yes.

12 Q -- your starting point?

13 A Yes, yes. Mr. O'Brien provided the revenue  
14 requirements for the base year and also provided me  
15 with a functionalized cost of service.

16 He gave me the amount for the generation,  
17 transmission, distribution.

18 Q And I want to be clear that you use for Mr.  
19 O'Brien the data that are in his schedule MKO-1A, or  
20 data that are in MKO-1B?

21 A I think it is MKO-1C. Well, I mean, for  
22 example, I have -- I have a comparison of a cross  
23 tabbing of Mr. O'Brien's exhibits with mine.

24 We can match them up line by line, if you  
25 want, but the cross reference I have got is MKO-1C.

1 Q Let me ask the question a different way.

2 You took the year end 1996 results with the  
3 adjustments that Mr. O'Brien sponsored? Is that  
4 correct?

5 A That is correct.

6 Q All right. And then your next step is, you  
7 determined cost based rates of transmission and  
8 distribution? Is that correct?

9 A Yes. We are still on page nine?

10 Q Page eight, I believe.

11 A Page eight. I'm sorry.

12 Q We are not on nine yet.

13 A Yes, that's correct.

14 Q And then you next determined rates for  
15 ancillary services? Is that right?

16 A Yes. I had to take -- I had to take some  
17 of the -- I had to refunctionalize some of the costs  
18 that Mr. O'Brien had classified as generation, and  
19 estimate what the ancillary costs of service were.

20 Q Are the ancillary service rates cost based?

21 A Yes, they are.

22 Q All right. And then after you did that,  
23 then anything that remained as a residual you  
24 assigned to generation?

25 Is that correct?

1           A    Yes.  I mean, yes, that's basically right.  
2   I mean, I do at length here.  I mean I think on page  
3   fifty, when I talk about the rate design, and we go  
4   through that step by step, we can go through class,  
5   if you want to, but in essence, yes.

6           We had an allocated cost of service study.  
7   I had to get down to a rate level.

8           I then took out the cost of service associated  
9   transmission and started with distribution and  
10  applied the CGCs to get the CTC, but yes, basically I  
11  took the revenues, less the allocated cost, and left  
12  the generation, and then I split it up between market  
13  price and the stranded cost basis.

14          Q    Thank you.  I just have one last area of  
15  inquiry.

16          Could you refer to pages five through thirteen  
17  of your rebuttal testimony?

18          I am not going to ask you to read all that.  I  
19  am asking you a general question about it.

20          A    You said five through thirteen?

21          Q    Five through thirteen?

22          A    On page five, I talk about the RFP price,  
23  and my response to criticism of the RFP prices being  
24  downward biased.

25          Page seven talks about so many conditions that

1 we had under the RFP for minimum and annual capacity  
2 factor.

3 Q We can shorten this. Just in general, your  
4 testimony at five through thirteen is a response to  
5 criticisms concerning the RFP? Is that correct in  
6 general?

7 A Yes, but there's a lot of associated issues  
8 that reach as far as transmission, firm transmission,  
9 non firm transmission, et cetera, et cetera, but in  
10 general, based upon this quick review, that is what  
11 it looks like.

12 Q All right. Could you take a look at page  
13 nine?

14 Do you see in line three, and then you were  
15 asked a question whether you consider the other  
16 factors, or did Duquesne consider other factors in  
17 developing the RFP, and then in response to that, in  
18 addition to other things you say here, you say that  
19 the company spoke with several traders concerning the  
20 development of the RFP?

21 Is that a fair characterization of the  
22 testimony?

23 A Yes, it is, and I believe we responded to  
24 it, to a discovery request that you had.

25 Q That's correct. You did.

1 MR. WISEMAN: Could I have marked as the next  
2 exhibit in order, this is Duquesne Light Company's  
3 response to Interrogatory HSS JAL-1, and I am handing  
4 two copies to the court reporter, and one for the  
5 Judge, and one for the witness, and I will distribute  
6 additional copies.

7 JUDGE CORBETT: All right. This document will  
8 be marked as HSS Cross Examination Exhibit 9. Thank  
9 you.

10 (Thereupon, HSS Cross Examination Exhibit 9  
11 was marked for identification.)

12 MR. WISEMAN: Thank you, Your Honor.

13 BY MR. WISEMAN:

14 Q Mr. Lahtinen, can you identify the document  
15 that has been marked for identification as HSS Cross  
16 9?

17 A Well, it is -- can I -- do you want me to  
18 tell you what it is?

19 It is number one of the six sets of  
20 interrogatories of HSS, which asks about the  
21 reference that I made to discussions Duquesne had  
22 with traders.

23 Q Was this interrogatory response prepared  
24 under your supervision?

25 A It was prepared under my supervision.

1 Q Am I correct that in this interrogatory  
2 response, you indicate that Duquesne actually talked  
3 to two parties -- that would be Electric Clearing  
4 House, and apparently the NorthBridge Group --  
5 Duquesne talked to Morgan Stanley?

6 A Let me read that. Those names sound  
7 familiar. Let me just make sure.

8 Yes. This interrogatory indicates that Mr.  
9 Irvin contacted the one from Electric Clearing House.

10 NorthBridge Group contacted Paul Weiss of  
11 Morgan Stanley, and that NorthBridge also contacted  
12 Donna Newman from Electric Clearing House, and that  
13 prior to developing the RFP, the NorthBridge Group  
14 also contacted a Rick Shapiro of ENRON.

15 Q Well, does it in fact, with respect to Rick  
16 Shapiro of ENRON, does it say that Mr. Shapiro  
17 apparently did not return NorthBridge's call?

18 A Yes. I'm sorry. I meant to say that he  
19 contacted him.

20 Q Thank you.

21 MR. WISEMAN: Your Honor, I have no further  
22 questions.

23 I would move the admission of Exhibit HSS  
24 Cross Exhibit 9.

25 JUDGE CORBETT: All right. Hearing no

1 objection, it will be so admitted.

2 (Thereupon, Exhibit HSS Cross 9 was admitted  
3 in evidence.)

4 JUDGE CORBETT: Let's take a ten-minute break,  
5 and we will be back at 3:00 o'clock.

6 (Recess taken.)

7 JUDGE CORBETT: We are back on the record.  
8 The next party up would be the PRA, and Mr. Zeliencois  
9 indicated during the break that he had no cross for  
10 this witness.

11 Mr. Barak, I believe, also indicated he had no  
12 cross for this witness.

13 Mr. Stewart --

14 MR. STEWART: Thank you, Your Honor.

15 JUDGE CORBETT: -- you are up.

16 CROSS EXAMINATION

17 BY MR. STEWART:

18 Q Good afternoon, Mr. Lahtinen.

19 A How are you doing?

20 Q I am doing okay. First, could you please  
21 turn to the rejoinder testimony that you distributed  
22 earlier today?

23 A Sure.

24 Q On Page 5 in particular, at line twelve, is  
25 it not true that you state there that you are baffled

1 by Mr. Russell's criticism of your testimony  
2 concerning the cost shifting issue?

3 A I do state that I find his continued  
4 criticism baffling.

5 Q Did you happen to read Mr. Russell's direct  
6 testimony in this case?

7 A Yes, I did.

8 Q Would it surprise you to know that there is  
9 a part in Mr. Russell's direct testimony which on  
10 page -- I am assuming you don't have a copy up there  
11 with you.

12 A Actually, Mr. Russell's testimony I just  
13 may have.

14 Q You might. I just want to make sure.

15 A I take this with me everywhere I go.

16 Q I figured you might.

17 A I'm sorry. I spoke too soon. I have his  
18 rebuttal. I don't have --

19 Q That's all right.

20 MR. STEWART: Your Honor, may I approach the  
21 witness?

22 JUDGE CORBETT: Sure.

23 BY MR. STEWART:

24 Q I want to take a look at something here. I  
25 just want to clear something up for you.

1           This is my copy of Mr. Russell's direct, and I  
2 just want -- could you just look here, read for me at  
3 page three, lines twenty to twenty-three?

4           A You want me to read it into the record?

5           Q You can just read it.

6           A (Witness reading.) Yes. Yes, I read that.

7           Q Okay. Did I ask you to read a portion of  
8 Mr. Russell's direct testimony which concerns the  
9 opinions of MAPSA relative to the opinions of the  
10 individual members of the organization?

11          A Yes, you did.

12          Q Does that help to explain the confusion  
13 that you indicate in your rejoinder testimony?

14          A Yes, partly, but not completely. First of  
15 all, I thought my rebuttal testimony was so  
16 compelling that no one had any criticism.

17                I thought that was clear.

18          Second of all, I do still find it a little  
19 surprising, even though MAPSA is not speaking  
20 specifically for anybody, but for people as a group,  
21 that there was testimony that was almost identical to  
22 mine filed by Dr. Miles Bidwell, which basically  
23 reached the same conclusions I do, so I was a little  
24 -- I was a little baffled, as I said, because as I  
25 said in the sur-rebuttal, no one from ENRON directly

1 is really dealing with the rate design issues per se,  
2 and I am just -- my assumption is that Mr. Russell is  
3 speaking on behalf of ENRON through MAPSA,  
4 recognizing that ENRON is a member of MAPSA.

5 Q Do you understand that that is not the case  
6 here?

7 A Well, I understand what I read, and I  
8 understand that he is not speaking for ENRON.

9 I am still a little baffled that ENRON would  
10 support testimony by a witness of which they are a  
11 member that's directly contrary to testimony that  
12 they support, but that's --

13 Q Duquesne proposes a CGC which is based upon  
14 the results of an annual RFP process? Is that  
15 correct?

16 A That is correct, with appropriate  
17 adjustments for customer load patterns --

18 Q Yes. We have been there, through that.

19 A -- with all the other stuff we talked  
20 about.

21 Q I take it from your rejoinder testimony  
22 that it is your position that a competitive supplier  
23 should be able to submit a bid in the process, the  
24 RFP process, and if that supplier would be successful  
25 in actually obtaining the right to purchase the

1 power, that they would be able to use that resulting  
2 purchase to serve retail load in Duquesne's service  
3 territory. Is that --

4 A They could serve retail load in Duquesne's  
5 territory, any other territory. They could sell it  
6 at wholesale or retail, as I believe I read the  
7 portion of the bid form which says Duquesne's  
8 requirement to resell it, no restrictions on who they  
9 resell it to or how.

10 Q Fair enough. And is the product that is  
11 the subject of the RFP of such character that it  
12 would be the only item that a supplier would need to  
13 have in its supply portfolio in order to reliably  
14 serve retail load in Duquesne's service territory?

15 A I don't know. I can think of instances  
16 where it would be -- it would be adequate.

17 Q Are there instances where it would not be  
18 adequate?

19 A Possibly.

20 Q Fair enough. What about in other  
21 utilities' territories?

22 Would it be fair to say that it would -- the  
23 same question: Is it possible that this product is  
24 of such character that a supplier would be able to  
25 use it to supply -- that it would be the only item

1 in their supply portfolio and provide power in  
2 another utility's service territory?

3 A Yes, it would be possible to do that, and I  
4 believe there are sales being made that Mr. Irvin  
5 considers they may have even bought where those  
6 products were sold, where it is the only thing that  
7 is basically in their portfolio.

8 Q Would a supplier need to purchase any other  
9 services in order to sell load in Duquesne's service  
10 territory?

11 A Well, as my testimony sets forth with  
12 regard to the transmission, there are -- there are a  
13 bundle of ancillary services that are already  
14 included in the transmission bid, so to that extent,  
15 for reactive regulation, the supplier doesn't need to  
16 purchase those.

17 They have the option of either buying lost  
18 service from Duquesne, or supplying them on their own  
19 account and have the option of competitively  
20 procuring operating supplemental or purchasing from  
21 Duquesne.

22 Q How many times has Duquesne used an RFP  
23 process in order to sell power --

24 A Oh --

25 Q -- a round number?

1           A I don't know. Mr. Irvin would be better  
2 able to answer that question.

3           Q Do you happen to know if any of those times  
4 that you are aware of that Duquesne sold wholesale  
5 power to someone who turned around and used it  
6 directly to serve retail load?

7           A I don't, but since retail choice just  
8 started, it wouldn't surprise me if that occurred.

9           Q Do you happen to know if anybody used the  
10 power purchased in the RFP that you held this summer  
11 to serve retail load?

12          A It is my understanding that one of the  
13 winning bidders either is, or is planning on selling  
14 in Duquesne's retail pilot.

15          Q But you aren't certain of that fact?

16          A No, but I think Mr. Irvin probably would  
17 be.

18          Q I will ask him the question.

19                Is it Duquesne's position that no market price  
20 index currently exists which accurately reflects  
21 Duquesne's particular circumstances in the market?

22          A I think Duquesne's position is that the RFP  
23 presents the best market evidence that we have.

24          Q That is not my question. Is it your  
25 position that there is no market price index which

1 currently exists which would accurately reflect  
2 Duquesne's circumstances?

3 It is a simple question, yes or no.

4 A I will answer that question no, and I will  
5 tell you why I am answering it no, because we believe  
6 the RFP is a more accurate measure.

7 There might be other indexes, but it is the  
8 whole issue about whether being approximately right  
9 or precisely wrong.

10 Q Does Duquesne agree that there -- in order  
11 for there to be competition in the service territory,  
12 Duquesne must necessarily lose market share?

13 A Could I have that question re-read, please?

14 Q I can repeat it to you.

15 A Okay. That is fine. That is fine.

16 Q Does Duquesne agree that for there to be  
17 competition in its service territory, that Duquesne  
18 must necessarily lose market share?

19 A I would answer that question no, and I will  
20 explain why I answered it no --

21 Q All right.

22 A -- because you are making a distinction  
23 between actual versus potential competition.

24 There are markets that have very little  
25 competitors, that there are potentially good

1 competitors, and an example that I use a lot is, if  
2 you assume there is a territory with a lot of  
3 residential, commercial construction, there is one  
4 firm that's building commercial establishments, it is  
5 probably pretty easy for that commercial contractor  
6 to go between commercial and residential.

7 In fact, there may be a lot in residential and  
8 not many in commercial.

9 It really doesn't, I think, indicate the  
10 extent of potential competition in the market, to the  
11 extent builders can move very easily between markets,  
12 so the fact that you might observe one or two  
13 contractors who do exclusively commercial  
14 construction, where there may be a thousand  
15 residential contractors, the extent that those  
16 commercial customers, I think are going to be careful  
17 of what they can charge, because they can charge a  
18 price too high, so the potential of other contractors  
19 coming into the market is pretty good.

20 Q Are you aware of any market share study  
21 that says -- any studies that Duquesne may have done  
22 to project how the competition is going to affect its  
23 market share?

24 A You know, I am not -- I can't recall. Mr.  
25 Hoffman was -- who is coming up might be a good

1 person to ask.

2 Q I will ask him that.

3 On page -- can you turn to page twenty-five of  
4 your rebuttal testimony, please?

5 A Give me one second.

6 Q Sure.

7 A Okay. I have page twenty-five.

8 Q And right around the top of the page, you  
9 talk about -- you take issue with Mr. Russell's  
10 suggestion that the utilities' costs of marketing and  
11 back office overhead that he has included, that asks  
12 that they be backed out of the other rates and be  
13 made subject to competition?

14 Is that accurate?

15 A I would -- can I look at the question?  
16 Yes, they do. I do respond on that point.

17 Q Okay. Would you agree that Duquesne, under  
18 its rate cap service, will be the service against  
19 which competitors will compete, basically the way  
20 that the Duquesne envisions the market being, that  
21 that is really the scenario, or not the scenario, but  
22 the way the market will develop?

23 Would it be essentially competitive suppliers  
24 competing for customers against Duquesne's rate cap  
25 service?

1           A Well, they would be competing against other  
2 competitors.

3           Q Yes, against themselves, and also against  
4 Duquesne's rate cap service?

5           A Yes. I mean, Duquesne's position is to set  
6 the CGC at a price that approximates our opportunity  
7 cost.

8           We would like to adjust it every year to keep  
9 that CGC rate in balance with the market price of  
10 energy, and we want to give customers a direct  
11 decision to stay versus leave our service territory  
12 to alternate suppliers.

13          Q Would you agree that those suppliers, in  
14 competing against themselves, you know, or amongst  
15 other competitive suppliers, and in competing against  
16 Duquesne will have to incur most, if not all of these  
17 very same costs which Mr. Russell addresses?

18          A Yes. I don't think I dispute the fact that  
19 alternate suppliers will have overhead costs, costs  
20 of market, costs that they may incur.

21          I think what I do dispute is the fact that a  
22 market price, properly determined, will provide  
23 compensation for those overheads and marketing costs,  
24 particularly the overhead.

25          To the extent a supplier can generate power,

1 buy power, or put together some other DSM package  
2 lower than the market price, he will be successful.

3 To the extent a supplier can bundle services,  
4 he certainly will expend marketing dollars to  
5 increase his market share.

6 I have no doubt that is the way things work,  
7 but essentially my problem is that you have a market  
8 determined price which provides for incremental  
9 out-of-pocket costs and provides contributions to  
10 fixed costs, and I have a problem particularly with  
11 adding an allowance for marketing on there for a  
12 couple of reasons.

13 One. Duquesne doesn't have much in the way of  
14 avoidable marketing costs.

15 Two. Duquesne's spill-over mechanism provided  
16 for the plan was to provide for mitigating stranded  
17 costs, as opposed to rolling the -- refunding the  
18 dollars.

19 Three. The marketing costs are very low  
20 anyhow.

21 And four. I believe that any marketing costs  
22 that are incurred by competitive supplier will be  
23 expended on the basis that they will increase market  
24 share.

25 You know, if I can continue -- and I don't

1 want to drag it out, but for example, ENRON  
2 competes --

3 Q Well, you have already drug it out, but --

4 A Well, ENRON competes in the wholesale  
5 market at a very competitive price.

6 I presume they are costing their overhead in  
7 the market prices.

8 Q You presume, but you don't know that for a  
9 fact?

10 A No, but you can observe their prices  
11 vis-a-vis competitors pretty close, so I think so.

12 Q Is it true that Duquesne believes that it  
13 is necessary to establish its market prices on the  
14 basis of objective market evidence?

15 A Yes. We believe that CGC should be based  
16 on market evidence, and we should not rely on  
17 administrative determination of market prices.

18 Q And would you consider an example of such  
19 evidence to be a market index at all?

20 A I think in my -- excuse me. I think I have  
21 talked about it, and I think Mr. Marshall has talked  
22 about it.

23 I think it is potentially -- potentially it  
24 could be an index that would be usable, useful.

25 I haven't seen one. I don't think one exists.

1 The ECAR index I don't think really is an adequate  
2 index, because, you know, it is not quite clear  
3 whether those were actual sales or potential  
4 sales.

5 You know, they are surveys.

6 I certainly haven't seen anything for the  
7 retail market index, but if something got developed  
8 that was a representative measure of market value in  
9 Duquesne's territory, we would certainly consider it,  
10 but at this time, I think the RFP is the best we have  
11 got.

12 Q Is it your testimony that ECAR currently  
13 would not permit Duquesne to unbundled any other  
14 ancillary services other than the ones that have been  
15 described by you previously?

16 A I'm not sure I am the best witness for  
17 that.

18 Mr. Irvin really the one who talks about ECAR  
19 requirements in his testimony.

20 I think if you ask him, you would get a much  
21 better answer than you would from me.

22 Q However, you did state in your testimony  
23 that you are just following Ecar's rules, did you  
24 not?

25 A Well, yes, I did say I am relying on ECAR

1 rules as Mr. Irvin has told me what the ECAR rules  
2 are.

3 Q And is it your understanding of those ECAR  
4 rules, as Mr. Irvin has described them to you, that  
5 ECAR would currently not permit Duquesne to unbundle  
6 any other ancillary services?

7 MR. WISEMAN: I would ask for --

8 A No, no. I think I can answer the question.  
9 I don't think ECAR has got anything to do with  
10 unbundling the services.

11 If the question is, would ECAR allow Duquesne  
12 to -- would Duquesne be exempted from its obligation  
13 to carry supplemental operating reserves for load in  
14 its territory, I think the answer is, if a generator  
15 is located in Duquesne's territory, I think it is  
16 possible that they would, but as I understand the  
17 ECAR rules, and again, I am no expert -- Mr. Irvin is  
18 the expert -- that Duquesne is required to carry  
19 operating reserves in the control area of generation  
20 to meet the requirements of ECAR's operating reserve.

21 Q That's all I have. Thank you.

22 JUDGE CORBETT: Okay. Mr. Clearfield.

23 MR. CLEARFIELD: If you can give me a minute,  
24 Your Honor?

25 JUDGE CORBETT: Sure.

1 MR. CLEARFIELD: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. CLEARFIELD:

4 Q Good afternoon, Mr. Lahtinen.

5 A Good afternoon.

6 Q I just want to clear up one thing. You  
7 probably can do this pretty quickly.

8 In response to an answer that you mentioned,  
9 ENRON and wholesale power sales, you are not  
10 suggesting, are you, that marketing and retail costs  
11 at the retail level that could enter into the retail  
12 electric market are going to be comparable to any  
13 marketing of wholesale costs that any wholesale  
14 supplier might incur, are you?

15 A No. I think that I am suggest two things.

16 One. The argument has been advanced by  
17 several witnesses in the case that competitors  
18 couldn't compete unless they recovered their  
19 overheads and marketing costs.

20 I just simply observed that ENRON has been  
21 competing, and somewhat argue some, successfully in  
22 the wholesale market for several years.

23 Q I would argue that --

24 A -- yes, and that those wholesale markets  
25 basically are wholesale market prices, and it seems

1 to me that, if they are competitive about other  
2 suppliers, primarily IOUS, which everybody claims are  
3 prices at incremental costs, that they are recovering  
4 those costs by virtue of their business acumen or an  
5 ability to purchase and buy quicker in the market.

6 Q But my question was really related to the  
7 comparison of administrative and general costs, and  
8 you made the reference to retail market costs.

9 A Right. Well --

10 Q We can agree, can't we, that attempting to  
11 sell into a new market to perhaps hundreds of  
12 thousands of retail customers is going to have a lot  
13 more retail customer service and marketing costs than  
14 selling in the wholesale market, isn't it?

15 A Oh, there very well may be, but that will  
16 only occur if there are a lot of opportunities for  
17 packaging products and bringing new services to the  
18 market, in which case I would expect a lot of  
19 competitors to do that, as long as they increased  
20 their market share, and they will more than recover  
21 those market costs, but that is the essence of  
22 competition, I mean, you know, it seems to me.

23 Q Do new entrants into the market always go  
24 to the market with absolute assurances that they are  
25 going to recover all those costs?

1           A   Oh, no. That is the essence of  
2 competition.

3           Q   And a retail marketer might enter into the  
4 market merely to hope that it will be able to recover  
5 those costs?

6           Is that true?

7           A   Absolutely, absolutely.

8           Q   And the key is whether it can compete  
9 against a CGC that allows it to offer a discount,  
10 that attracts customers? Wouldn't that be true as  
11 well?

12          A   No, I really didn't think so. I mean, I  
13 think the key is that there is a process in place to  
14 allow alternate suppliers to sell at retail.

15          There is a mechanism and the fair rules that  
16 they have a reasonable and fair chance for  
17 contracting load.

18          Those conditions are set, that that's fine,  
19 and now that they have access to the retail market,  
20 there is a whole new market that's opening up.

21          People are talking about unbundling all types  
22 of products.

23          I think the witnesses from ENRON, you know,  
24 write some really interesting, compelling testimony  
25 that this market is going to completely change, and

1 the ability to unpackage and unbundle I think is a  
2 great opportunity for people to make great inroads  
3 into the electric retail market.

4 Q Are you referring to the testimony that  
5 suggests that metering and billing should be  
6 unbundled and competitive?

7 A No. I was --

8 Q I thought you were endorsing that.

9 A No. I was referring to the testimony that  
10 talks about what may happen in the future, the  
11 exciting things to come in the future.

12 That's all I was referring to.

13 Q I agree. Just to put a point on it, can  
14 you with agree at least that to the extent that  
15 suppliers are competing against Duquesne as a  
16 provider of last resort, and a CGC that does not  
17 cover a delivered market price, or a delivered market  
18 price at the time, competition is going to be much  
19 slower in developing than if in fact that CGC exceeds  
20 the delivered market price?

21 Is that a fair statement?

22 MR. MOOT: Your Honor, at this point I have to  
23 object.

24 This is probably at least the third or the  
25 fourth time this question has been asked by the third

1 or the fourth party, and it is cumulative.

2 MR. CLEARFIELD: Your Honor, we would go a lot  
3 faster --

4 MR. MOOT: They are trying to get a better  
5 answer than they got before, and it is not working.

6 MR. CLEARFIELD: I don't know if it's working  
7 or not.

8 I think we will determine when the Commission  
9 makes the final decision in the case, Your Honor, but  
10 it will go a lot faster if you allow the witness to  
11 answer, and I will move on.

12 JUDGE CORBETT: Well --

13 MR. CLEARFIELD: It wasn't the same question.

14 The other question had to do with whether  
15 competition could or could not occur and had to do  
16 with the pace of the competition, and I think it is  
17 different.

18 JUDGE CORBETT: All right. I will overrule  
19 the objection.

20 Do you remember the question?

21 THE WITNESS: I would really appreciate it if  
22 you would reread it.

23 JUDGE CORBETT: Let's have the reporter read  
24 it back.

25 (Record read.)

1 A I don't know if I can answer that question.

2 I can say that -- I mean, if you are asking me  
3 if the CGC is set artificially higher than the market  
4 price or artificially lower than the market price, I  
5 will inefficient competition.

6 You will have people either staying with  
7 Duquesne that should go, or leaving Duquesne that  
8 should stay.

9 I am a little -- I am having trouble with your  
10 question, because you talk about delivered price.

11 As I said, Duquesne believes that using the  
12 RFP price, and using the adjustments that I set  
13 forth, that that's a market appraised CGC.

14 Q And what if you are wrong? What if the  
15 market based CGC that you set turns out to in fact be  
16 below the market price that actually develops, and  
17 that occurs throughout that year, it occurs the next  
18 year as well, and the year after that?

19 Isn't it fair to say that in those  
20 circumstances, competition, the retail competitive  
21 market is going to be much slower to develop in  
22 Duquesne's service territory than in fact with the  
23 CGC if this relationship were reversed?

24 Isn't that an easy question.

25 MR. MOOT: The same objection. Cumulative

1 cross.

2 MR. CLEARFIELD: The same response.

3 JUDGE CORBETT: All right. I will overrule  
4 the objection.

5 A I don't want to --

6 Q It is a yes or no, really, isn't it? I  
7 mean, you can explain.

8 A No, I don't know, really, because I want to  
9 make the distinction.

10 I will certainly concede and accept, and I  
11 think I have said it, that if you set the CGC above  
12 market levels, then you will have people who will  
13 leave Duquesne that should stay.

14 If you set the CGC below market levels, you  
15 will have people stay at Duquesne when they should  
16 leave.

17 I mean, my problem is, it seems to me you are  
18 talking about delivery prices distinct from  
19 competitive market prices.

20 If you want to artificially set the CGC above  
21 market levels to stimulate competition to get more  
22 people in, you could certainly do that.

23 I don't believe it is efficient competition,  
24 and I have said that through pieces of testimony.

25 It is the only distinction I made.

1 I mean, we could set it artificially high or  
2 low, and it will have consequences.

3 Q You didn't answer my question.

4 A Well, I tried. I apologize.

5 Q My question is, and I will take some words  
6 out, and I am going to keep trying, because it is  
7 important.

8 If the CGC that Duquesne sets is below, turns  
9 out to be below the competitive market price, the  
10 actual market price in the market, and that occurs  
11 year after year, isn't that going to slow the  
12 development of a competitive retail market in  
13 Duquesne's service territory?

14 MR. MOOT: The same objection, but for a  
15 different reason.

16 The precise question was asked and answered by  
17 Mr. Schnitzer.

18 MR. CLEARFIELD: I don't -- Your Honor, that  
19 is not a valid objection.

20 I have a right to interrogate this witness as  
21 to his knowledge about Duquesne's plan in his  
22 testimony.

23 JUDGE CORBETT: All right. The objection is  
24 overruled.

25 A If the CGC is consistently set below market

1 prices year in, year out, it will have a dampening  
2 effect on competition.

3 Duquesne does not recommend that course. It  
4 recommends setting up the market prices.

5 Q Let's look at JAL-15.

6 (Discussion off the record.)

7 JUDGE CORBETT: We are back up and ready to  
8 go.

9 THE WITNESS: Thank you.

10 BY MR. CLEARFIELD:

11 Q Mr. Lahtinen, I'm sorry to have given you  
12 that reference to JAL-15.

13 I just want to follow up on a few other  
14 questions --

15 A Okay.

16 Q -- with respect to this issue of the  
17 development of a competitive market.

18 It is true, isn't it, that the primary  
19 objective of Duquesne's unbundling rate design is to  
20 mitigate stranded costs to the maximum you can  
21 possibly?

22 A Our rate design?

23 Q Yes.

24 A That is a key element, as well as provided  
25 for more efficient prices.

1 Q That's --

2 A Certainly I do say that in the testimony.

3 It is a critical element of rate design to --

4 Q And if your --

5 A -- increase mitigation.

6 Q Okay. And if your unbundled rate design is  
7 successful in mitigating stranded costs, but at the  
8 same time, no competitive market at retail level  
9 develops in Duquesne's service territory, would you  
10 consider your unbundling proposal to be a failure?

11 MR. MOOT: I would like a question for  
12 clarification.

13 Is the question, when it refers to rate  
14 design, talking about the two-part CTC, or is it  
15 talking about the entire rate design of every element  
16 TG, CGC and CTC.

17 MR. WISEMAN: I believe, Your Honor, the  
18 witness understood the question as to the overall  
19 rate design of the unbundling of the company's rate  
20 proposal in this proceeding.

21 MR. MOOT: You can ask him that.

22 JUDGE CORBETT: Did you understand the  
23 question, Mr. Lahtinen?

24 THE WITNESS: No. I understood the question  
25 to be focusing more on the two-part rate, the

1 two-part tariff rate design, the fixed CTC and the  
2 variable CTC.

3 BY MR. CLEARFIELD:

4 Q Well, didn't you say -- haven't you said in  
5 your testimony and other places that the primary  
6 focus of your unbundled rate design is to mitigate  
7 stranded costs?

8 A Yes, but that's in reference to the  
9 particular design of our retail rates.

10 Q Is it also the purpose of your overall  
11 unbundling proposal?

12 A Well, no. I describe how we set the rates.  
13 I mean, I have to -- I have to supply appropriate  
14 cost allocation factors.

15 I have to allocate those costs consistent with  
16 the way they are allocated in the states.

17 I have to maintain prices within the confines  
18 of the rate cap, and I want to set rates that are  
19 efficient are adequate and fair.

20 I believe I have done that.

21 Q In terms of overall goals --

22 A Yes.

23 Q -- was one of your principal overall goals  
24 to come to -- to attempt to recover stranded costs as  
25 quickly as possible and to mitigate stranded costs to

1 the greatest extent possible?

2 A It was, and as I say in my rebuttal and  
3 direct, I think we could do this and make everybody  
4 happy --

5 Q Do you --

6 A -- but I would like to answer that  
7 question, because I think it is critical.

8 We can mitigate stranded costs by lowering  
9 rates.

10 Lowering rates is good for customers.

11 Increased consumption is good, because  
12 increased welfare then follows.

13 I also think that Dr. Bidwell and the New York  
14 proceeding makes the point, if you stimulate more  
15 kilowatt sales there, the more efficient rate design,  
16 you get more sales.

17 You will get more opportunities for suppliers  
18 to come into the market.

19 I have used an extremely conservative  
20 assumption in that analysis in point one about  
21 fifteen million dollars in additional revenues,  
22 and --

23 Q You are way beyond my question, and let's  
24 just go back, and we are getting late, and we are  
25 going to fall back and get late again, if we are not

1 already.

2 If your rate design that you have proposed  
3 here is accepted by the Commission, and it does in  
4 fact mitigate stranded costs, as you believe it will,  
5 but no retail competitive market develops in the  
6 Duquesne service territory, will that trouble you?

7 Will you consider your unbundling proposal a  
8 success or a failure in that context?

9 A I would not be particularly troubled,  
10 because I am setting rates that I believe are market  
11 based.

12 We have an RFP they are market based on a  
13 reasonable representation of what the market is.

14 I have made appropriate adjustments for  
15 losses, load patterns, GRTs, and I am making -- I am  
16 making lower rates for customers, adequate returns,  
17 and I am also opening up opportunities for new  
18 suppliers.

19 I am very comfortable with the rates.

20 Q So if no competition develops, that is  
21 simply --

22 A Well --

23 Q -- an unfortunate consequence that you  
24 would not feel would compel a result that something  
25 went wrong, and that your unbundling proposal should

1 be re-evaluated?

2 Is that correct?

3 A I don't think that is likely to happen.

4 Q But if it did happen, would that be the  
5 conclusion you would advance to the Commission if  
6 they asked you?

7 A Well, I -- I have not designed rates to  
8 target five new suppliers or fifty new suppliers.

9 I have targeted rates to abide by the  
10 Competition Choice Act, and I have set prices -- I  
11 have set CGCs on the basis of the market values, and  
12 I have designed rates to make everybody better off.  
13 That is my objective.

14 Q And if no competition develops, and  
15 customers in two years in fact have no choice, no  
16 marketers enter the market, that would not  
17 particularly trouble you, based on what you have just  
18 testified?

19 MR. MOOT: Asked and answered three times,  
20 Your Honor.

21 Objection.

22 MR. CLEARFIELD: Is that correct?

23 He hasn't answered.

24 JUDGE CORBETT: I am going to sustain the  
25 objection.

1 Move on.

2 BY MR. CLEARFIELD:

3 Q Could you turn to JAL-15? Now, I am trying  
4 to understand where we are with respect to the  
5 proposed GGC, Mr. Lahtinen.

6 A Okay.

7 Q Now, your JAL-15 shows a CGC that is  
8 adjusted for line losses and GRT by rate class?

9 A That's correct.

10 Q Is that right? Now, are you proposing, or  
11 have you testified that in addition to this CGC that  
12 is shown in the far right-hand column, that you are  
13 now proposing that you would add an amount to cover  
14 ancillary service that was competitively offered in  
15 that supplemental reserves?

16 A I believe I do say that. I am just looking  
17 for a reference.

18 Yes, I do. That credit is not reflected in  
19 these.

20 It certainly will be made at the time we file  
21 our compliance.

22 Q In your compliance?

23 A Yes.

24 Q Now, have you -- and if I understood your  
25 testimony correctly, and I could be wrong about this,

1 but at least with respect to distribution line  
2 losses, you are planning to adjust your proposed  
3 distribution rates to reflect the removal of  
4 distribution line losses and the inclusion of those  
5 in the CGC?

6 A There is the differential.

7 Q Differential?

8 A Yes.

9 Q Now, has that been shown anywhere?

10 A No, and again, there are obviously going to  
11 be things that we are going to have to file.

12 For example, I am going to have refile all my  
13 unbundled rates, all my cost of service study  
14 exhibits just to deflect the hopefully approval of  
15 our settlement at the FERC transmission rates.

16 I didn't do that, because really, to make one  
17 change in cost of service, I had to change every one  
18 of those.

19 I have to do all the proof of revenue sheets,  
20 unbundle rates.

21 It just isn't, but those certainly will be  
22 done, and you might as well go through that list  
23 today, and you can get them on the record. We intend  
24 to do that.

25 Q Well, what I am concerned about is that --

1 what we are interested in is, is there a proof of  
2 revenue that indicates that the CGCs that you are  
3 proposing and the T&D rates that you are proposing  
4 and the resulting CTC in fact, when applied to all  
5 the rate classes, produce revenues that in fact  
6 equate to the amount of revenues that --

7 A Again unbundled rates.

8 Q -- that you were getting in the bundled  
9 rate caps?

10 A Yes. Exhibit JAL-4.

11 Q And does that reflect the changes that --

12 A Oh, no, no, no. That is my point. That is  
13 my point. Those sheets are all going to have to be  
14 redone.

15 Those sheets are going to have to all be  
16 redone.

17 As I speak now, the cost of service probably  
18 will be lower, because the transmission rates under  
19 the FERC settlement are lower by about a million  
20 dollars, but no.

21 All those -- those adjustments will have to be  
22 done. I did not do those.

23 For example, if I had taken this adjustment  
24 for distribution losses, I probably would have had to  
25 change 400 pages of exhibits, and I just didn't think

1 it made a lot of sense to do it, because I don't know  
2 -- I am hoping and I suspect that the transmission  
3 settlement rates will be approved, but I was going to  
4 wait until I got the approval to do it.

5 It is a matter of time, and when you want --  
6 when the parties agree, or when they want it done, I  
7 will do it.

8 I just didn't want to do these things  
9 piecemeal.

10 There's just too many numbers to do that.

11 Q That is fair. What I would be interested  
12 in, and I'm not sure you got to this in your  
13 questions from Mr. Wiseman is, is there in the  
14 record, either before or after these adjustments, a  
15 calculation of a system average hypothetical CGC  
16 system average T&D rates and the resulting CTC?

17 A Yes. I -- I think there is. I think it is  
18 Exhibit JAL-9, I believe.

19 A I have to look at that. If you look at  
20 JAL-9 -- yes. Take a look at JAL-9. There is --  
21 excuse me.

22 I think that's a two-page exhibit, if I am not  
23 mistaken.

24 The first page of that exhibit really shows  
25 the revenue requirements and the break-out of those

1 revenue requirements by function, and if you go to  
2 the next page, that break-out will show you how those  
3 rates are unbundled between the various components.

4 I also think we filed a proof of revenue in  
5 response to a Appendix A.

6 There is the reference. I don't know. In the  
7 back of my direct, I list the things that I have, but  
8 there is a proof of revenue sheet in there.

9 I mean, this exhibit really is a summary of  
10 it, but I think it is a good one.

11 Q Help me understand where I would look to  
12 see the system average rates, that is, the one number  
13 that could be compared to, for example, the schedule  
14 that Miss Smith provided.

15 I think it is LS-4 in her original direct  
16 testimony.

17 It showed system average, transmission and  
18 distribution rates and corresponding rates for the  
19 other functional elements.

20 A What she -- if you want it for each piece,  
21 the easiest thing to do would be either to add all  
22 the unbundled transmission distribution costs,  
23 variable CGCs, divided by the kilowatt hours, but it  
24 is probably just as ease to go to the cost of  
25 service, and let me -- let me do that.

1 Now, I think that's probably in --

2 Q Perhaps to shortcircuit this, at the risk  
3 of --

4 A No. There are a lot of numbers, but I mean  
5 -- I mean, this can be done.

6 The problem is, you are going to have to do  
7 some additions and divisions.

8 I mean, I could certainly --

9 Q Well, lawyers can handle that, but --

10 A I can certainly, and I think we have done  
11 that. I think we have sent that out in response to  
12 interrogatories.

13 Q I will be the first to apologize if there  
14 is something that I have missed, because --

15 A No. There is a lot of stuff.

16 Q But what I would ask is, since we do have  
17 an acknowledgement that -- and appropriately that the  
18 CGC has been revised, when you are proposing a  
19 revision, would it be possible to prepare that --

20 A Yes.

21 Q -- sheet, so that we don't have to have --

22 A Yes. That --

23 Q -- Mr. Lahtinen calculate numbers based on  
24 the earlier proposals, but one that reflects all of  
25 the new elements, so that the parties and the

1 Commission can prepare those, compare those numbers  
2 and those calculations for the purposes of  
3 understanding the company's proposal?

4 A I will tell you, a simple calculation, if  
5 you want a system weighted CGC, would be to go into  
6 cost of service on the FERC form one report, multiply  
7 the CGCs by class, by the megawatt hours, sum them,  
8 divide them by the megawatt hours, that would be --  
9 that is a pretty good measure of the system weighted  
10 CGC, I will do that for you.

11 I can probably do it in the next -- no. I am  
12 actually taking the next week and a half off, but I  
13 can provide -- I could provide for the record -- I  
14 can do the calculations necessary to give you that  
15 information.

16 I will redo those statements.

17 My only problem again is, I don't know when  
18 the transmission tariffs are going to be approved,  
19 and I wanted to hold off doing all these exhibits  
20 until those were approved.

21 There's a couple of calculations I could do,  
22 that that's not easy.

23 Q That is fine. I am not asking you to redo  
24 all the tariffs and the cost of service.

25 A If you want a system average CGC with this,

1 I can do that.

2 I can probably do that before I leave today.

3 Q NO. That would be helpful, but what I  
4 would ask is that you also provide, if possible, the  
5 corresponding system average distribution rate and  
6 the transmission rate, with the caveat that that may  
7 change --

8 A I can do that.

9 Q -- because of the ing --

10 A I can do that.

11 Q -- FERC order, and I presume -- now, let's  
12 just go a little further.

13 Now, to determine what the CTC would be on a  
14 system average, you would have to know what the  
15 system average revenue for KWH would be?

16 A Well, there's a total bill of revenues for  
17 1996, which we have in Exhibit 9.

18 Q Okay. Can you also provide that --

19 A Sure.

20 Q -- so that --

21 A Absolutely. And you just want it on a  
22 cents per kilowatt hour basis for the entire company?

23 Q Yes.

24 A I can get that in the next day or two.

25 Q So that we can compare --

1 A Yes.

2 Q -- the various proposals and compare the  
3 proposals from the other --

4 A I can do that.

5 Q -- other companies.

6 MR. MOOT: Duquesne will agree to provide the  
7 calculations you request.

8 However, the calculations you request are not  
9 the rates Duquesne is proposing.

10 MR. CLEARFIELD: Well --

11 MR. MOOT: As you look on this page, you will  
12 see KW and KWH rates.

13 You will see fixed and variable CGCs. You  
14 will see many things that you have not asked for, and  
15 we are not committing to provide you our proposal.

16 We are committing to provide you your  
17 information.

18 MR. CLEARFIELD: Your Honor, that's  
19 understood, and a system average calculation is not a  
20 rate.

21 No one is going to be charged a system  
22 average, but it is very helpful, as a tool, to  
23 compare other proposals and to understand the  
24 specific proposals that are being made by the company  
25 on an overall basis.

1 MR. MOOT: We will agree to provide the  
2 information, and it will be at least with the caveat  
3 that the CGC that appears in Mr. Lahtinen's exhibits  
4 is not the CGC that we are proposing for the first  
5 year of competition.

6 MR. CLEARFIELD: That is because --

7 MR. MOOT: That's because --

8 MR. CLEARFIELD: My understanding is, that's  
9 because that's a CGC that was created using the 1997  
10 RFP, and the company is proposing to conduct a new  
11 RFP to determine what that CGC should be.

12 MR. MOOT: That is correct.

13 JUDGE CORBETT: Okay.

14 THE WITNESS: I can do that.

15 MR. CLEARFIELD: Off the record.

16 (Discussion off the record.)

17 BY MR CLEARFIELD:

18 Q Quickly, just on a few other points, on  
19 Page 28 of your rebuttal testimony, you discuss on  
20 that page Mr. Reising's proposal for allocation of  
21 the costs and accounts, FERC Accounts 908 or 909? Is  
22 that correct?

23 A Yes. I think that discussion starts  
24 earlier, on 27, but --

25 Q Mr. Lahtinen, I am just trying to give you

1 a frame of reference. We don't need to know --

2 A Right.

3 Q -- exactly where it starts, or exactly  
4 where it ends.

5 A Yes. Well, I just --

6 Q I understand. If we could move along. If  
7 I do need a specific reference, I will be the first  
8 one to tell you.

9 A Okay.

10 MR. CLEARFIELD: Your Honor, I would like to  
11 ask that we mark for identification two pages that  
12 reflect the description of Accounts 908 and 909 from  
13 the Code of Federal -- the CFR Uniform System of  
14 Accounts for electric utilities.

15 I am handing one to Mr. Moot and two copies to  
16 the court reporter.

17 MR. MOOT: Do you have a gold seal for that?

18 MR. CLEARFIELD: No, Your Honor. I'm sorry.  
19 I don't.

20 JUDGE CORBETT: Okay. I believe this is ENRON  
21 Cross Exhibit -- Cross Examination Exhibit 1.

22 May I have one, please? Thank you.

23 MR. CLEARFIELD: Yes. Cross 1.

24 (Thereupon, ENRON Cross Examination Exhibit 1  
25 was marked for identification.)

1 BY MR. CLEARFIELD:

2 Q Do you have what we have marked as ENRON  
3 Cross Exhibit 1?

4 A Yes.

5 Q Have you seen this, these descriptions  
6 before?

7 A Yes.

8 Q And are these in fact the descriptions that  
9 are in the Uniform System of Accounts for Accounts  
10 908 and 909?

11 A Yes, they are.

12 Q Now, is there in fact any discussion or  
13 description in these account descriptions of  
14 activities or costs associated with the promotion of  
15 the efficient use of the electric delivery system?

16 A In Account 909, at the top, they talk about  
17 information and instructional advertising expenses,  
18 which at the last line, to utilize the electric  
19 equipment safely and economically, or to conserve  
20 electric energy.

21 Q There is no specific reference to the  
22 distribution system, though, is there?

23 A Oh, if that was your question, I do not --  
24 I do not see -- I do not see any reference to  
25 distribution systems, that's correct.

1           Q With respect to the administrative and  
2 general costs that we have been discussing, and that  
3 you discussed in several places in your testimony --  
4 maybe we can do this quickly -- would you agree that  
5 these costs include items such as the cost of the  
6 Executive Department, the cost of the CFO, the  
7 secretary's office, Public Policy Department, the  
8 Claims Division, and such?

9           A A&G costs generally, yes. With regard to  
10 Account 908 --

11          Q No, no. I am switching from Account 908.

12          A Well, but I just would like to clarify  
13 something, because I didn't have the information at  
14 the time when I did my rebuttal.

15                 My understanding was that the costs associated  
16 in 908 are now included in Mr. Flynn's testimony from  
17 Universal Services.

18                 As I understand it, now, a substantial portion  
19 of those costs, which are 1.74 million dollars, are  
20 associated with the Smart Comfort Program, which is  
21 geared to hardship economics, hardship residential  
22 customers, but I just wanted to clarify that for you.

23          Q Should we discuss that with Mr. Flynn?

24          A Yes, I would ask him, because he does have  
25 a listing of the costs included in the Universal

1 Service, and I believe the account numbers, I just go  
2 through it, because these accounts numbers are a  
3 couple of the same ones that I am using here.

4 Q Have you, or does the company functionalize  
5 the accounts in the administrative and general  
6 category in Accounts 920, et cetera, to any greater  
7 level of specificity beyond the descriptions that are  
8 in the FERC Uniform System of Accounts description?

9 A With regard to functionalization, I don't  
10 know.

11 Mr. O'Brien really did the functionalized cost  
12 of service study.

13 I -- basically, I did the allocation of the  
14 functionalized component.

15 I really don't know on what level of detail  
16 Mr. O'Brien gets into.

17 Q Have you reviewed a description of the  
18 types of -- I think you said yes, when I listed a  
19 series of general categories of expenses that were  
20 being included in administrative and general  
21 expenses.

22 A Well, I --

23 Q Have you reviewed the list of functions or  
24 activities that would be included in those  
25 categories?

1           A Yes, I have, from time to time, and the  
2 people that work directly for me in cost of service,  
3 and when we do have them for accounts, we do review  
4 them, but in terms of the specific detail, for  
5 example, the costs that would be associated with the  
6 cost center within the company, I can get that  
7 information.

8           I really didn't need that information, due to  
9 the work I was doing.

10          Q Let me try this and see.

11          MR. CLEARFIELD: May I have marked as ENRON  
12 Cross 2 the first six pages of an exhibit that was  
13 produced by PECO witness Klemmerer in the PECO  
14 proceeding that lists a description of subaccounts  
15 that were used by PECO to functionalize a particular  
16 USOA account, Account 920?

17          I am handing copies to the court reporter and  
18 Mr. Moot.

19          JUDGE CORBETT: All right. This document will  
20 be so marked and identified.

21          (Thereupon, ENRON Cross Exhibit 2 was marked  
22 for identification.)

23          MR. MOOT: Anything beyond that, we are going  
24 to have trouble.

25          MR. CLEARFIELD: I certainly appreciate the

1 warning.

2 MR. MOOT: Thank you.

3 JUDGE CORBETT: And one for me, please.

4 MR. CLEARFIELD: Oh, I'm sorry.

5 JUDGE CORBETT: That's all right. Thank you.

6 BY MR. CLEARFIELD:

7 Q Perhaps if you could just -- my questions  
8 are going to be brief.

9 A Can I ask you what -- I mean, is this Mr.  
10 Klemmerer from PECO?

11 Q Yes. Have you ever seen --

12 A This is --

13 Q -- that document?

14 A Is this -- is this a -- no, I have not  
15 seen this.

16 Was that filed in his testimony?

17 Q Yes. I would represent to you, Mr.  
18 Lahtinen, that this was an exhibit that was filed and  
19 entered in the PECO proceeding sponsored by Mr.  
20 Klemmerer, and that it represents merely a  
21 description of various functional accounts or  
22 subaccounts as used by PECO Energy to separate the  
23 costs that are booked into Account 920.

24 A These are internal accounts to PECO?

25 Q Yes. Now, they have descriptions of

1 various activities.

2 Do you see that? Does that give Executive  
3 Department, Office of CFO?

4 A Yes.

5 Q Now, the question is very simple with  
6 respect to Duquesne.

7 A This is account 920? Is that right?

8 A Yes, as an example. Can you tell us today  
9 whether the kinds of functions and costs that are  
10 booked by Duquesne into Account 920 would be  
11 generally comparable to the descriptions that are  
12 reflected hereby Mr. Klemmerer in his exhibit that I  
13 have marked as ENRON Cross 2?

14 A Well, there are a lot of subaccounts here.

15 Q Just as a general matter, Mr. Lahtinen.

16 A Well, yes, but the general matter is  
17 probably five pages.

18 I would have to review this. I would have  
19 to talk to -- Mr. O'Brien would be the appropriate  
20 witness to review this with.

21 I -- I don't know. There is a lot of stuff in  
22 there. Some of the stuff I guess probably looks  
23 familiar.

24 I mean, there's just a lot of subaccounts.

25 I don't know if Duquesne has got nearly as

1 many of these subaccounts, but again, I am not --  
2 Mr. O'Brien would be the more appropriate witness.

3 Q Did you review the types of costs that made  
4 up the accounts that were characterized as  
5 administrative and general before you prepared your  
6 testimony or your rebuttal?

7 A Well, when you say before I did the direct  
8 testimony and did the cost of service? I mean, we  
9 did --

10 Q That's --

11 A We did -- we asked, obviously, Mr.  
12 O'Brien's people and Mr. Clayton's people and checked  
13 to make sure that the rate basis, the expenses were  
14 appropriate, but again, I mean, Mr. -- the way we --  
15 the way this was set up, Mr. O'Brien did the test  
16 year, functionalized cost of service.

17 He provided me with the breakdown of  
18 production generation.

19 I then took those components, and I allocated  
20 them across rate classes.

21 That was the distinction, so people who worked  
22 for me are more familiar with these accounts and  
23 subaccounts than I am.

24 I surely reviewed them. I looked at some of  
25 them, but I don't know anywhere near the detail that

1 Mr. O'Brien would know.

2 Q Did you review a description of the kinds  
3 of costs or activities that are booked into these  
4 accounts before you prepared your rebuttal testimony,  
5 in which you responded to, in fact criticized some of  
6 the proposals that were made by --

7 A Well --

8 Q -- other witnesses in this proceeding --

9 A I --

10 Q -- with respect to --

11 A I have --

12 Q -- allocation of A&G?

13 JUDGE CORBETT: Just wait a minute. Wait,  
14 wait, wait.

15 Let's have one party at a time speak.

16 Let's have Mr. Clearfield finish his question,  
17 and we will let you answer, Mr. Lahtinen.

18 I know you want to answer, but --

19 A With regard to Accounts 908 and 909, which  
20 I discuss in my rebuttal, based on the testimony of  
21 Mr. Reising, I did not have the information I had  
22 today.

23 Q But with respect to Accounts 920 through  
24 931, first of all, are those the accounts that are  
25 generally characterized as the administrative and

1 general accounts, if you know?

2 A I believe so. I don't -- do you have --  
3 well --

4 Q Well, there is one. You can easily see it,  
5 Mr. Lahtinen --

6 A Well, hold on a second.

7 Q -- if you --

8 A No. It is easier just to take a look at  
9 cost of service.

10 Q But this would take -- I am trying to not  
11 talk over you.

12 JUDGE CORBETT: Okay. Yes. Again, let's try  
13 to let one party at a time speak.

14 Otherwise, the poor court reporter will have a  
15 difficult time here.

16 A Accounts 920 through 935 are A&G expense  
17 accounts.

18 Q Now, let me just ask the question again,  
19 and forgive me if this is repetitive, but I want to  
20 make sure I understand your answer.

21 Can you, by looking at this more detailed list  
22 of functions that are costs associated with Account  
23 920, tell us today whether these generally reflect  
24 the kinds of functions that would be booked into this  
25 particular account?

1 A No, not until I review it further.

2 Q Well, can you take some time to review it  
3 and respond --

4 A Well, I mean, here is --

5 Q -- or check with Mr. O'Brien, so that the  
6 record can be --

7 A Well, we certainly can do that. I don't  
8 have a problem.

9 I am just saying that generally, there's  
10 probably two hundred accounts up here.

11 Generally, what does he mean? Ten of them,  
12 fifteen, twenty, two hundred, fifty of them? I don't  
13 know.

14 Q Why don't we make a data request on the  
15 record, and you can respond?

16 A That is fine. I have no problem with that.  
17 Just a moment. I want to make sure I didn't miss  
18 anything.

19 Q Again, just to make sure the record is  
20 clear, with respect to the pilot credit, have you,  
21 Mr. Lahtinen, have you calculated an overall system  
22 credit that would be produced by the pilot, and that  
23 is the overall shopping credit that would include the  
24 generation credit and the customer participation  
25 credit?

1           A    You know, I believe I did.  Oh, I know I  
2 did, and I provided it in response to a data request  
3 from BFUS --

4           Q    I'm sorry?

5           A    -- Bureau of Fixed Utility Services as part  
6 of a compliance filing, and I do know, for example,  
7 that the residential class, the shopping credit, with  
8 a three cent market price credit and a thirteen  
9 percent customer participation credit was 4.25 cents  
10 per kilowatt hour.

11          Q    That is pretty close to what I calculated.  
12 Is there a system average that would be comparable to  
13 that number?

14          A    Yes, there is, and I calculated it on those  
15 sheets.

16          I can certainly provide that.  That's probably  
17 already part of the record.

18          Q    That is fine.  If you could provide that,  
19 that would be fine.

20          A    I will also provide you with financial --  
21 the financial loop back that those credits are  
22 believed to have on Duquesne.

23          JUDGE CORBETT:  Before you volunteer more,  
24 maybe you had better check with your attorney.

25          MR. CLEARFIELD:  I am sure that he will allow

1 that last part to be submitted. Make it a package  
2 deal.

3 BY MR. CLEARFIELD:

4 Q Do you know, or should I ask Mr. Irvin:  
5 How many megawatts are associated with the pilot  
6 load?

7 A Oh, I think it is about 130. Mr. --  
8 actually, Mr. Hoffman probably would know that.

9 Q Hoffman. Okay.

10 A I believe it is about 130, 135.

11 JUDGE CORBETT: You can open that door back  
12 there, please.

13 BY MR. CLEARFIELD:

14 Q Again, just so the record is clear, if we  
15 can just compare the CGC that you have calculated on  
16 JAL-15 for the R rate class, RS --

17 A Yes.

18 Q -- and their response to an interrogatory,  
19 Interrogatory -- I believe it is Environmentalist's  
20 Set 1, Number 18, you provided some average charges  
21 for Rate RS, and therein it listed the average charge  
22 per kilowatt hour for Rate RS as 12.59 cents.

23 Can you confirm that that is accurate?

24 MR. MOOT: I object. If he could be shown the  
25 document, and if he can, he can. If he can't, he

1 can't.

2 BY MR. CLEARFIELD:

3 Q Well, do you have the document?

4 A I don't have the document. If anybody has  
5 got a Duquesne FERC Form 1, it is easy enough to  
6 verify.

7 Q Well, I will show you the document. Would  
8 you accept it, subject to check?

9 MR. MOOT: We are not going to do that. We  
10 object.

11 We apologize that we didn't bring the two  
12 thousand interrogatory responses and 120 thousand  
13 pages of documents we provided.

14 MR. CLEARFIELD: Could you have them tomorrow?

15 MR. MOOT: If you would like to sit in the  
16 other room, we will bring them.

17 If you could just take a moment, Your Honor, I  
18 can find that. I believe I did --

19 JUDGE CORBETT: All right.

20 MR. CLEARFIELD: -- bring it with me, but I  
21 was trying to expedite this.

22 MR. MOOT: Okay.

23 JUDGE CORBETT: If we could just take a moment  
24 here, I think it might be a good time.

25 (Discussion off the record.)

1 JUDGE CORBETT: We're back on the record.

2 Mr. Clearfield?

3 MR. CLEARFIELD: That's all I have.

4 JUDGE CORBETT: Okay. Mr. Rubin is not in the room  
5 at the time, at this time, but according to this schedule,  
6 it indicates that he had no cross-examination of this  
7 witness.

8 Is there any other party that I have not called who  
9 has cross-examination for this witness?

10 (Pause.)

11 Hearing none, then, Mr. Moot, do you have any  
12 redirect?

13 MR. BERGER: Your Honor, I had a follow-up question.  
14 I indicated to Mr. Moot that I had a follow-up question on  
15 some of the questions I think that Mr. Wiseman had asked,  
16 and it just refers to Mr. Lahtinen's Exhibit JAL-3. If  
17 you'd turn there.

18 JUDGE CORBETT: All right. Is that all right? So  
19 long as no one else objects and it's brief, we'll let you  
20 do that.

21 **CROSS-EXAMINATION**

22 BY MR. BERGER:

23 Q On page 2 of 2.

24 A Yes.

25 Q And the two lines at the bottom there under

1 Adjusted Cost/Revenue, you have two lines saying allocated  
2 cost to service adjusted 1996 revenues. Do you see those?

3 A Yes, I do.

4 Q Let's look, for example, at the RA class, and  
5 there you have allocated cost of service of 3.9 million  
6 approximately.

7 A That's correct.

8 Q And adjusted 1996 revenues of 3.4 million.

9 A That is correct.

10 Q Now, on the Rate of Return line, it's indicated  
11 that that class has a higher rate of return than the system  
12 average, or the -- than the allowed rate of return, even  
13 though its earning -- even though its revenues are below  
14 its cost of service.

15 A Yes.

16 Q Why is that?

17 A The rate of return was a calculation I did to  
18 adjust the overall rate of return for the class rates  
19 return that resulted from the last base rate proceeding. I  
20 took the rates of return that resulted from the revenue  
21 requirements that were in the last case and adjusted them  
22 such that the sum of the returns for each of the classes  
23 would return 9.61 percent overall.

24 This table was just an adjustment for the class rates  
25 of return that the previous rate base proceeding produced.

1 It was a calculation to show what prevailed to get an  
2 adjusted class of service.

3 I explain that I think at page 25 of my direct  
4 testimony.

5 Q I guess I'm just having trouble understanding, and  
6 I guess I'm concerned that this flows through into the  
7 allocation in some way.

8 A No, it does not. It does not. These exhibits  
9 were done primarily for informational purposes, because  
10 when I reviewed some of the testimony of the previous  
11 restructuring case, everybody seemed to want to see this.  
12 This has no effect on my -- These tables, these adjusted  
13 rates of returns have no effect on what I did with  
14 reallocated cost of service. These are primarily, almost  
15 exclusively for informational purposes. All I did was to  
16 present this information to say, look, if you look at the  
17 classes, if you aggregate all the residential classes, all  
18 the general service classes, what do the 1996 allocated  
19 cost of service results look like compared to the actual  
20 billed revenues? That's the top half of this sheet.

21 I then said okay, well, receipts -- I'm making -- I  
22 want to compare that to two adjustments. One adjustment is  
23 the adjusted 1996 revenues, which increases the billed  
24 revenues by about 18 point five, six million dollars for  
25 the ENRON, which I discussed in my testimony, Mr. Clayton

1 discusses in his. And the adjusted cost service, if you  
2 notice, the totals stay the same. It's just the amount of  
3 allocated cost of service varies. And what happens is,  
4 when the class rates of return are higher than the average,  
5 they will get allocated a little bit more of the costs.  
6 Classes of rates of return are a little bit lower than the  
7 average, a smaller amount of cost. In total, it allocates  
8 the allocated cost of service.

9 This was just for informational purposes. I thought  
10 people would want to see it basically.

11 Q So those class returns have nothing to do with the  
12 relationship between the two lines I pointed to earlier?

13 MR. MOOT: Your Honor, may I make -- Just let me make  
14 a suggestion, and Mr. Berger is free to reject it. It's  
15 not an objection.

16 It seems to me it might be beneficial if we had some  
17 informal discovery where the rate witnesses for the OCA  
18 discuss this issue with Mr. Lahtinen; if they needed to get  
19 something on the record, to ask him a question that would  
20 explain it, and it could be introduced later. It's just an  
21 offer.

22 MR. BERGER: I appreciate the offer. I guess the  
23 simplest thing, to me, would be for him to provide the --  
24 to provide the calculations behind the numbers.

25 THE WITNESS: Sure. And those have been I think

1 provided about three times. I think Mr. Kalcic of  
2 OSBA -- I think it's OSBA 1-18. But yeah, I've provided  
3 calculations and spread sheets to show how I calculated the  
4 class rates return, how I adjusted them.

5 MR. BERGER: Okay. Thank you.

6 THE WITNESS: You're welcome.

7 JUDGE CORBETT: Anything more, then, Mr. Berger?

8 MR. BERGER: No. Thank you.

9 JUDGE CORBETT: Okay. Housekeeping matter.

10 Mr. Clearfield, you did not move for the admission of  
11 your exhibits.

12 MR. CLEARFIELD: Yes, Your Honor, I would like to  
13 move those at this time.

14 MR. MOOT: Your Honor, I object to the latter  
15 exhibit. There's been no foundation. The witness is  
16 completely unfamiliar with it, and therefore, it has no  
17 basis for admission.

18 MR. CLEARFIELD: Mr. Moot is incorrect, Your Honor.  
19 The exhibit, first of all, is a part of the record of the  
20 PECO proceeding. Under 5.407 of the Commission's rules,  
21 portions of the record of other proceedings in essence are  
22 authenticated by that representation. I don't hear  
23 any -- I assume that would be accepted as long as they're  
24 shown to be relevant and material. Mr. Lahtinen has stated  
25 that he's going to review the exhibit and determine whether

1 in fact he can confirm that this description of the account  
2 is generally similar to the kinds of costs and activities  
3 that are booked by Duquesne in the proceeding. So in  
4 fact --

5 JUDGE CORBETT: Okay. When he does that, then you  
6 can move for it. At this time I'm denying the admission of  
7 ENRON Cross-Examination Exhibit 2.

8 So the record is clear, ENRON Cross-Examination  
9 Exhibit 1 is admitted. ENRON Cross-Examination Exhibit 2  
10 is not admitted subject to further consideration. Okay.

11 Any redirect, Mr. Moot?

12 MR. MOOT: Yes, I do, Your Honor. I guess I'd  
13 request that -- I don't intend on conferring with the  
14 witness, but I would appreciate a couple moments just to  
15 look through my notes. We don't have to take a formal  
16 break; you can just give me two minutes. It's up to you.

17 JUDGE CORBETT: Well, we've been going pretty hard  
18 this afternoon. Why don't we just take a ten-minute break  
19 anyway, and we'll come back at 4:30.

20 (Whereupon, a brief recess was taken.)

21 JUDGE CORBETT: We'll go back on the record.

22 Mr. Moot, do you have any redirect?

23 MR. MOOT: No, Your Honor.

24 JUDGE CORBETT: Okay. Mr. Lahtinen, then you are  
25 excused, sir.

1 THE WITNESS: Thank you.

2 JUDGE CORBETT: Thank you very much.

3 (Witness excused.)

4 JUDGE CORBETT: The next witness up would be I  
5 believe Mr. Irvin.

6 Would you raise your right hand, sir, and be sworn.

7 ROBERT A. IRVIN, called as a witness, having been  
8 duly sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 JUDGE CORBETT: Please have a seat, and would you  
11 begin, please, by giving the court reporter your full name,  
12 please.

13 THE WITNESS: My name is Robert A. Irvin, I-R-V-I-N.

14 JUDGE CORBETT: Okay. Mr. Moot, you may proceed.

15 BY MR. MOOT:

16 Q Good afternoon, Mr. Irvin.

17 A Good afternoon.

18 Q Did you prepare direct and rebuttal testimony and  
19 exhibits in this case?

20 A Yes, I did.

21 Q Are the statements and information contained in  
22 those testimonies and exhibits true and accurate to the  
23 best of your knowledge, information and belief?

24 A Yes, they are.

25 MR. MOOT: Your Honor, at this time let the record

1 reflect I am handing the court reporter two copies of said  
2 testimonies and exhibits, and I hereby move them into  
3 evidence subject to appropriate motions.

4 JUDGE CORBETT: All right. The documents previously  
5 marked as Duquesne Statement Number 7 and Duquesne  
6 Statement Number 7R, together with the accompanying  
7 exhibits, are hereby identified and moved into the record  
8 subject to any proper motions.

9 (Duquesne Statement Number 7 and Duquesne Statement  
10 Number 7R were marked and admitted in evidence.)

11 MR. MOOT: I have a few questions on rejoinder.

12 JUDGE CORBETT: All right.

13 BY MR. MOOT:

14 Q Mr. Irvin, are you familiar with the contention of  
15 Whitfield Russell in his surrebuttal testimony that the  
16 capacity purchased by Duquesne in the summer of 1996 and  
17 the summer of 1997, and which is referred to in your direct  
18 testimony, was standby power?

19 A Yes, I saw that reference.

20 Q Mr. Irvin, did you intend to purchase standby  
21 power?

22 A I'm not sure what Mr. Russell means by standby  
23 power. It's not a term that's familiar to me.

24 What I can say is that when I purchased that power,  
25 it was power that I knew that I was going to use during the

1 summer of 1996 and the summer of 1997, and I had every  
2 intention to use it, I did use it, very much to -- It was  
3 very beneficial.

4 So what his reference to the word "standby" was, I do  
5 not know.

6 Q Had, for example, Duquesne's retail pilot  
7 commenced in June of 1997, do you have any opinion with  
8 regard to whether, within the contract amount that you  
9 purchased, a retail supplier could have provided a retail  
10 customer in Duquesne's area its full electricity  
11 requirements during peak hours in the pilot?

12 A I have no doubt that that would be a very good use  
13 for it. It was firm power, and it was available for  
14 Duquesne system's use in accordance with the terms of the  
15 contract, and it was there when we needed it.

16 MR. MOOT: Thank you.

17 The witness is available for cross-examination.

18 JUDGE CORBETT: All right. Ms. Melillo, the schedule  
19 indicates you have no cross for this witness.

20 MS. MELILLO: That's correct, Your Honor.

21 JUDGE CORBETT: All right. Mr. Berger, do you have  
22 cross?

23 MR. BERGER: At this point we don't have any cross,  
24 but I'd like to indicate that we may have some cross after  
25 we hear what other parties have.

1 JUDGE CORBETT: Okay. Ms. Jones, the schedule  
2 indicates that the OSBA does not have any cross of this  
3 witness.

4 MS. JONES: That's correct, Your Honor.

5 JUDGE CORBETT: Mr. Akers, do you have any cross of  
6 this witness for the City?

7 MR. AKERS: No, the City has no cross of this  
8 witness, Your Honor.

9 JUDGE CORBETT: All right. Ms. Polacek, do you have  
10 any cross for this witness?

11 MS. POLACEK: No, we don't, Your Honor.

12 JUDGE CORBETT: Mr. Wiseman?

13 MR. WISEMAN: No cross, Your Honor.

14 JUDGE CORBETT: Okay. Mr. Zielonis?

15 MR. ZIELONIS: No cross, Your Honor.

16 JUDGE CORBETT: Mr. Barak?

17 MR. BARAK: No cross, Your Honor.

18 JUDGE CORBETT: We've got a string going here.

19 Mr. Stewart?

20 MR. STEWART: I'm nop going to break the chain. No.

21 JUDGE CORBETT: The pressure is on.

22 MR. STEWART: I don't have anything.

23 JUDGE CORBETT: Okay. Mr. Clearfield?

24 MR. CLEARFIELD: I just wanted a few questions, Your  
25 Honor.

1 JUDGE CORBETT: All right.

2 MR. CLEARFIELD: I apologize.

3 CROSS-EXAMINATION

4 BY MR. CLEARFIELD:

5 Q Mr. Irvin, were you in the hearing room when I  
6 asked Mr. Lahtinen some questions about the pilot and the  
7 amount of megawatts that were being sold in the pilot?

8 A Yes, I was.

9 Q And how many megawatts are associated with the  
10 pilot?

11 A The Act, the legislation states that the pilot  
12 will be, take 5 percent of Duquesne's load, and the  
13 calculation of 5 percent of our peak load worked out to be  
14 133 megawatts. And that -- But when I say that, that's the  
15 total, and I'm not sure how Mr. Hoffmann, Mr. Frank  
16 Hoffmann, that has to be, as I understand it, distributed  
17 across various rate classes. I'm not sure whether, when  
21 Q I think Mr. Lahtinen also said that one of the  
18 you distribute it across all the rate classes, it comes out  
19 precisely and exactly 133 or not, but 5 percent of  
20 Duquesne's peak of twenty-six sixty is 133.

22 purchasers of power pursuant to the RFP in 1997 is using  
23 that power to retail customers in the pilot. Do you recall  
24 that?

25 A Yes, I recall that.

1 Q Does that comport with your understanding as well?

2 A That is my understanding. One of the suppliers  
3 told me that.

4 MR. MOOT: Your Honor, at this point I just need to  
5 interject for the witness's benefit that he may not be  
6 aware that this is a public transcript with all parties  
7 present, and if he needs to provide proprietary or  
8 confidential information in supplying an answer, to let the  
9 judge know and we have to go through a procedure.

10 MR. CLEARFIELD: I appreciate that, Mr. Moot.

11 JUDGE CORBETT: Thank you, Mr. Moot.

12 MR. CLEARFIELD: I'll try not to request proprietary  
13 information if I have any idea that I'm doing that.

14 BY MR. CLEARFIELD:

15 Q Is Duquesne selling to suppliers power for use in  
16 the pilot, if you know?

17 A I think the response to your previous question  
18 would indicate that we are selling to that particular  
19 supplier and he is using it in the pilot. He is an RFP  
20 purchaser.

21 Q Okay. Are you -- Is Duquesne selling beyond that  
22 particular purchaser?

23 A No.

24 MR. CLEARFIELD: That's all I have.

25 JUDGE CORBETT: Okay. Mr. Rubin is not in the room

1 at the present time, and according to the schedule, the  
2 IBEW has no cross for this witness.

3 MR. WISEMAN: Your Honor, I know this is unusual, I  
4 know I did pass, but I wonder if I might ask the witness  
5 just a couple of questions?

6 JUDGE CORBETT: All right. I hear no objection, so  
7 we'll let you come forward, Mr. Wiseman.

8 MR. WISEMAN: Thank you, Your Honor.

9 JUDGE CORBETT: Sure.

10 MR. WISEMAN: I promise this will be very brief.

11 BY MR. WISEMAN:

12 Q Mr. Irvin, can you tell me how many parties  
13 submitted bids in the June 1997 RFP?

14 MR. MOOT: Page 9.

15 THE WITNESS: Okay.

16 MR. WISEMAN: Thank you.

17 THE WITNESS: Yes. Thank you.

18 The references in my direct testimony on page 9, line  
19 15, Duquesne received five bids on the one-year sale, and  
20 11 bids on the eight-year sale.

21 MR. WISEMAN: Thank you, Mr. Irvin.

22 Thank you Your Honor. I have no further questions.

23 JUDGE CORBETT: All right. Mr. Berger, do you have  
24 any?

25 MR. BERGER: No, I don't.

1 JUDGE CORBETT: Okay. Any redirect?

2 MR. MOOT: No, Your Honor.

3 JUDGE CORBETT: Okay. Thank you very much,  
4 Mr. Irvin. You are excused, sir. Thank you.

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 MR. MOOT: Your Honor, may I request at this point  
8 that we recess for the day? The reason is that pursuant,  
9 A, to the schedule, and B, to the fact that going into  
10 today we were far behind the schedule, I personally have  
11 prepared and have discussed with the witnesses to prepare  
12 for examination only those witnesses through today, and  
13 that does not include the next witness, Mr. Allison, and I  
14 would request that we adjourn for the day and begin with  
15 him first thing tomorrow.

16 JUDGE CORBETT: That sounds like a good reason to me.  
17 So let's -- Is there any other business we want to take  
18 care of before we adjourn?

19 (Pause).

20 Okay. Well, then, we're in recess until 9:00 o'clock  
21 tomorrow morning. Thank you.

22 (Whereupon, at 4:48 p.m., the hearing recessed.)

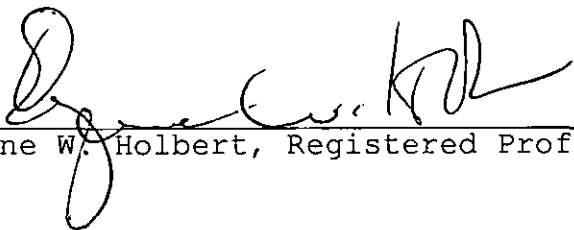
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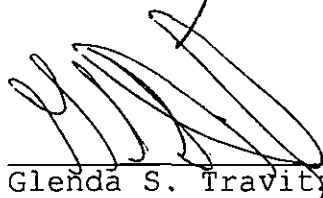
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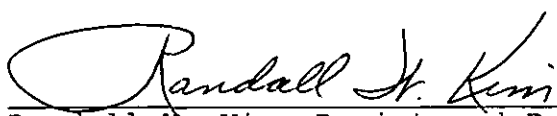
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