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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.

- - - - -

Pittsburgh, Pennsylvania
December 18, 1997

DOCKETED

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Pages 826 to 1075, inclusive

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

Thursday,
December 18, 1997
9:06 a.m.

- - - - -

BEFORE

JOHN CORBETT, JR, ADMINISTRATIVE LAW JUDGE

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I N D E X

WITNESSES

<u>FOR DUQUESNE LIGHT:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
FRED R. ALLISON	846	847	--	--
MARK G. KARL	884	886	958	--
JOSEPH P. FLYNN	960	962	--	--
FRANK A. HOFFMANN	998	999	1068	1071

I N D E X

EXHIBITS

	<u>FOR OCA:</u>	<u>MARKED</u>	<u>ADMITTED</u>
4	✓ Cross-Examination 2 ✓	848	850
5	✓ Cross-Examination 3 ✓	848	848
6	✓ Cross-Examination 4 ✓	965	973
7	✓ Cross-Examination 5 ✓	1003	1015
8	✓ Cross-Examination 6 ✓	1003	1015
9	✓ Cross-Examination 7 ✓	1005	1015
10	✓ Cross-Examination 8 ✓	1008	1015
11	✓ Cross-Examination 9 ✓	1010	1015

	<u>FOR HSS:</u>		
13	✓ Cross-Examination 10 ✓	844	844
14	<u>FOR DII:</u>		
15	✓ Cross-Examination 1 ✓	1022	1027

STATEMENTS

	<u>FOR DUQUESNE:</u>		
18	✓ Statement 8 ✓	847	847
19	✓ Statement 8-R ✓	847	847
20	✓ Statement 9 ✓	885	885
21	✓ Statement 9-R ✓	885	885
22	✓ Statement 14-R ✓	961	961
23	✓ Statement 6 ✓	998	998
24	✓ Statement 6-R ✓	998	998

25

1 JUDGE CORBETT: We're on the record at this
2 time. This is a further hearing on the restructuring
3 plan of Duquesne Light Company. I note the presence
4 of counsel.

5 Before we proceed any further this morning,
6 are there any preliminary matters that need to be
7 addressed?

8 MR. WISEMAN: Yes, Your Honor. I have one
9 preliminary matter.

10 JUDGE CORBETT: Yes, Mr. Wiseman.

11 MR. WISEMAN: Your Honor, this relates to
12 Exhibit DJC-20 --

13 JUDGE CORBETT: I remember that one.

14 MR. WISEMAN: -- and my cross-examination of
15 Mr. Schnitzer.

16 JUDGE CORBETT: All right.

17 MR. WISEMAN: Exhibit DJC-20 I think is, in
18 many respects, the most important exhibit in this
19 case because it is the one place where Duquesne sets
20 forth its stranded cost claim.

21 Specifically, on Page 1 of that exhibit, the
22 most important variable are the plant margins. Those
23 come directly out of Mr. Schnitzer's price forecasts.
24 The higher the price forecast, the higher the plant
25 margin, the lower the stranded costs. And,

1 conversely, the lower the price forecast, the lower
2 the plant margin and the higher the stranded costs.

3 Just to see a dynamic of that, the difference
4 between his high case and his low case in terms of
5 stranded costs is almost \$400 million.

6 Now, when I cross-examined Mr. Schnitzer, I
7 was asking him about a document that Duquesne had
8 provided in discovery to HSS in response to our first
9 set of data requests. The document was a one-page
10 table out of Gas Turbine World that had been provided
11 in response to a question that asked for -- an
12 interrogatory that asked for documents other than the
13 estimates relied upon by Mr. Schnitzer.

14 In the course of that cross-examination, he
15 stated that in his rebuttal testimony he relied upon
16 the 1997 Gas Turbine World article for a -- He said
17 it was a work paper to his rebuttal testimony.
18 Specifically, he was referring to Page 22, Lines 7
19 through 11, where he says, Indeed, a review of Gas
20 Turbine World, one of the sources cited by
21 Mr. Falkenberg, indicates that in just the last year
22 current key cost estimates for some combined cycle
23 technologies have fallen by 17 to 30 percent, even
24 more in real terms, and installed costs are now
25 quoted as low as 318 to 380 dollars per kilowatt.

1 Now, HSS received the rebuttal testimony on, I
2 believe it was December 2nd. On December 3rd HSS
3 sent a set of interrogatories to Duquesne asking for,
4 among other things, all work papers. Duquesne had
5 responded to that interrogatory request on, I believe
6 it was December 19th.

7 MR. BERGER: It's not December 19th.

8 MR. WISEMAN: I'm sorry. December 12th. In
9 response to that interrogatory, Duquesne provided in
10 diskette form work papers for Mr. Lahtinen,
11 Mr. Duckworth, and Mr. Clayton. There was no
12 reference to any work papers from Mr. Schnitzer.

13 Now, when I cross-examined Mr. Schnitzer and
14 he identified the Gas Turbine World article as a work
15 paper, I will grant you, I believe Mr. Moot was not
16 previously aware of that. He did not appear to be.
17 But Mr. Schnitzer clearly stated on the record that
18 it was a work paper.

19 Since we had an outstanding data request that
20 had asked for that, I believe I was entitled to get
21 that prior to the time that Mr. Schnitzer took the
22 witness stand.

23 Had I received that document, I would have
24 cross-examined him on it because the document
25 indicates very clearly that the numbers that are on

1 the attached tables are, in fact, not installed costs
2 as is set forth in his testimony.

3 I think this is a critical document to this
4 record. It impeaches Mr. Schnitzer's testimony on a
5 critical issue, probably the most critical issue in
6 this case, which are the price forecasts.

7 I would like to have the article -- I've now
8 received it. I received it yesterday from Duquesne.
9 I would like to have it marked for identification as
10 the next exhibit in order and would move it into
11 evidence.

12 MR. MOOT: May I just have a moment before I
13 respond, Your Honor?

14 JUDGE CORBETT: Yes.

15 (Pause)

16 MR. MOOT: This is what the transcript says --

17 JUDGE CORBETT: Can you just refer me to a
18 page?

19 MR. MOOT: Yes. It's Page 438. I can read it
20 into the record. It's just one sentence, Your Honor.

21 JUDGE CORBETT: All right.

22 MR. MOOT: And I can hand you my copy if you
23 would like to review the corresponding material.

24 With regard to what Mr. Schnitzer said, which
25 I think in the context of what Mr. Wiseman is doing

1 is a minor point, he said, "My recollection is that
2 1997 document may well have been provided as a work
3 paper to my rebuttal testimony. I could also seek to
4 confirm that."

5 I would note that what qualifies as a work
6 paper or not is certainly not a defined term, and I
7 would note that we asked Mr. Wiseman's witness,
8 Mr. Weisenmiller, for all of his work papers
9 associated with 150 pages of testimony, and I'm not
10 sure we received a single page.

11 MR. WISEMAN: I can't respond to that at the
12 moment. I'd be happy to check into it.

13 MR. MOOT: Let's move more to the point.
14 What's happening here, Your Honor, is Mr. Wiseman
15 cross-examined Mr. Schnitzer on a page of numbers
16 from 1996, and in cross-examination it was revealed
17 to Mr. Wiseman that the numbers were lower in 1997.

18 We do not object to the introduction of the
19 corresponding sheet of numbers from 1997. I don't
20 have any problem with that. The witness discussed
21 it.

22 The problem we have is that Mr. Wiseman
23 doesn't like those numbers and he would now like to
24 go and introduce some narrative into the record that
25 is attached to those numbers, and there's two

1 problems with that.

2 The first is, this is not a company document.
3 It's a publicly available publication that
4 Mr. Schnitzer got on his own, testified to in
5 rebuttal; that Mr. Falkenberg got on his own,
6 testified to in surrebuttal. For whatever reason,
7 Mr. Weisenmiller, the HSS witness, chose not to.

8 So this is not a case where we've got an on-
9 the-record data request for a company document that
10 normally would come in. This is material in the
11 public domain that if they wanted to get it in there
12 was a procedure.

13 The second problem is, and as a direct result,
14 we are here at the hearing putting in a document with
15 a lot of narrative about an issue that Mr. Wiseman
16 contends is the most important issue in the case, and
17 there's not a single witness that's going to testify
18 to that. It's just going to come in, and Mr. Wiseman
19 will, apparently, cite it all the way to the Supreme
20 Court. I know of no evidentiary rule to support
21 that.

22 JUDGE CORBETT: Do you have a copy of whatever
23 it is that you wish to introduce, Mr. Wiseman, that I
24 may review?

25 MR. WISEMAN: Yes.

1 MR. BERGER: Your Honor, I want to indicate
2 consumer advocate's office's support for
3 Mr. Wiseman's motion to put this into the record.

4 Mr. Wiseman attempted to ask cross-examination
5 questions on this, which was clearly relied upon by
6 Mr. Schnitzer during his testimony. He had the
7 document unavailable to him even though he relied on
8 the document in his testimony, so it would have been
9 difficult for Mr. Wiseman to cross-examine him on
10 something that he should have had available at the
11 time of his cross-examination.

12 MR. MOOT: If I may respond to Mr. Berger, his
13 comments are noticeably vague about the use of the
14 word "this." "This" is the sheet of paper with
15 numbers, and that we have no objection to.

16 What we have an objection to is all the
17 narrative that Mr. Wiseman clearly believes
18 rehabilitates this issue for him, as to which there
19 was no cross.

20 MR. BERGER: Yes, there was cross on that.
21 There was cross on whether the numbers included
22 installed capacity costs, I believe --

23 MR. MOOT: Your Honor, that --

24 MR. BERGER: -- and are all the costs of
25 installation.

1 MR. MOOT: And he testified to his knowledge
2 of that.

3 MR. BERGER: To his knowledge; but,
4 apparently, his knowledge was inaccurate based upon
5 this document.

6 MR. MOOT: Mr. Wiseman had every ability to do
7 that on surrebuttal. That's why we had that round of
8 testimony.

9 MR. BERGER: Since he didn't have the document
10 available to him, there would have been no way for
11 Mr. Wiseman to determine whether his statements
12 regarding that were accurate.

13 MR. MOOT: I'll make one final remark. Are
14 you contending that Mr. Weisenmiller has unavailable
15 to him the things that Mr. Falkenberg does?

16 MR. BERGER: Oh, no, I'm not talking about
17 Mr. Weisenmiller.

18 MR. MOOT: I see.

19 MS. MELILLO: Your Honor, I'd like to speak as
20 well. If, in fact, the witness did refer to a
21 portion of an article, it's my understanding that
22 another party is entitled to see the entire article
23 and put the article in. That is my understanding.

24 Whenever we have excerpts taken out of
25 context, there can be misinterpretations. I think

1 there is an entitlement to have the entire document
2 come in if a portion is in the record and there are
3 some numbers from that document in the record.

4 MR. MOOT: Kandace, you are absolutely right.
5 And what happens is, when a witness shows up with a
6 document that is incomplete, the cross-examiner has
7 every right to discuss and put in the rest of the
8 document.

9 What happened here is Mr. Wiseman showed up
10 with one sheet of paper from 1996 and when the
11 numbers weren't in favor apparently had no interest
12 in the rest of the document. When the numbers went
13 the other way, he wants to complete his own cross.
14 So I just disagree, and I won't say any more.

15 MR. WISEMAN: Your Honor, I feel compelled to
16 address the statement that Mr. Moot just made. There
17 are at least two serious errors, factual errors in
18 it.

19 Number One, the document that already is in
20 the record was obtained from Duquesne in discovery in
21 the first set of -- in response to our first set of
22 interrogatories. It was provided to me in precisely
23 the form I got. I only received one page from
24 Duquesne. I did not receive the remaining portion of
25 the article. So, frankly, I didn't even know what

1 was in the remaining portion of the article.

2 But that being said, I will also want to
3 correct the statement that we have a problem, HSS
4 apparently has a problem with all the data that are
5 in the 1997 Gas Turbine World article.

6 I would note that there are two tables of data
7 in that article. On Table Number 1, which is on Page
8 24 of the article, there are prices that range in
9 dollars per kilowatt from a high of \$1,000 per
10 kilowatt to -- just eyeballing it, it looks like the
11 low number I see is \$612 per kilowatt.

12 And that compares to Mr. Schnitzer's high case
13 of approximately \$400 per kilowatt. It would
14 probably be a slightly higher -- His \$400 would be
15 slightly higher in 1997 dollars. I think it's around
16 \$424.

17 On Page 2 the prices in dollars per kilowatt
18 range from a high of \$1,200 per kilowatt down to \$318
19 per kilowatt.

20 JUDGE CORBETT: Do you mean Page 26?

21 MR. WISEMAN: I'm sorry. I apologize. Page
22 26.

23 JUDGE CORBETT: The second table.

24 MR. WISEMAN: That's correct.

25 So that when Mr. Moot says that I've got a

1 problem, that I don't like these numbers, he's wrong.
2 I do like these numbers in the 1997 report.

3 I think the numbers themselves, in addition to
4 rebutting -- I think this article, in addition to
5 rebutting Mr. Schnitzer or impeaching Mr. Schnitzer's
6 testimony on the issue of installed costs versus
7 simply capital costs, if you will, that this article
8 also impeaches his testimony on the cost of combined
9 cycle units on a per kilowatt basis.

10 MR. MOOT: Your Honor, one brief response, and
11 I know we're all wearing out our welcome.

12 Mr. Wiseman is proving my point. Mr. Wiseman
13 is providing a foundation, or attempting to, for the
14 admission of a document. That's not what lawyers do.
15 That's what witnesses do. That's what
16 Mr. Weisenmiller should have done. That's what
17 Mr. Schnitzer did with the page he was examined on.

18 I would note it's a factual error to suggest
19 that Mr. Wiseman asked for more material than he got.
20 What he asked was other estimates, and he got them.
21 He didn't ask for other narratives and didn't get
22 those.

23 MR. WISEMAN: I would say one last remark, and
24 I will end with that. We had a request for work
25 papers. Mr. Schnitzer said he -- he clearly said he

1 relied on this document. You only need to look at
2 this testimony to see that he relied upon it. And I
3 think I have the right to get it in discovery prior
4 to the commencement of the hearings in this case.

5 JUDGE CORBETT: All right. I note that the
6 proposed exhibit that was supplied to me does not,
7 apparently, contain the full article.

8 MR. WISEMAN: Your Honor, Northbridge has
9 represented to me -- And they've, also, in fact,
10 this morning handed me a document that I could take a
11 look at.

12 JUDGE CORBETT: I'm sorry. Who is
13 Northbridge.

14 MR. WISEMAN: Northbridge is Mr. Schnitzer's
15 company.

16 JUDGE CORBETT: Okay.

17 MR. WISEMAN: And representatives of
18 Northbridge handed me the complete article this
19 morning. They've represented to me that the pages
20 that are missing were advertisements. I have not
21 reviewed the document. I have no reason to
22 disbelieve them. I will review the document if
23 that's necessary. I do have it right here. But it's
24 my understanding that the missing pages are
25 advertisements.

1 JUDGE CORBETT: Okay. So, excluding the
2 advertisements, what I'm looking at in front of me
3 would be the entire article?

4 MR. WISEMAN: That is my understanding, and I
5 believe that if there's any question one of the
6 representatives of Northbridge could confirm that.

7 MR. MOOT: That is incorrect. The document is
8 260 pages. We gave Mr. Wiseman the excerpts that he
9 indicated he would like to see.

10 MR. WISEMAN: Your Honor, Mr. Moot's comment
11 is not completely accurate. Everything else -- It
12 is true that the entire handbook is 260 pages. The
13 only portion of the handbook that relates to the
14 combined cost of combined cycle units, which is the
15 matter that is discussed, are the six pages that I've
16 presented to you this morning, Your Honor.

17 MR. MOOT: I'm just trying to be accurate.

18 MR. WISEMAN: I really do not believe that we
19 need to put 260 pages of extraneous materials into
20 the record.

21 JUDGE CORBETT: Okay. The objection is
22 overruled. This document will be marked and
23 identified as HSS Cross-Examination Exhibit 10.

24 Mr. Wiseman, you'll supply two copies to the
25 court reporter and one to every other party in the

1 room.

2 MR. WISEMAN: Yes, I will, Your Honor. Thank
3 you very much.

4 JUDGE CORBETT: You're welcome.

5 (HSS Cross-Examination Exhibit 10 was marked
6 and admitted into evidence.)

7 MR. MOOT: Your Honor, I believe it's fair and
8 accurate under the law and the practice in this case,
9 given that this has now been moved into evidence as a
10 cross-examination exhibit, that I have a right to
11 conduct redirect with Mr. Schnitzer, and I propose to
12 do that the morning of January 5th.

13 JUDGE CORBETT: All right. Hearing no
14 objection -- I'm sorry.

15 MR. BERGER: I think if you have the right to
16 conduct redirect there's a right to conduct
17 cross-examination on this exhibit.

18 Obviously, he did not have it at the time.
19 There was no opportunity to conduct cross-examination
20 on this particular exhibit. I think that should be
21 part of the requirement if Mr. Moot plans to bring
22 him back for the hearing on January 5th.

23 JUDGE CORBETT: I think that if the witness is
24 brought back for redirect solely on this issue
25 concerning this exhibit that the parties would have

1 the right to recross, limited to that area.

2 MR. WISEMAN: Your Honor, if I might, I would
3 anticipate that the redirect will be limited solely
4 to this document, that there will be no attempt to
5 introduce other documents by Duquesne.

6 MR. MOOT: Redirect will be consistent with
7 the laws and the rules of this Commission.

8 MR. WISEMAN: As long as the scope of the
9 redirect is limited to redirect concerning this
10 article, I don't have a problem with that. But I
11 would hate to see the redirect go on and I think it
12 would be improper for the redirect to go into other
13 areas.

14 MR. MOOT: That we can address at that time.

15 JUDGE CORBETT: I'm not going to make any type
16 of ruling upon what may happen. I've set the
17 parameters for the redirect, and we'll handle those
18 problems if and when they occur.

19 MR. WISEMAN: Thank you, Your Honor.

20 JUDGE CORBETT: One moment, please.

21 (Pause)

22 JUDGE CORBETT: Okay. Are there any other
23 preliminary matters we want to address this morning?

24 (No audible response.)

25 JUDGE CORBETT: Hearing none, Mr. Moot, we'll

1 turn to you.

2 MR. MOOT: Thank you, Your Honor. We'll turn
3 to more simple tasks. The next witness is Fred
4 Allison.

5 FRED R. ALLISON, called as a witness, being
6 duly sworn, testified as follows:

7 JUDGE CORBETT: And would you begin by giving
8 the court reporter your full name, please.

9 THE WITNESS: Fred R. Allison.

10 JUDGE CORBETT: Mr. Moot.

11 **DIRECT EXAMINATION**

12 BY MR. MOOT:

13 Q Good morning, Mr. Allison.

14 A Good morning.

15 Q Did you file direct and rebuttal testimony
16 in this case?

17 A Yes, I did.

18 Q Do you have any corrections to that
19 testimony?

20 A No, I do not.

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

23 A Yes, it is.

24 MR. MOOT: At this time I would hand to the
25 court reporter two copies of Statements Number 8 and

1 .8-R and accompanying exhibits, and I would move them
2 into evidence subject to appropriate motion.

3 JUDGE CORBETT: They will be so admitted.

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

6 MR. MOOT: The witness is available for
7 cross-examination.

8 JUDGE CORBETT: Okay. Ms. Melillo, I take it,
9 according to the schedule, you have no cross for this
10 witness.

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

12 JUDGE CORBETT: Mr. Berger.

13 MS. SIFONTES: Actually, Your Honor, I'll be
14 conducting the cross-examination.

15 JUDGE CORBETT: All right. Ms. Sifontes.

16 CROSS-EXAMINATION

17 BY MS. SIFONTES:

18 Q Good morning, Mr. Allison. My name is
19 Marisa Sifontes. I'm with the Office of Consumer
20 Advocate, and I have just a few questions for you.

21 First of all, we asked you some
22 interrogatories about the issue of termination, and
23 you responded to them. In the interest of time, I
24 would just like to provide those to you and ask you a
25 few questions on them.

1 MS. SIFONTES: Your Honor, at this time I'm
2 providing two copies to the court reporter and one
3 copy to Your Honor and copies to the witness and all
4 the parties of Duquesne's responses to OCA
5 interrogatories, Set 2, Numbers 32 and 31.

6 JUDGE CORBETT: All right. Do you wish --

7 MS. SIFONTES: May this be marked, Your Honor?

8 JUDGE CORBETT: Are these two separate
9 documents?

10 MS. SIFONTES: They are two separate
11 interrogatory responses, yes.

12 JUDGE CORBETT: You wish to have them marked
13 separately. We'll have them marked as OCA
14 Cross-Examination Exhibit 1 -- I'm sorry, Exhibit 2.
15 That would be --

16 MS. SIFONTES: Question Number 31 would be
17 Number 2, and Question Number 32 would be Number 3.

18 JUDGE CORBETT: That's correct.

19 MS. SIFONTES: Thank you, Your Honor.

20 JUDGE CORBETT: Yes.

21 (OCA Cross-Examination Exhibit Numbers 2 and 3
22 were marked and admitted into evidence.)

23 BY MS. SIFONTES:

24 Q Mr. Allison, have you had a chance to
25 review them?

1 A I have, yes.

2 Q First of all, I take it it's your position
3 that you do not intend to require customers to
4 satisfy past-due balances to a supplier before
5 receiving generation services. Is that correct?

6 A Yes. That's correct.

7 Q Okay. Thank you. And is it the company's
8 position that any contract to collect unpaid supplier
9 charges will not include the use of threat of
10 termination for those charges?

11 A I'm sorry. Could you repeat that, please.

12 Q Is it the company's position that any
13 contract to collect unpaid supplier charges will not
14 include the use of the threat of termination for
15 those charges?

16 A It will not.

17 Q Thank you very much. One more question.
18 With regard to residential customers, do you agree
19 that the Commission's interim requirements and
20 November 6 draft rule require Duquesne to calculate a
21 cent-per-kilowatt-hour disclosure for supplier
22 charges?

23 A Yes, it did.

24 MS. SIFONTES: Thank you. Nothing further.

25 Your Honor, may those please be moved?

1 JUDGE CORBETT: All right. Hearing no
2 objection, they will be so admitted.

3 (OCA Cross-Examination Exhibit Numbers 2 and 3
4 were marked and admitted into evidence.)

5 JUDGE CORBETT: One moment, please.

6 (Pause)

7 JUDGE CORBETT: All right. Ms. Jones,
8 according to the schedule, the OSBA has no cross for
9 this witness.

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

11 JUDGE CORBETT: Mr. Akers, I take it the City
12 has -- Do you have cross for this witness?

13 MR. AKERS: The City has no cross for this
14 witness, Your Honor.

15 JUDGE CORBETT: All right. Ms. Polacek.

16 MS. POLACEK: We have no cross for this
17 witness.

18 JUDGE CORBETT: Mr. Wiseman.

19 MR. WISEMAN: We have no cross, Your Honor.

20 JUDGE CORBETT: Mr. Zielonis, according to the
21 schedule, you have no cross.

22 MR. ZIELONIS: That's correct.

23 JUDGE CORBETT: Mr. Barak.

24 (No audible response.)

25 JUDGE CORBETT: Mr. Barak is not in the room

1 at the present time.

2 Mr. Stewart.

3 MR. STEWART: Yes, Your Honor, just a few
4 questions.

5 JUDGE CORBETT: All right.

6 CROSS-EXAMINATION

7 BY MR. STEWART:

8 Q Good morning, Mr. Allison.

9 A Good morning.

10 Q My name is Todd Stewart, and I'll be
11 examining you on behalf of Mid-Atlantic Power Supply
12 Association.

13 Will you turn to Page 3 of your rebuttal
14 testimony, please. Particularly, I would like for
15 you to look at the statement which begins on Line 10.
16 Could you tell me particularly what circumstances
17 Duquesne believes would trigger its desire or its
18 belief that it would be appropriate to unbundle
19 revenue cycle services?

20 A Yes. Our position is that the unbundling
21 of revenue cycle services should be addressed in a
22 generic proceeding. The Commission has established
23 such a process through the working groups. It's our
24 position that the working groups should address those
25 issues along the time lines that they've identified.

1 At the conclusion of the various time lines for each
2 working group, I'm sure there will be at that point
3 recommendations made as to that issue.

4 Q On Page 5 of your rebuttal testimony at,
5 particularly, Lines 8 through 10, you state that the
6 restructuring legislation does not require the
7 Commission to unbundle revenue cycle services. Is
8 that not true?

9 A Yes. It's not true that the restructuring
10 legislation requires the unbundling of revenue cycle
11 services.

12 Q I'm not trying to trick you. I shouldn't
13 have put "not" in there. Sorry. I apologize for
14 that. Thank you for the correction.

15 Is it your understanding, however, that the
16 act does provide the Commission authority to unbundle
17 services if it chooses to do so?

18 A Yes.

19 Q And on Page -- On the same page of your
20 rebuttal at Line 13, is it your contention that
21 suppliers, competitive suppliers are unable to
22 provide revenue cycle services at the same level of
23 quality that Duquesne currently provides?

24 A No. That's not correct. My contention is
25 that there are numerous issues that need to be

1 resolved before we unbundle those revenue cycle
2 services, issues that relate to reliability, safety,
3 customer protections, and integrity of the various
4 systems, that those must be addressed and resolved
5 before unbundling should proceed.

6 MR. STEWART: Thank you, Mr. Allison. I have
7 nothing further.

8 JUDGE CORBETT: Mr. Clearfield.

9 MR. CLEARFIELD: Yes, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. CLEARFIELD:

12 Q Good morning, Mr. Allison.

13 A Good morning.

14 Q I'm Dan Clearfield, and I'm going to ask
15 you some questions on behalf of ENRON this morning.

16 With respect to metering, do I understand the
17 company's position at this time that it supports the
18 policy determinations that are set forth, if you
19 will, in the proposed rulemaking with respect to
20 revision of metering services that was issued by the
21 Commission and is referred to in your rebuttal
22 testimony on Page 3 starting on Line 5?

23 A That's correct.

24 Q Mr. Allison, I want to ask you some
25 questions this morning about the company's metering

1 plan, if you will, and its present metering process
2 and attempt to determine the extent to which that
3 plan and process comports with the proposed
4 rulemaking. Can we proceed on that basis?

5 A Yes.

6 Q Do you have a copy of the proposed
7 rulemaking with you?

8 A I do, yes.

9 Q Good. That will be helpful.

10 Now, the company's metering process for the
11 provision of meters and meter reading is going to be
12 provided and is presently being provided through its
13 CARS system; is that right, C-A-R-S?

14 A The CARS project is in progress at this
15 point in time. It's significantly complete at this
16 point. So the answer would be yes.

17 Q Now, do I understand correctly that the
18 CARS project -- Is that the -- Well, I'll just call
19 it the CARS project, in essence has resulted in a
20 third party, Itron, installing, operating, and
21 maintaining meters and providing meter reading
22 services for Duquesne?

23 A Yes.

24 Q And could you review -- Could you look at
25 the proposed rulemaking for a moment, Mr. Allison.

1 The proposed rulemaking, specifically Section 57.254
2 -- Do you have that?

3 A Yes.

4 MR. CLEARFIELD: Just for ease of reference in
5 the record, Your Honor, I'll just read this section,
6 Section A.

7 BY MR. CLEARFIELD:

8 Q It says, A qualified advanced meter shall
9 be owned and operated by the EDC as part of its
10 regulated local distribution function. Is that
11 correct? Do you see that?

12 A I do, yes.

13 Q Now, first, are the meters that are going
14 to be provided or are being provided by Itron
15 qualified advanced meters as far as Duquesne is
16 concerned, as the term is used in this proposed rule?

17 A The process for qualifying those meters is
18 not as yet been determined. The proposed rulemaking
19 indicates that a metering committee under the
20 auspices of the Commission would determine what that
21 qualification process is. It clearly is our intent
22 to qualify those meters consistent with that process.

23 Q Generally, the rule references an advanced
24 meter as one which permits remote meter reading.
25 Would that be right, as one of the criteria?

1 A There are specific criteria. I refer you
2 to 57.253, Section B, in which the Commission
3 describes the criteria for a qualified advanced
4 meter.

5 Q And is one of them -- I'm sorry. Were you
6 finished with your answer?

7 A Yes.

8 Q Is one of them generally the ability to
9 provide a remote meter reading?

10 A Yes.

11 Q The meters that are being provided by
12 Itron, in fact, allow that or have that capability;
13 is that correct?

14 A Yes. It's a radio -- Yes. My answer
15 would be it's a radio-based system. Yes.

16 Q Now, the meters are going to be owned and
17 operated by Duquesne?

18 A The meters will not be owned and operated
19 by Duquesne.

20 Q How does Duquesne propose to --

21 A Let me finish.

22 Q Go ahead.

23 A Not all of the meters would be owned and
24 operated by Duquesne. Those meters that were
25 replaced will be owned and operated by Itron.

1 Q Is that going to be a substantial bulk of
2 the meters under the program?

3 A Yes.

4 Q Would that be the majority of the meters
5 used to provide service to residential and commercial
6 customers?

7 A Yes.

8 Q Will Duquesne be able to comply with this
9 provision of the proposed rule if it becomes the
10 final rule?

11 A I'm confused. What provision are you
12 referring to, sir?

13 Q I'm sorry. The proposed rule says that the
14 qualified advanced meters should be owned and
15 operated by the EDC. Do you see that? The EDC is
16 Duquesne in this case, isn't it?

17 A It is, yes.

18 Q You said that the meters are going to be
19 owned and operated by Itron. Isn't that right?

20 A Some of them will, yes.

21 Q Well --

22 A I think the qualification of the advanced
23 metering network will address that issue. The
24 process for qualifying not just the meters but
25 qualifying the Itron CARS system as an advanced

1 metering network will address the issue of the
2 ownership of those meters.

3 Q How will the qualification of the advanced
4 metering network address that issue?

5 A The network itself is something different
6 than a discrete meter.

7 Q I understand, Mr. Allison. I'm just trying
8 to understand. Itron is not part of Duquesne. Is it
9 an affiliate of Duquesne?

10 A It is not.

11 Q It's a separate entity?

12 A It is, yes.

13 Q It's going to own and operate some of the
14 meters that are going to be used to provide service
15 to Duquesne customers; is that right?

16 A Yes.

17 Q What percentage of the meters?

18 A I would say approximately 50 percent.

19 Q Now, with respect to those meters, all
20 other things being equal, will Duquesne be complying
21 with this sentence that says that qualified advanced
22 meters should be owned and operated by the EDC, the
23 EDC being Duquesne in this case?

24 MR. MOOT: I assume you're not asking for a
25 legal conclusion.

1 MR. CLEARFIELD: No. I'm just trying to
2 understand --

3 MR. MOOT: Fair enough.

4 MR. CLEARFIELD: -- factually whether it would
5 comply.

6 A Complying with this specific language, no.

7 BY MR. CLEARFIELD:

8 Q. Will Duquesne be requesting an exemption
9 if this, in fact, becomes the final rule?

10 A My position would be that we would seek
11 whatever recourse would be appropriate to qualify the
12 system, that the ownership of the meters is not a key
13 factor in terms of the operation and proper
14 functioning of the system.

15 Q Do you believe that Duquesne customers
16 would still be able to receive safe and reliable
17 metering and meter reading services even though these
18 meters will not be owned directly by Duquesne?

19 A Yes, because I believe the contract with
20 Itron provides protection for our customers.

21 Q What kinds of protections does it provide?

22 A I'm not intimately familiar with the
23 contract, but I'm sure it requires Itron to perform
24 metering services consistent with the national
25 standards, the ANSI standards, and good business

1 practices.

2 Q I see. Let's turn to another aspect of the
3 proposed rule. Under the proposed rule, customers
4 and/or suppliers I guess on behalf of customers have
5 a right to ask for a particular qualified advanced
6 meter to be installed by the EDC. Are you familiar
7 with that part of the proposal?

8 A Which --

9 Q I believe it's Section 57.252(a). Do you
10 see that?

11 A Yes. I read it.

12 Q Now, under this plan, as I understand
13 it--and you tell me whether your understanding is
14 consistent--the qualified advanced meters would be
15 purchased and installed by the EDC, that is,
16 Duquesne, at the direction of a customer or supplier.
17 Is that right?

18 A Yes, I concur.

19 Q With respect to the present CARS system,
20 will the CARS system permit the purchase and
21 installation of a qualified advanced meter different
22 than the meter that's presently installed at the
23 direction of the customer or supplier consistent with
24 this language that we were just talking about in
25 Section 57.252?

1 A We expect in the qualification process
2 that, again, a generic qualified advanced meter,
3 given the criteria for the determination of that
4 generic qualified advanced meter, will be compatible
5 with our system.

6 That's the key to the process, the
7 establishment of the metering committee, the
8 determination of the criteria, and the overall
9 qualification of the Itron system.

10 Q So let me see if I understand your answer.
11 Presuming that the meters that are qualified under
12 this process as qualified advanced meters are
13 compatible with the Itron system, then the CARS --
14 I'm sorry, the CARS system, then the meter would be
15 able to be installed and used in place of a meter
16 that is presently deployed; is that right?

17 A Yes.

18 Q Now, the proposed rule also states that
19 suppliers that are serving a customer and,
20 presumably, have directed that a qualified advanced
21 meter be installed may perform automated meter
22 reading activities, and that's at 57.254(b). Can you
23 just confirm that you share in my understanding?

24 A I concur, yes.

25 Q Now, again, will the CARS system permit

1 compliance with that section?

2 A We expect it to comply with that section.

3 Q And will the system be such that suppliers
4 will be able to obtain direct and real-time access to
5 the data from the qualified advanced meter that's
6 been installed at the customer's or the supplier's
7 direction?

8 A I'm not certain about real-time direct
9 access. I believe it will be supported.

10 Q Will it be the same access that Itron would
11 receive if the meter was an Itron meter and the meter
12 reading service was being provided by Itron on behalf
13 of Duquesne?

14 A It's our expectation that -- Our goal is
15 to achieve that same access.

16 Q You say it's a goal. Is that because --
17 Why is that not definite at this point?

18 A Because, as I explained previously, the
19 process for qualifying meters is not yet in place.

20 Q So the concern is you're not sure what type
21 of qualified advanced meter might be installed and
22 the kind of meter reading function that might be
23 associated with that? Is that the qualification that
24 you're --

25 A Yes. Until I know precisely what qualified

1 advanced meters are and we have a catalog of them, I
2 can't unequivocally say that every qualified advanced
3 meter would have that identical access.

4 Q That's fair. But you expect -- You don't
5 -- Strike that.

6 Now, as a result of the implementation of the
7 CARS system, will Duquesne realize cost savings as a
8 result of moving from a physical meter reading to a
9 remote meter reading system?

10 A Yes, very much so.

11 Q And, in fact, in the attachment to your
12 rebuttal testimony, there's a schedule that appears
13 to set forth some estimates of those savings; is that
14 right? I was looking at Pages 48 to 50 of your
15 Exhibit FRA-7, and maybe you could just confirm that
16 that would be one place that we would be able to see
17 an indication of savings associated with moving to
18 remote meter reading.

19 A Yes. That section addresses base
20 operations, which relate to meter reading services,
21 yes.

22 Q. Is this the section that attempts to
23 quantify the savings that Duquesne expects to achieve
24 by shifting from physical meter reading to remote
25 meter reading?

1 A Yes, it does. Yes.

2 Q The other savings that are listed in this
3 exhibit--if this is too general a question, just tell
4 me--generally relate to other kinds of savings
5 resulting from utilizing these advanced meters?

6 A I think that's generally a correct
7 statement.

8 Q It appears on Page 48 that over the
9 planning period that's listed there that Duquesne
10 expects to --

11 MR. CLEARFIELD: One moment, Your Honor. Off
12 the record.

13 (Discussion off the record.)

14 JUDGE CORBETT: We're back on.

15 BY MR. CLEARFIELD:

16 Q -- to achieve net benefits of some \$58
17 million. Is that correct?

18 A That's correct.

19 Q Now, today the cost of reading meters is
20 being charged to customers through bundled rates?

21 A Yes, it is.

22 Q If you know, will the cost of reading
23 meters continue to be charged to customers in the
24 unbundled distribution charge that Duquesne expects
25 to charge once restructuring is implemented?

1 A I believe it will, yes.

2 Q We'll examine another part of the proposed
3 rule. The proposed Section 57.253 indicates that the
4 advanced meter and network--and I'm paraphrasing
5 here, so the record is clear--should possess open,
6 nonproprietary communications capabilities which
7 allow both the supplier and EDC to access information
8 in a standard data format. And it goes on. Do you
9 see that?

10 A Yes. I've read that section that you've
11 quoted, yes.

12 Q Will the CARS system be able to comply with
13 that section, in your opinion?

14 A It is our expectation that it will.

15 Q And on Page 9 of your direct testimony--I
16 don't know if you necessarily need to turn to
17 this--you discuss a concept called a customer data
18 warehouse, which, as I understand it, is, in essence,
19 a database of information that would be accumulated
20 through the CARS metering system. Is that right?

21 A It is an accumulation of data that would
22 include data from the CARS system as well as from
23 other sources.

24 Q What other sources?

25 A From the billing system, principally. It

1 is separate from the CARS system.

2 Q Will that customer data warehouse and the
3 data -- actually, the data, I suppose. This is sort
4 of a cyber warehouse; is that correct?

5 A Well, it's a client server-based
6 application that allows for the storage of various
7 items of data and their efficient retrieval and
8 usage.

9 Q When the rule talks about open access, do
10 you contemplate that other suppliers will have access
11 to the data that will be contained in this database?

12 A That has been contemplated, yes, subject to
13 security, confidentiality, and, as I said, efficient
14 access methods.

15 Q What was the last one?

16 A Efficient access methods.

17 Q Tell me what you mean by that.

18 A Specifically, I mean the access method
19 we've been contemplating is a generic internet
20 browser approach.

21 Q And that would allow the suppliers to
22 access the data through a browser type format; is
23 that correct?

24 A Conceptually, yes. Again, that is not
25 something that is in place today.

1 Q Would that be different or the same as the
2 access that Itron would have to that data?

3 A Itron would have the same -- Again, it's
4 not in place today. Itron would have the same access
5 as any other third party.

6 Q So it would have it only via the internet
7 browser method?

8 A Not only via the internet browser method.

9 Q So it would have that method, but it would
10 also have direct access to the data as well; is that
11 right?

12 A Yes. That's right. Itron would have
13 access to the information from the CARS system. The
14 customer data warehouse is separate from the CARS
15 system. But we would make the customer data
16 warehouse, as I said, using an appropriate access
17 method, available to any third party on a non-
18 discriminatory basis.

19 Q Is Itron under the contract permitted to
20 utilize the information that it accumulates through
21 the CARS system, subject to customer confidentiality
22 rules, for other purposes other than accumulating it,
23 placing it in this database?

24 A I'm actually not sufficiently familiar with
25 the contract to answer that question.

1 Q We'll move on. Do you anticipate any fees
2 associated with accessing that database by suppliers?

3 A I think we would examine -- As I said,
4 it's a concept today. We would examine, as we would
5 with any of these services we're providing, the net
6 incremental costs of doing so and consider assessing
7 a fee if it were deemed to be appropriate to do so.

8 Q On Page -- Will those be tariff -- I'm
9 sorry. I'm going back to your last answer. Will
10 those be tariffed fees, or are you going to propose
11 that those be tariffed fees?

12 A We propose those to be tariff fees.

13 Q Would that tariff be available both --
14 Would that be available to suppliers, i.e.,
15 wholesalers or resellers, if you will, of electric
16 service, or would it be available to end user
17 customers as well?

18 A It would be available to both parties.

19 Q Have you made any determination or how far
20 advanced are you in contemplating how those fees
21 would be established, the basis of the fee, cost plus
22 --

23 A We've not made any cost studies at this
24 point. As I said, the access to the data at this
25 point in time is conceptual in nature, particularly

1 as it pertains to the customer data warehouse. It's
2 not something that's in place. When we're able to
3 accurately cost the process, then we'll have that
4 information.

5 Q Would you turn to FRA-7, Page 42, for a
6 moment. Do you have that?

7 A I do, yes.

8 Q And does this list a series of services, if
9 you will, that Itron and Duquesne believe it will be
10 able to provide once its CARS system is fully
11 implemented?

12 A It does, yes. These are services that
13 could be provided.

14 Q Is this all-inclusive, or is this a partial
15 list, or how do you understand it?

16 A I couldn't say that it was all-inclusive.

17 Q And these would be services that would be
18 associated with the provision of the advanced meter
19 and they would be sold to or offered to the customer?

20 A That's correct. They would be offered to
21 customers.

22 Q And the next page, Page 43, provides a
23 slightly more detailed description of the services,
24 power outage notification, for example. Does Itron
25 believe there will be a market for these services?

1 A Yes. I think it's clear that we believe
2 there will be a market for each of the services.

3 Q And, in fact, there's a final column there,
4 vender access fees. Do I understand that to indicate
5 that that is the fees that Duquesne would realize
6 from revenues that Itron may be able to produce in
7 addition to these services by marketing other
8 services or licensing the use of its meters?

9 A May I take a moment just to examine that
10 page?

11 Q Sure.

12 (Pause)

13 A The schedule indicates that there may be
14 excess capacity, if I may use that term, in the Itron
15 system and that Itron has the right to use, lease,
16 license, and sell rights to such excess capacity.

17 Q Would those fees be associated with the
18 Itron meters solely? Would those revenue enhancement
19 capabilities be associated with the Itron meters
20 solely, or would you expect that other qualified
21 advanced meters would also be able to provide those
22 kinds of services?

23 A Again, I'm not -- Qualified advanced
24 meters is a little bit of a nebulous term at this
25 point in time. The Itron system obviously consists

1 of not only the hardware but the software as well.
2 It may well be that a qualified advanced meter may be
3 able to offer similar services. I'm not sure.

4 Q Let's take the situation in which a
5 customer asks for a meter, a qualified advanced meter
6 to be installed, a meter other than the one that
7 Duquesne would propose. It qualifies under the rule.
8 It's compatible with the system. It has the
9 capability of providing some of these enhanced
10 services.

11 Who in that case would get the revenue from
12 those services? Duquesne or the supplier that's
13 providing the service to the customer?

14 A I think that's an issue we've not looked
15 at, frankly. I do know the EDC owns the meter and
16 installs the meter. I'm sure we would look into some
17 terms and conditions in the use of the meter
18 consistent with that relationship with either the
19 supplier or the customer.

20 Q It may be that those fees -- Because the
21 EDC owns and installs the meter, it may be that you
22 believe that those fees would be appropriately
23 directed to Duquesne? Is that one possibility?

24 A Fees for the use of the meter for services
25 beyond the traditional meter reading services?

1 Q Precisely.

2 A I think that the system would be one that
3 would allow such fees to accrue to the benefit of the
4 supplier or customer.

5 Q So the system would accommodate the excess
6 capacity, if you will, or the other enhanced features
7 of the meter to the benefit of the entity that was
8 directing the installation of the advanced meter, in
9 your opinion, or should do that?

10 A I don't know whether it should. I think
11 I'm saying it could.

12 Q Would you consider that to be part of an
13 open access or nondiscriminatory access to the
14 network, that is, allowing for the access and
15 realization of these enhanced revenue potentials?

16 A That's actually precisely the issue that
17 I'm thinking of; is that with nondiscriminatory
18 access to the system, again, somewhat conjunctural in
19 nature, that we have a generic qualified advanced
20 meter in your scenario and, in effect, it's doing the
21 same functioning, very similar to an Itron qualified
22 advanced meter, I would think, again, that any
23 additional access as described in this schedule
24 should or could provide benefits to the supplier or
25 the customer.

1 Q Do you know whether, just sitting here
2 today, the contract between Duquesne and Itron would
3 permit such a treatment?

4 A I do not.

5 Q Now, just one more question along this
6 line. On Pages 13 and 14 of your rebuttal testimony,
7 you discuss a variety of optional services that could
8 be provided through the CARS system itself. Is that
9 correct?

10 A You're referring to Lines 13 through 31 on
11 Page 13?

12 Q Yes, and going over to Line 15 on Page 14.

13 A Yes. That's a description of specific
14 benefits of the CARS system.

15 Q Am I correct that you stated that those
16 services -- some of those services would be
17 characterized as optional services and could be made
18 available to customers and suppliers at a fee? I'm
19 sorry. I have a reference. I can't put my finger on
20 it.

21 A May I have just a moment to review?

22 Q Yes. I apologize for that.

23 (Pause)

24 Q I'm sorry. While you're reviewing, it's
25 right underneath that list of services, Page 14,

1 starting on Line 17.

2 A I'm sorry.

3 Q The question is, You indicate that they
4 would be available as optional services for a fee to
5 both suppliers and to end user customers; is that
6 right?

7 A Well, some of the -- In fact, most all of
8 these services are included in the base system, so
9 there would not be a fee associated with that, an
10 incremental charge.

11 Q Are there other services -- Well, when you
12 talk about optional services, are you speaking or
13 were you contemplating in your testimony the services
14 that we have previously discussed and that were
15 listed on Page 48 of your Exhibit FRA-7, or were you
16 referring to other types of services?

17 A I was referring to -- If I may look at
18 Page 48 again.

19 Q Sure.

20 A Page 48 clearly is a base service.

21 Q I'm sorry. I gave you the wrong reference.
22 I was referring to the enhanced services that we
23 discussed earlier. I believe that was shown on Page
24 42, for example, of your exhibit.

25 A Yes. Those services are optional in

1 nature.

2 Q Those are the kinds of services you're
3 referring to that could be provided to end users or
4 to suppliers?

5 A Correct.

6 Q Now, in the context of suppliers, would
7 suppliers have the capability of purchasing them and
8 then reselling them to customers, their own end user
9 customers, as far as you can --

10 A I see no difficulty in a supplier doing
11 that.

12 Q Have you made any determination of what
13 charges would be applicable to such optional services
14 at this point and how they would be calculated?

15 A We have not.

16 Q With respect to the billing, am I correct
17 that the CARS system now contemplates or permits a
18 two-bill option, that is, a bill that would be
19 provided by the EDC for distribution services and a
20 separate bill from the supplier for generation
21 services?

22 A We're supporting that now in the customer
23 choice pilot program, each of those two bill options.

24 Q Would it be reasonable to infer from that
25 that the CARS system could also, at least

1 technically, support a single bill option whereby the
2 supplier would provide a bill to the customer that
3 would bill both for the generation services and for
4 the EDC's transmission and distribution services?

5 A That's not entirely correct.

6 Q I was asking you whether technically it
7 would be able to support that option.

8 A The CARS system, as it supports the
9 preparation of a customer bill, really is one, again,
10 that gives you the raw meter readings at two points
11 in time to calculate the consumption or the demand at
12 a given point in time.

13 To support another billing option, you would
14 need additional information that would come from, for
15 example, our rate schedules and tariffs that would
16 not be part of the CARS system.

17 Q That additional information is being
18 provided now to facilitate the two-bill option; is
19 that right?

20 A It is, yes. To further explain, the
21 suppliers -- The two bill options, to make certain
22 that it's clear, the traditional utility bill that
23 includes charges for transmission, distribution, and
24 generation.

25 Again, in this case during the customer choice

1 pilot program, the generation is provided by an EGS,
2 electricity generation supplier.

3 The approach that's been taken is that
4 suppliers have provided to Duquesne their tariff
5 schedules. So, with those tariff schedules and using
6 CARS, as I said, to identify the meter readings and
7 ultimately the consumption and demand, we can prepare
8 a consolidated bill that reflects all of those
9 components.

10 Q Is there anything technically that would
11 prevent that raw data to be transferred to a third
12 party, a supplier, so that the supplier could provide
13 that consolidated bill both for its own services and
14 on behalf of Duquesne?

15 A I think the situation is somewhat different
16 in that if the -- because a decision, first of all,
17 would have to be made as to what the bill calculation
18 process would be. One approach would be for Duquesne
19 as an EDC to calculate the billing charges and,
20 again, attempt to exchange or transfer those billing
21 charges to the EGS.

22 Q So you get a -- In other industries that
23 would be -- I can't recall the exact term for it
24 now. But, in essence, the ultimate billing agent
25 would receive an almost completed bill that would

1 then be referred on to the customer. Is that the
2 kind of situation that you were envisioning?

3 A My point is that the EGS in this scenario
4 would not calculate the charges. They would not have
5 the rate schedules and calculate the charges based on
6 the measured demand and consumption. The EDC would
7 do that and in this approach would transfer the
8 charges as a result of that process to the EGS.

9 Q Technically, is that possible today?

10 A It is possible. However, again, it's
11 something that is being done--and I'm referring to
12 the transfer of information--something that's being
13 done within the pilot in a number of different ways.
14 Some utilities, some EDCs are using e-mail. Some are
15 using secured web sites. Some are using value-added
16 networks. So there's not a consistent approach to
17 the exchange of that information.

18 Q Is there another approach that would enable
19 a single bill to be provided by the supplier; that
20 is, the raw data would be submitted or transferred
21 and then the supplier would calculate using -- using
22 the billing determinates calculate the ultimate bill?

23 A Yes. That was my second approach. That
24 would require the EDC to provide its rate schedules
25 to the EGS and, in order for the bills to be

1 calculated, to provide the billing determinants to
2 the EGS.

3 Q Technically, the CARS system could
4 accommodate that as well?

5 A Well, the CARS system actually has nothing
6 to do with the transfer of the information.

7 Q Granted. I understand. I apologize.

8 The Duquesne billing system, would that
9 accommodate that second option, technically?

10 A At this point it's something we've not
11 examined. Certainly I think you would have to go
12 through a process because the concerns that we would
13 have would be, One, that you really need to have some
14 standardization.

15 As I pointed out, there are different methods
16 to exchange information. I pointed out some of those
17 to you. Some do not have -- Some are less secure
18 than others. Some are less reliable than others.
19 Some, we feel, are not confidential. We're passing
20 -- These are monetary amounts that we don't want to
21 have available to the public.

22 So we clearly would need a process to
23 determine a method that's standard, standardization
24 for the exchange of that information.

25 Q And if those things were resolved, then

1 that kind of raw transfer could occur; is that right?

2 A Following a process, again, that addressed
3 those issues as well as auditability, yes,
4 technically it could occur.

5 MR. CLEARFIELD: Could I just have a moment,
6 Your Honor?

7 JUDGE CORBETT: Yes.

8 (Pause)

9 MR. CLEARFIELD: That's all I have. Thank
10 you.

11 JUDGE CORBETT: The next party up would be the
12 IBEW. The schedule indicates, Mr. Rubin, that you
13 have no cross for this witness.

14 MR. RUBIN: That's correct, Your Honor.

15 JUDGE CORBETT: Okay. Is there any other
16 party that I have not called who wishes to
17 cross-examine witness?

18 (No audible response.)

19 JUDGE CORBETT: All right. Hearing none,
20 Mr. Moot, do you have any redirect?

21 MR. MOOT: Could I have a brief moment?

22 JUDGE CORBETT: Yes.

23 (Pause)

24 MR. MOOT: No, Your Honor.

25 JUDGE CORBETT: Mr. Allison, you are excused,

1 sir. Thank you very much.

2 The next scheduled witness is Mr. Karl. Do
3 you have any rejoinder for Mr. Karl?

4 MR. MOOT: I do not believe so.

5 JUDGE CORBETT: Why don't we take a 10-minute
6 recess. We'll reconvene at 25 after the hour.

7 (Recess taken.)

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

9 During the break Mr. Moot brought up a point, and the
10 population in the room seems to bear out that point,
11 that some of the people may be drifting away as we
12 get down on the witness list here. So a couple of
13 things I wanted to cover before everyone disappears.

14 First of all, between now and the time we
15 reconvene for our second set of hearings in January,
16 January 5th, I would like the parties to consider
17 providing me with an index of testimony and exhibits
18 as the company has done in this case. It has proved
19 very helpful, and from now on we may do that in all
20 of our complex litigation.

21 So I would ask the parties to consider doing
22 that. I don't think it imposes that much of a
23 burden, but it would certainly help us and, also, the
24 technical staff in Harrisburg when they're reviewing
25 a record of this size.

1 Secondly, between now and the first day of
2 hearings in January, I would ask the parties to
3 prepare an estimate for cross-examination of the
4 witnesses to be called in January as you have done
5 for the hearings this week. The chart has proved
6 very helpful, and I would like to have a chart
7 available for cross-examination of the witnesses in
8 January.

9 Finally, the last point I wanted to cover was
10 possible settlement. I would ask the parties to --
11 I'm not sure what discussions you have had among
12 yourselves, what your plans are for discussing
13 settlement between now and the next set of hearings,
14 but I would ask you to possibly consider that, at
15 least talking about that among yourselves.

16 If you can't reach a global settlement, then
17 see what parts of the case you agree upon or you
18 don't agree upon. If there are stipulations, they
19 can be brought up during the hearings.

20 Of course, that does not preclude you from
21 further discussing settlement and stipulations after
22 the hearings, but the experience in the past has been
23 that once hearings close that the parties are so tied
24 up in writing briefs and that that the opportunities
25 for discussing settlement may not be as good after

1 the close of hearings.

2 So I would ask the parties to consider those
3 matters between now and the next set of hearings in
4 January.

5 Yes, Mr. Barak.

6 MR. BARAK: Without mentioning any case in
7 particular, one model that I think proved very
8 useful, at least to get the non-applicant parties to
9 talk, was an administrative law judge urging that at
10 the end of the week when we were all around for
11 hearings, anticipating that we might get done half a
12 day early, the parties simply meet after lunch and
13 discuss going forward on some of those very issues.

14 It's going to be hard for us to get together,
15 reasonably, between now and January 5th.

16 JUDGE CORBETT: I know with the holidays it
17 will be difficult. You're certainly welcome to use
18 this hearing room. I don't know when we're going to
19 finish today. I'm assuming we are going to finish
20 today, but --

21 MR. BARAK: I wasn't suggesting this week,
22 actually. I was suggesting --

23 JUDGE CORBETT: The next round of hearings.
24 Well, that's also a possibility. But I would like
25 you to at least begin thinking about that and

1 possibly informally agreeing upon something among
2 yourselves to try to at least discuss that, see what
3 parts of the case you can agree upon, what parts are
4 really in contention.

5 Is there anything else then?

6 (No audible response.)

7 JUDGE CORBETT: Okay. Then, Mr. Moot, we'll
8 call your next witness.

9 MR. MOOT: Your Honor, could we go off the
10 record at this point?

11 JUDGE CORBETT: Sure. Let's go off the
12 record.

13 (Discussion off the record.)

14 JUDGE CORBETT: We're back on the record. I'm
15 not sure. I think we're ready for you to call your
16 next witness.

17 MR. MOOT: The next witness is Mark Karl.

18 MARK G. KARL, called as a witness, being duly
19 sworn, testified as follows:

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

22 THE WITNESS: It's Mark G. Karl, K-A-R-L.

23 JUDGE CORBETT: Mr. Moot.

24 DIRECT EXAMINATION

25 BY MR. MOOT:

1 Q Good morning, Mr. Karl.

2 A Good morning.

3 Q Did you prepare direct and rebuttal
4 testimony in this case?

5 A Yes, I did.

6 Q Do you have any corrections to that
7 testimony?

8 A No, I do not.

9 Q Was that testimony true and correct to the
10 best of your knowledge, information, and belief?

11 A Yes, it is.

12 MR. MOOT: I'm now handing to the court
13 reporter two copies of said testimony, which is
14 Duquesne Statement Numbers 9 and 9-R and accompanying
15 exhibits. I move them into evidence subject to
16 appropriate motion.

17 JUDGE CORBETT: All right. They will be so
18 admitted.

19 (Duquesne Statement Numbers 9 and 9-R were
20 marked and admitted into evidence.)

21 MR. MOOT: The witness is available for
22 cross-examination.

23 JUDGE CORBETT: Ms. Melillo, for the OTS,
24 you've indicated on the schedule that you have no
25 cross for this witness.

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

2 JUDGE CORBETT: Mr. Berger, for the OCA, do
3 you have cross?

4 MR. BERGER: Yes, we do.

5 JUDGE CORBETT: All right.

6 MR. BERGER: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. BERGER:

9 Q Good morning, Mr. Karl.

10 A Good morning.

11 Q Mr. Karl, you're familiar, I assume, with
12 the term capacity reserve margin as you discuss in
13 your testimony.

14 A Yes.

15 Q Can you just briefly give us a definition
16 of what capacity reserve margin means?

17 A Well, there are a variety of different
18 reserve margins that utilities use. Within ECAR the
19 only requirement is the operating reserve margin,
20 which is a six-percent reserve. That's a daily
21 reserve based on the system operator's expected peak
22 demand for the day.

23 ECAR requires that the system operator have on
24 hand a six-percent operating reserve, which consists
25 of three percent spinning and three percent

1 supplemental. That is the only requirement that the
2 utilities within ECAR face.

3 In addition to that, utilities typically carry
4 capacity reserve or a planning reserve. The planning
5 reserve is used as an aid to help utilities ensure
6 that on any given day they will have the six-percent
7 operating reserve. Within ECAR there's no
8 requirement to maintain a specific level of planning
9 reserve or capacity reserve.

10 Q Are you done with your answer?

11 A Yes.

12 Q Would you agree with me that any electric
13 system needs to maintain some planning reserve margin
14 to account for the fact that generating units are
15 sometimes unavailable to generate due to planned
16 maintenance or planned outages? Is that correct?

17 A Well, that would be the purpose of the
18 operating reserve, the six-percent reserve. That's
19 why ECAR has the six-percent reserve. It's their
20 intention that so long as the utility has on hand or
21 procures through a contract or some sort of a short-
22 term arrangement with another company. So long as
23 they're able to procure reserves to meet their next
24 day's requirement, that is sufficient.

25 Q Now, you're referring to a potential short-

1 term sale or purchase of electric requirements to
2 meet the operating reserve requirement? Is that what
3 you're talking about?

4 A That's correct.

5 Q Would that fit in with a planning reserve
6 margin concept?

7 A That has nothing to do with -- A planning
8 reserve margin concept is basically something that we
9 view as an artifact of the traditional regulated rate
10 of return structure. In a competitive marketplace,
11 we don't think it's very likely that customers are
12 going to be willing to pay for capacity that,
13 basically, you don't intend to use.

14 Q But in your direct testimony, if you'd look
15 at Page 9 of your direct testimony, at Line 8 --

16 A Okay.

17 Q -- would you agree with me that that
18 indicates there that ECAR has identified an eight-
19 percent planning reserve as the reserve necessary to
20 meet its reliability criterion?

21 A That eight-percent reserve identified by
22 ECAR is what they believe was necessary to meet their
23 own DSCR criteria. That DSCR criteria does not then
24 carry forward onto utilities.

25 In the past, some utilities have believed that

1 they had an obligation to meet a one-to-10 DSCR
2 criteria. They do not. ECAR has that as an internal
3 criteria for itself.

4 Q They don't impose this on utilities within
5 ECAR, but this is what they believe is an appropriate
6 planning criterion; is that correct?

7 A That's based on their assessment of the
8 situation contained in that August 1996 assessment.
9 And given the assumptions that are in that
10 assessment, they believe that the eight-percent
11 reserve, as a snapshot, would be necessary for that
12 period of time for their system.

13 Q So your answer to my question is, yes, they
14 believe that's the appropriate planning criterion?

15 A Not necessarily as a planning criteria.
16 They believe that eight-percent reserves would be
17 necessary given their set of assumptions.

18 Q Well, when they're talking about the eight
19 percent, are they talking about planning or are they
20 talking about operating, because I think you said six
21 percent was the operating margin?

22 A They don't really make a distinction.

23 Q Okay. Now, the six-percent operating
24 reserve requirement in ECAR, is that on an hourly
25 basis?

1 A I believe the way that's applied is that
2 the system operator has to ensure ECAR that they have
3 those reserves available for the next day.

4 As far as whether they have to maintain those
5 reserves on an hourly basis, I think that they do.
6 Mr. Irvin would actually have been the more
7 appropriate witness to ask that question, but I think
8 that they do on an hourly basis.

9 Q Do you know what the consequence is if a
10 utility fails to produce operating reserve of six
11 percent?

12 A No, I do not.

13 Q Would Mr. Irvin know?

14 A I would expect that he would.

15 MR. MOOT: Can we go off the record for just a
16 second?

17 MR. BERGER: Sure.

18 (Discussion off the record.)

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

20 BY MR. BERGER:

21 Q But I think from what you were saying
22 before a system operator may be able to meet the
23 operating reserve requirement, even though they do
24 not have installed capacity meeting that reserve
25 requirement, by going out and purchasing electricity

1 from another supplier.

2 A I believe so. There are some provisions as
3 to where it's located. I believe some of it has to
4 be located within ECAR. I don't know specifically.

5 Q Is it fair to say that, as you envision the
6 market working, load-serving entities like Duquesne
7 will plan to maintain capacity reserve margins that
8 they believe will be sufficient at a minimum to meet
9 the ECAR operating reserve requirements?

10 A I believe that load-serving entities,
11 whether they be existing utilities or marketers or
12 re-marketers, load aggregators, will most likely need
13 to become members of ECAR and/or any subsequent ISO
14 that may form and that they will be required to
15 maintain a six-percent operating reserve.

16 Again, that does not necessarily mean that
17 they will have to plan to build it. They can procure
18 that from somebody else.

19 Q So you don't think that they'll attempt to
20 maintain any installed, particular installed
21 operating reserve?

22 A Not necessarily.

23 Q I'm sorry. Installed reserve.

24 A No, not necessarily.

25 Q Can you tell me what the genesis of the 12-

1 percent reserve figure referred to in your testimony
2 is for Duquesne?

3 A The 12-percent reserve was the result of an
4 analysis conducted by Mr. Pete Wybierala.
5 Mr. Wybierala manages Duquesne's transmission
6 planning group, and he had conducted an analysis. I
7 believe the date was approximately 1990. I don't
8 recall exactly. That study has been provided through
9 discovery.

10 In that study Mr. Wybierala found that a 12-
11 percent reserve would be sufficient to meet all
12 reliability criteria in the regulated marketplace at
13 that time. And, in fact, there was some discussion
14 at that time that perhaps the reserve could have been
15 lower. I don't have documentation of that, but at
16 the time I do remember some discussion as to whether
17 we could actually go to the six-percent reserve at
18 that time, but there is no record of that.

19 Q You were talking about somebody named P.Y.
20 Marella (phonetic).

21 A Peter Wybierala.

22 Q Can you spell that last name for the court
23 reporter?

24 A W-Y-B-I-E-A-R-L-A.

25 MR. MOOT: R-A-L-A.

1 A R-A-L-A. Thank you.

2 BY MR. BERGER:

3 Q Is he a Duquesne employee?

4 A Yes, he is.

5 Q And would you agree with me that he
6 basically was estimating a reserve margin required to
7 limit the occurrence of capacity shortfalls to a
8 particular standard?

9 A Within the context of a regulated
10 marketplace with an ongoing obligation to serve for
11 Duquesne, he was estimating within some reliability
12 criteria. I don't know specifically what that was.

13 Q On Page 2 of your rebuttal, you address OCA
14 witness Smith's testimony regarding his belief that
15 utilities in ECAR will maintain some installed
16 capacity reserve margin. It seems like you're
17 criticizing his testimony there.

18 Are you just basically saying, pointing out
19 that there is no installed capacity reserve margin
20 requirement in ECAR? You're not criticizing, in
21 particular, the use of an eight-percent number in his
22 testimony, are you?

23 A What I'm basically saying is that the only
24 requirement is a six-percent reserve and that there
25 is no requirement within ECAR for any additional

1 reserve over and above the six percent.

2 He does make statements that he expects--and I
3 believe that is a key--he expects that utilities or
4 load-serving entities will continue to carry reserves
5 consistent with what they carried in the past. That
6 is an expectation. That is his expectation. Other
7 witnesses in this case have used different
8 expectations.

9 Q Okay. But you're not criticizing the use
10 of the eight percent as an appropriate planning
11 criterion for systems in the ECAR area?

12 A Well, I guess to a degree I am, because one
13 of the key outputs of his analysis and the analysis
14 of several other witnesses is a market line and
15 expected market price. It is assumed in these
16 analyses that the production cost of all of the units
17 within ECAR will set that market price line.

18 It is further assumed that as capacity is
19 added the market price will somehow rise such that
20 the cost of that capacity addition will be recovered
21 from the market price.

22 So, in doing a production cost based analysis
23 and making those assumptions, the level of reserves
24 that you assume directly affects how quickly the
25 analyst assumes the capacity is added. Therefore, it

1 has a radical effect on the expected market price in
2 their assumption.

3 But key in that assumption is the assumption
4 that the market price will rise essentially the day
5 that that capacity comes on line to allow the cost of
6 that capacity to be recovered. There is no guarantee
7 that that will be the case. Cost is not equal to
8 price.

9 Q Would you describe for me what you
10 understand sales for resale to mean.

11 A My understanding of that would be a
12 wholesale sale to a wholesale requirements customer.
13 An example would be Pitcairn within Duquesne's
14 system.

15 Q Would it include sales to PJM utilities?

16 A Are you speaking within the context of
17 what's in the resource plan?

18 Q No. I'm just speaking generally.

19 A Well, I just want to be careful. Within
20 the resource plan, there is in the data columns a
21 column that says sales for resale, and it's intended
22 to capture wholesale sales to customers such as
23 Pitcairn.

24 I'm not sure that it -- If you're looking at
25 the resource plan, I'm not sure that a sale to a PJM

1 company would be in there. But for what we're
2 talking about here, we could assume that sales for
3 resale would include a sale to PJM.

4 Q Well, would it be reasonable to expect that
5 Duquesne would only make short-term sales for resale
6 when it was profitable to do so, in other words, when
7 it exceeded its short-run marginal costs?

8 A When it exceeded short-run marginal costs,
9 which I would define as fuel and variable O & M
10 costs, you would expect that the company would make
11 sales only when they're profitable.

12 Q And on the other hand, a buyer in such a
13 transaction would only purchase it when the marginal
14 energy cost to the buyer of purchasing it were lower
15 than what it could produce on its own, assuming it
16 was produced for --

17 A Right. Again, you would be comparing the
18 cost of energy to that purchaser to his own variable
19 cost, as I've defined it, fuel and variable O & M.
20 So long as the net purchase cost was lower than his
21 short-run variable cost, then, yes, it would be
22 economic for the purchase.

23 Q Would you agree with me that on average
24 prices for energy and capacity are higher in PJM than
25 in ECAR?

1 A Prices within PJM reflect the specific
2 requirements of the PJM system. PJM as a tight pool
3 has a specific capacity requirement. They require
4 their member companies to maintain a specific
5 planning reserve, which I believe is 18 percent,
6 subject to verification. They're required to have
7 that installed capacity.

8 Further, when a PJM company seeks to purchase
9 resources from off system, such a purchase is subject
10 to capacity de-rate provisions because PJM as a pool
11 assumes the capacity located within ECAR, whether
12 it's Duquesne Light or Allegheny Power or Detroit
13 Edison, for that matter.

14 PJM assumes that that capacity located outside
15 its own area doesn't have as much value to the system
16 as capacity within its area. So essentially what
17 that does is it serves to limit the market for
18 capacity outside of PJM attempting to sell within
19 PJM.

20 That limitation, for example, was one of the
21 reasons that Duquesne had proposed in our sale to GPU
22 to build a transmission line into their service
23 territory, because our 500-megawatt sale without that
24 transmission line would have been substantially
25 discounted and it would have been uneconomic absent

1 that line.

2 Q I think you went a little beyond the scope
3 of my question, which was simply to determine whether
4 on average prices in PJM are higher than in ECAR.

5 A Well, because of the reasons that I cite,
6 the prices are higher.

7 Q I understand. I understand. Would you
8 also agree that they're higher because oil and gas
9 are utilized on the margin more in PJM than they are
10 in ECAR?

11 A Many of the East Coast utilities rely
12 heavily on oil-fired capacity, and that would tend to
13 raise their price.

14 (Transcript continues on Page 899.)

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1 Q Given the different marginal energy effects
2 of PJM versus the utilities in ECAR, would you agree
3 with me that it would be reasonable to expect that
4 the PJM market will continue to feature higher market
5 prices on average than in ECAR --

6 A I would --

7 Q -- at least for the next several years?

8 A Until such time -- at least until such time
9 as the limitations that I described go away, I would
10 except that the PJM prices would be higher than ECAR.

11 Q Now, according to the FERC Form 1, in
12 1996, Duquesne sold for resale approximately 3.3
13 million megawatt hours, 2.5 million of which was sold
14 to Public Service Electric and Gas, which is a
15 utility in PJM?

16 A That's correct.

17 Q Do you think it is reasonable to expect
18 that Duquesne will continue to market and sell a
19 significant amount of power to the PJM market?

20 MR. MOOT: This is -- I have an objection.

21 This is beyond the scope of the witness's
22 testimony, and that sale in particular is discussed
23 by Mr. Irvin.

24 Mr. Karl does not discuss our sales program or
25 sales efforts.

1 MR. BERGER: Well, I think, Your Honor, that
2 Mr. Karl provided significant data to Mr. Schnitzer
3 in doing his market price evaluation with respect to
4 certain assumptions, and one of the assumptions is
5 the amount of sales for resale that could be made,
6 and therefore, I think it is an appropriate question.

7 MR. MOOT: Let me just add that that is true.

8 However, there weren't destinations, and I can
9 withdraw my objection if the witness is allowed to
10 answer to the best of his knowledge.

11 MR. BERGER: Oh, sure.

12 JUDGE CORBETT: Okay.

13 MR. BERGER: To the best of his knowledge is
14 always the case.

15 MR. MOOT: Fine.

16 MR. BERGER: Go ahead.

17 THE WITNESS: We probably ought to re-read the
18 question or restate the question.

19 BY MR. BERGER:

20 Q All I am asking you is -- and I don't want
21 the court reporter to have to go find the question --
22 is whether it is reasonable to expect that Duquesne
23 will continue to make significant sales to the PJM
24 system, given the fact that marginal energy prices in
25 PJM will continue, probably continue to exceed

1 marginal energy prices in the ECAR region?

2 A It would be reasonable to expect Duquesne
3 will continue to sell power to anyone, any market
4 that desires our power.

5 That would include PJM, other areas in ECAR.
6 It would include New York.

7 If any of the New York utilities would like
8 some power, they are encouraged to call Mr. Irvin.

9 Q I know we got some press on the first day
10 of the hearings, but I don't know if we have any here
11 today.

12 A That's okay. It is on the record.

13 Q When Duquesne makes such resales, it
14 essentially operates its own generating units at
15 higher levels or permits additional units than it
16 would simply to serve its own load?

17 Is that correct?

18 A That's correct.

19 Q Given a market structure in which the
20 market price is set by the price of the last unit
21 dispatched, increasing the output of the marginal
22 units or dispatching additional units to serve a sale
23 could potentially raise the market clearing price in
24 the hour?

25 Is that correct?

1 A If you had that type of a market structure,
2 which implies an independent system operator, if you
3 sold more capacity energy into the market with higher
4 marginal costs, then in that type of a market
5 structure, it would tend to increase the market
6 price, but we need to be careful that an ISO would be
7 focusing on sales within its own control area.

8 I'm not sure how an ISO would handle a
9 transaction that would go if -- say, we were to
10 assume for the moment that ECAR were an ISO, and that
11 PJM were an ISO.

12 I'm not sure that, you know, if, for example,
13 Duquesne were making a sale to PJM, and therefore
14 raising its price, I don't know that that
15 structurally then would pay everybody else serving
16 load in ECAR in that higher price.

17 I don't know how that would be structured.

18 Q But if that were to happen, would that
19 increase revenues to all generators during that hour?

20 MR. MOOT: Your Honor, he just said he didn't
21 know the answer to that.

22 It is asked and answered.

23 MR. BERGER: Well, I think he was simply
24 qualifying his answer.

25 I don't think he said he didn't know the

1 answer.

2 JUDGE CORBETT: All right. We will let the
3 question -- see if the witness understands the
4 distinction.

5 A Well, let's -- let's view it within
6 the area that, the control area of an ISO.

7 If demand increased within the control area of
8 the ISO, and therefore more generation was dispatched
9 to serve that load within the ISO, the expectation
10 would be that the revenue to all participants would
11 go up.

12 Q Thank you. Can you tell me which
13 individuals at Duquesne are responsible for managing
14 wholesale power transactions?

15 Is Mr. Irvin one of them?

16 A Mr. Irvin is the primary individual. At
17 one time, there was a distinction made between short
18 term versus long term transactions, and my
19 predecessor in this position, Mr. Haduk, had
20 responsibility for the long-term wholesale, and Mr.
21 Irvin for the short term.

22 That's become somewhat more blurred.

23 Mr. Irvin would be the primary contact for
24 that.

25 Q And would you agree with me that Duquesne

1 expects that if the merger is consummated, planning
2 and dispatch of the Duquesne and Allegheny or APS
3 electric systems will be done in a more coordinated
4 fashion?

5 A Although I don't provide testimony to the
6 merger, it would be reasonable to expect that.

7 Q Would you expect that there would be
8 reductions in costs associated with ancillary
9 services as a result of the merger?

10 MR. MOOT: Your Honor, I know you will
11 overrule this, but I have to object, because this is
12 a merger question, and I don't even know whether Mr.
13 Karl is in the merger and testifying on those topics.

14 MR. BERGER: I will withdraw the question.

15 JUDGE CORBETT: Okay.

16 BY MR. BERGER:

17 Q Now, would you agree with me that a
18 generator would be willing to operate only if it were
19 guaranteed to recover at least its variable operating
20 costs over a given start/stop cycle?

21 A Not necessarily. It would depend upon the
22 contract arrangements that they may have.

23 They may be required to operate in that manner
24 and potentially not cover all of their costs in that
25 cycle.

1 In addition, you used the words "guaranteed to
2 recover."

3 Nobody in a competitive marketplace is
4 guaranteed anything, and yet people make decisions
5 every day.

6 You know, when USAir schedules a flight from
7 Pittsburgh to Philadelphia, they have absolutely no
8 guarantee as to whether that flight is going to cover
9 its costs. They expect that it will.

10 At the same time, they may run that flight at
11 a loss just to position that aircraft for subsequent
12 use, so there may be reasons why a generator may
13 operate at a loss, as you described.

14 Q Okay. Well, let's modify the question,
15 then.

16 Ignoring for a moment fixed contractual
17 obligations the generator has, would you agree with
18 me that in general, a generator would be willing to
19 operate only if it were -- if it expected to recover
20 at least its agreeable operating costs over the given
21 start/stop cycle?

22 A Variable operating costs to include the
23 incremental fuel and the incremental variable O&M, I
24 would expect that they would only want to operate if
25 they expected that they would recover those costs.

1 Q Thank you. Would you agree with me that
2 the incremental heat rate is the heat rate which is
3 required to change the output of the generator from
4 one load level to another?

5 A Yes, I would agree with that.

6 Q Incremental heat rate does not reflect the
7 average amount of heat input required by the
8 generator at any given load level?

9 Is that correct?

10 A The incremental heat rate would only
11 reflect the increment.

12 What you are referring to would be the average
13 heat rate.

14 Q And would you agree with me that the
15 incremental heat rate does not account for the fuel
16 requirement or heat input necessary for start-up?

17 A It would not.

18 Q Now, if a generating unit over a given
19 start/stop cycle received a price based upon its
20 incremental heat rate, would that unit recover all of
21 its variable costs incurred over that start/stop
22 cycle?

23 A If you want to expand our definition of
24 "variable costs," to include the starting and
25 stopping costs --

1 Q Yes.

2 A -- it would not necessarily.

3 Q Well, it would not if it didn't include the
4 cost of start-up?

5 Is that correct?

6 A That's correct.

7 Q Now, on the other hand, I think, as you
8 indicated, the full load average heat rate describes
9 the average heat input required by the generator at
10 full load?

11 Is that correct?

12 A That's correct.

13 Q The full load average heat rate does not
14 reflect the average amount of heat input required by
15 the at any load level other than the full load? Is
16 that also correct?

17 A Full load average?

18 Q Yes.

19 A That's correct.

20 Q Would you also agree that the full load
21 average heat rate does not account for the heat input
22 required for the start-up?

23 A The full load average would not.

24 Q Now, if a generating unit over a given
25 start/stop cycle was operated at part load, and

1 received a price based on its full load average heat
2 rate, would you agree with me that that unit would
3 not recover all of its variable costs, including
4 start-up costs incurred over that start/stop circle?

5 A It might not.

6 Q Would you agree with me that the as
7 operated heat rate, as reported in FERC Form 1,
8 reflects fuel consumption associated with start-up
9 costs and any part load operation?

10 A It would certainly include the cost of part
11 load operation.

12 I don't know if it would include the start-up
13 costs.

14 I don't know what the rules are for
15 determining that heat rate for FERC.

16 Q Can you find out?

17 A I probably could.

18 MR. BERGER: Okay. Can we make that an
19 on-the-record data request?

20 MR. MOOT: Yes, and just in case there is a
21 difference, are you asking --

22 MR. BERGER: Whether the --

23 MR. MOOT: If there are interpretation
24 differences, are you asking only for what Duquesne
25 reports, or are you --

1 MR. BERGER: Yes.

2 MR. MOOT: -- asking it broader?

3 MR. BERGER: No. I am asking for what
4 Duquesne reports.

5 BY MR. BERGER:

6 Q Would you agree with me that if a generator
7 were to receive, based on its as-operated heat rate,
8 it would recover at least its variable operating
9 costs, or would that answer depend upon what you
10 determined from reviewing the FERC Form 1 data
11 requirements?

12 A Would you restate that, please?

13 Q Yes. My question was: If a generator were
14 to receive a price based on its as-operated heat
15 rate, it would recover at least its variable
16 operating costs?

17 Is that correct? Is that correct?

18 A Subject to what we find out here?

19 Q Right.

20 A So we will set that aside --

21 Q Right.

22 A -- and as long as the generator operated at
23 a level of output, level of utilization similar to
24 that which was reported in that data year, it would
25 be reasonable to expect that it would recover its

1 costs.

2 However, if the marketplace, you know, on a
3 going forward basis, requires a unit to operate
4 differently, then it may not, because the heat rate
5 is a function of output.

6 A The first --

7 Q I guess I am a little confused.

8 A Okay. The FERC Form 1 data that is
9 reported is a historical report.

10 It is a report -- you know, if you were to go
11 to the 1996 FERC Form 1, and look at the as-reported
12 heat rate, you would see a certain heat rate number.

13 You know, it would measure the heat input.

14 Basically, the way to view it would be it, the
15 heat input during that year of operation divided by
16 the output during that year of operation.

17 Now, typically, unit efficiency, because heat
18 rate is a measure of efficiency, the efficiency of a
19 generator varies as a function of its output, and
20 different technologies vary differently.

21 For example, combustion turbine and combined
22 cycle units operate most efficiently at their peak
23 load point, and as soon as you start to back them off
24 very far, the heat rate goes up dramatically, which
25 means the efficiency drops dramatically.

1 With coal plants, typically they will operate
2 more efficiently near their full load heat point, or
3 near their full load point, but sometimes it depends.
4 on the design of the individual coal units.

5 Sometimes the unit actually becomes somewhat
6 less efficient as it approaches full load, you know,
7 its actual rated full load, because the equipment is
8 being pushed harder, more is expected of it,
9 frictional loss is increased, things like that, so as
10 long as your payment is based on -- if you are going
11 to use the as-operated heat rate to base your payment
12 to the generator, you would need to basically come
13 back after the fact, and after the fact measure its
14 as-operated heat rate during the period in question,
15 and reimburse it on that basis, but it is not
16 necessarily a good guide on a prospective basis as to
17 which generator is going to be most efficient for a
18 given level of output.

19 Q And I think you addressed that issue in
20 rebuttal testimony.

21 A Yes.

22 Q Earlier, we talked about Duquesne's sales
23 for resale.

24 Would Duquesne make firm sales at a price that
25 did not cover its costs on each kilowatt hour sold?

1 A Which cost?

2 Q Its variable operating costs.

3 MR. MOOT: Can I ask for clarification,
4 whether you are talking over a term of a contract, or
5 you meant to infer hour by hour?

6 MR. BERGER: Again, let's include a fixed
7 contractual obligation.

8 MR. MOOT: That was just meaning a time
9 horizon?

10 A Yes, because the time horizon is important.
11 If you want to look at it on a hourly basis, you
12 know, you could certainly see some hours where the
13 unit might be operating and not covering all of its
14 fixed costs, or all of its costs as we have defined
15 here, its incremental or marginal costs, but it could
16 be that the expectation is that -- well, let's use an
17 example.

18 Let's say that it is a summer day, and the
19 load is fairly low at the moment, but it is expected
20 that later on in the afternoon, it is going to become
21 very hot, and the air conditioning load will go up,
22 and there will be substantial demand.

23 You have got a situation similar to my airline
24 example, where you want to position a piece of
25 equipment to be in a position to take advantage of an

1 expected -- an expected opportunity in the
2 marketplace, which would be the higher cost that the
3 utility expects -- or not utility -- the operator of
4 the generation may expect to obtain later in the
5 afternoon, so you may start that unit and make a sale
6 at hour one that doesn't necessarily cover all those
7 costs, again in the expectation that the prices will
8 rise later in the afternoon, and you will make more
9 than enough profit to cover those costs, but again
10 it, is an expectation.

11 If -- using that as an example, if, for
12 example, that summer day is humid, and a rain storm
13 comes in, we have seen the load drop, just in
14 Duquesne's small system, several hundred megawatts
15 just on a hot summer day when a storm comes in, so in
16 that circumstance, during that start/stop cycle, it
17 may turn out that, heck, you lost money, and that
18 even -- that even applies in today's regulated
19 market.

20 It will apply doubly in a competitive market.
21 People make decisions based on expectations.

22 MR. BERGER: Okay. I don't -- that's all the
23 questions I have.

24 JUDGE CORBETT: Okay.

25 MR. BERGER: Thank you, Mr. Karl.

1 JUDGE CORBETT: Miss Jones, according to the
2 schedule, OSBA has no cross for this witness.

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

4 JUDGE CORBETT: Mr. Americus, according to the
5 schedule, do you have any cross?

6 MR. AMERICUS: No cross, Your Honor.

7 JUDGE CORBETT: All right.

8 MR. BERGER: Miss Polacek?

9 MS. POLACEK: Yes, Your Honor. Thank you. I
10 do have a few questions.

11 CROSS EXAMINATION

12 BY MS. POLACEK:

13 Q It think it is still morning. Good
14 morning.

15 A I think it is. Good morning.

16 Q My name is Pam Polacek, and I represent the
17 Duquesne Industrial Intervenors, and I wanted to take
18 you back to the issue of reserve margins.

19 A Okay.

20 Q Now, is it correct that the company's
21 position is that the market should determine the
22 appropriate level of generating reserves in the
23 competitive market?

24 A Yes, it is.

25 Q And the annual RFP that Duquesne proposes

1 to use to set the generation credit, that will be
2 supported by that current twelve percent reserve
3 market, correct?

4 A Well, I was here yesterday when Mr.
5 Lahtinen so kindly handed that question to me.

6 Mr. Irvin probably would have been better, but
7 I will deal with it.

8 The RFP was designed in such a way that it
9 does not encumber Duquesne's existing physical
10 assets.

11 As Mr. Marshall has already testified, it is
12 the belief in Duquesne's management that the company,
13 on a stand alone basis, is too small to remain in the
14 generation business, so in doing that RFP, the
15 company wanted to be free to be able to sell a
16 generating unit during the term of that RFP, you
17 know, without having some problem or defaulting on a
18 contract, so we, the company and its representatives,
19 as discussed in the testimony of Mr. Lahtinen and Mr.
20 Irvin, contacted a number of marketers basically to
21 find out how they felt about that issue, "How should
22 we deal with that issue," and the marketers expressed
23 a belief that what they wanted was a financial
24 guarantee, that so long as Duquesne was willing to
25 financially hold them harmless, should Duquesne fail

1 to serve, that that would in no way encumber their
2 bid or result in a lower price, and ultimately, that
3 was what we were concerned about was trying to design
4 an RFP that would maximize the price.

5 Now, as a practical matter, with regard to the
6 reserves that will support the RFPs, when that power
7 is sold, it will be sold with the reserves that go
8 with it, so today, if we were conducting an RFP, and
9 we were to sell 100 megawatts in the RFP, it is our
10 belief that that RFP would also include the installed
11 reserves that would go with it, that would back that
12 up, and right off the top of my head, I don't know
13 what that installed reserve is.

14 It is -- I believe it is somewhat higher than
15 twelve percent, so as a practical matter, yes, it
16 would be backed up by reserves.

17 It would certainly be backed up by the six
18 percent, and Duquesne would make it financially firm
19 for whoever wanted to buy it, so in other words, it
20 would be as firm as what is provided to our native
21 load customers.

22 Q And am I correct that through the
23 transition period, Duquesne plans to maintain
24 effectively the twelve percent reserve?

25 A Duquesne has committed to maintain a twelve

1 percent reserve for its native load bundled
2 customers, its current bundled customers, and for the
3 -- it will maintain that reserve for customers
4 choosing bundled service, but there are a number of
5 ways to meet the reserve requirement.

6 One way is installed physical capacity.

7 The other way is through contract purchases
8 and other financial means of firming it up, so we
9 will maintain the necessary reserves that we are
10 committed to for the customers choosing bundled
11 service and for the RFP, we will ensure that it will
12 maintain whatever level of reserves is necessary for
13 it to be considered firm.

14 Q And am I correct that you will maintain
15 those reserves in order to ensure that customers
16 enjoy -- I think this is your quote -- the
17 traditionally high levels of service reliability?

18 A That quote specifically applies to those
19 customers choosing bundled service, and that
20 statement is correct for those customers choosing
21 bundled service.

22 Q Is it reasonable to expect that alternative
23 suppliers would also seek to fulfill the desires of
24 many customers for the traditionally high levels of
25 service reliability?

1 A It would be reasonable to expect that new
2 entrants to the market would seek to tailor their
3 offerings to the desires of their customers.

4 Reliability has traditionally been defined as
5 one hundred percent reliable.

6 The electricity is always there,

7 At the same time, though, you know, it is
8 basically a one size fits all proposition.

9 The only exception to that today is basically
10 the types of customers that you represent, the
11 industrial companies, the large companies.

12 They choose a lower level of reliability,
13 because most of them have given us interruptible
14 rights in exchange for a lower price.

15 Similar offers have never been made to
16 commercial customers, to groups of residential
17 customers, so we don't at this point know what level
18 of reliability, what level of interruptability
19 customers are willing to accept.

20 We may find that a residential -- a group of
21 residential customers might welcome an interruptible
22 contract with a big enough credit.

23 You known, it is basically an extension of
24 demand type management, so we don't know at this
25 point how the market will evolve, so we expect that

1 people in the marketplace will tailor their offerings
2 to provide customers what they want, and what they
3 are willing to pay for.

4 That will result in a number of price points
5 and a number of different levels of what we are
6 calling reliability, but that will feature
7 interruptability as reliability.

8 Q Okay. Thank you, Mr. Karl. I have no more
9 questions.

10 JUDGE CORBETT: Okay. Mr. Wiseman?

11 MR. WISEMAN: I have no cross, Your Honor.

12 JUDGE CORBETT: Mr. Zielonis?

13 MR. ZIELONIS: No cross.

14 JUDGE CORBETT: According to the schedule, you
15 have none?

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

17 JUDGE CORBETT: Okay. Mr. Barak?

18 MR. BARAK: I do have a couple of questions,
19 Your Honor.

20 JUDGE CORBETT: All right.

21 CROSS EXAMINATION

22 BY MR. BARAK:

23 Q Good morning, Mr. Karl.

24 A Good morning.

25 Q I am Alan Barak. I represent the

1 Environmentalists.

2 A Okay.

3 Q Could you please turn to your rebuttal,
4 Page 5, Line 11?

5 A Okay.

6 Q You testified there that Duquesne has built
7 high nuclear availability numbers into its case,
8 referencing a certain analysis. Do you recall that
9 testimony?

10 A Yes, I do.

11 Q All other things being equal, the model
12 runs that were part of that analysis, what is the
13 effect of increasing nuclear availability on price?

14 A We don't model price. In our -- I am
15 assuming you are referring to our modeling runs.

16 In our runs, the price was obtained from the
17 forward sale, and it was calculated -- an hourly
18 price was then calculated using our system Landa, so
19 we aren't calculating a market price using that
20 availability.

21 Q With respect to a party's -- strike that.

22 With respect to someone attempting to examine
23 your planning model runs and understanding the effect
24 of supply and demand on a future market, all other
25 things being equal, if you increase the availability

1 of your nuclear facilities, that should have a
2 depressing effect on price -- is that right -- all
3 other things being equal now?

4 A Assuming that cost is a measure of price,
5 which we don't necessarily believe it is, but to the
6 extent that a lower priced unit is available more
7 often, we would expect that the price in the
8 marketplace would have a tendency to trend lower.

9 Q And your nuclear units, are they lower
10 priced units, as you just used the term?

11 A Yes, they are.

12 Q Does Beaver Valley follow load?

13 A No, it does not.

14 Q And you don't model it to follow load?

15 A I -- specifically, I don't know. Precisely
16 I do not believe that we do.

17 Q And you don't think that you did here,
18 correct?

19 A In my analysis?

20 Q Yes.

21 A In this analysis here? Actually, in this
22 analysis, it may have been free to follow the market
23 price.

24 I don't know specifically.

25 I do know that there are minimum must run

1 requirements in that model, so to the extent that we
2 have got a must run requirement, it wouldn't follow,
3 but the price of the nuclear units in this analysis
4 was low enough that I believe, subject to
5 verification, I believe that if we were to remove
6 that constraint, the unit would essentially run all
7 of the time anyway.

8 Q Counsel for OCA asked you a question about
9 PJM and marginal cost, and I wasn't clear on your
10 answer.

11 Is it your view that PJM uses more oil and gas
12 on the margin than does ECAR?

13 A I would -- yes. I would say not only on
14 the margin.

15 They use -- I think they even have some base
16 load oil units over there.

17 Q And the corresponding sort of marginal fuel
18 for ECAR would be coal?

19 Is that what you were trying to communicate
20 earlier?

21 A For most -- most of the hours in the year,
22 the marginal fuel for ECAR would be coal.

23 There would be a few hours where the marginal
24 fuel would be oil.

25 There are some oil fired combustion turbines

1 in ECAR. We own some.

2 They do sometimes run, so for some hours it
3 would be oil, but most of the time it would be coal.

4 Q The implication of those two fuels as
5 predominating at the margin is that costs would be
6 higher at the margin for PJM, all over things being
7 equal?

8 Is that right?

9 A That's correct.

10 Q And the implication of that costing
11 inclusion on price, again, all other things being
12 equal, is that you would expect prices to be higher
13 when your marginal costs are higher?

14 Is that right?

15 A Within the constraints of PJM -- and
16 remember, I had described that PJM essentially
17 operates in effect as an island, and given that they
18 do, you would tend to see prices that are higher at
19 the margin in PJM, because of the fuel that they use.

20 On the other hand, if they were to allow
21 generation in ECAR to sell directly into their market
22 without those capacity penalties, I would expect that
23 the prices of the unit of -- I would expect that the
24 PJM price would go down, if ECAR and New York
25 generation were allowed to sell into that market

1 without penalty.

2 Q When you model PJM, do you model that as a
3 single, if you will, line item, or a single point, or
4 do you model each of the plants in PJM?

5 A I don't model PJM.

6 Q So for --

7 A In our analysis, we model the market as an
8 aggregate.

9 It was a single market at the market price
10 that was available for us to sell into --

11 Q Your --

12 A -- and for us to buy from.

13 Q Your PROMOD analysis, does it model each of
14 Duquesne's plants separately?

15 A Yes, it does. It models each of the units
16 separately, actually.

17 Q And does it model each ECAR unit
18 separately?

19 A No, it does not. We don't model ECAR.

20 Q And what you were telling me a moment ago
21 is -- well, let me ask the question again, so we are
22 clear.

23 Does it model each PJM unit separately?

24 A Again, we don't model PJM.

25 Q So if we were to bring out a spread sheet

1 of certain PROMOD inputs, and we were trying to
2 determine what your units are, we would see line
3 items for all the Duquesne units, but for the balance
4 of ECAR, we would see a single line item?

5 A What we would see -- you know, again, we
6 aren't modeling ECAR.

7 We aren't modeling PJM.

8 We are modeling a marketplace with a market
9 price line, and what we would see in that case in the
10 model would be a lot of data.

11 What you would see is an hourly price for each
12 hour of the study period for that marketplace.

13 That marketplace is not defined as being PJM
14 or ECAR.

15 It is defined as the market and the market
16 prices that were delivered by the forward sale.

17 Q Backing up from that image that we have
18 created with words here, to get to that point, you
19 have inputs that you have told us reflect Duquesne
20 units?

21 Is that correct?

22 A That's correct.

23 Q All right. So if we were to look at backup
24 representation, that backup representation, we would
25 see line items for Duquesne units, correct?

1 A That's correct.

2 Q Would we see a line item for PJM?

3 A No, you would not.

4 Q Would we see a line item for ECAR?

5 A No, you would not. What you would see
6 again is a market price.

7 Q Your direct talks about constraints. You
8 have used the word "constraint" earlier in cross
9 today.

10 The interface between APS and PJM, would you
11 characterize that transmission interface as
12 constrained?

13 A Well, first I need to qualify by saying
14 that I am not responsible for transmission planning,
15 so it would be my opinion, and my opinion, based on
16 our experience in the GPU sale, is that there are
17 some constraints on that interface.

18 Some of them are physical.

19 Others of them are contractual or legal, if
20 you will, which are a function of the rules under
21 which PJM operates.

22 For example, if you had a unit which was in
23 ECAR, not a member of PJM, but were somehow situated
24 directly on the border, directly across the border
25 from a comparable unit, that comparable unit being

1 within PJM, the PJM unit would run, the ECAR unit
2 would not, and it would have nothing to do with
3 electrical limitations.

4 It would have to do with the provisions under
5 which PJM operates, so there are -- there are
6 certainly some ultimate physical limitations to the
7 flow of electricity across that interface.

8 I don't know what they are, but it is
9 important to understand that there are also
10 operational, legal, contractual constraints that are
11 functioning the way PJM operates.

12 Q Are there physical constraints between ECAR
13 and Ontario Hydro?

14 MR. MOOT: Your Honor, I am going to object.
15 The witness has already established that he is not
16 the person in Duquesne that does this, and it is not
17 fair to Duquesne, and it is not fruitful for the
18 record to say that "that notwithstanding, why don't
19 you give us your best guess?"

20 This is not the way this case works.

21 MR. BARAK: Let me rephrase the question.

22 BY MR. BARAK:

23 Q For planning purposes and for running
24 PROMOD --

25 A Okay.

1 Q -- do you model any transactions between
2 Ontario Hydro and ECAR?

3 A In our PROMOD analyses, we only model
4 Duquesne, and we -- and in this case, we model
5 Duquesne and the marketplace.

6 The marketplace was defined by our forward
7 sale.

8 We don't specifically model transactions
9 between ECAR and anybody, for that matter.

10 On a resource plan basis, we model Duquesne
11 only.

12 In going back several years, when we were
13 looking at the GPU sale, we modeled Duquesne with
14 that one specific identified sale, the specific and
15 identified expectations, contractual agreements, but
16 we don't model outside, you know.

17 As doing a dispatch analysis, we don't model
18 outside of Duquesne.

19 MR. MOOT: Can we go off the record for just a
20 moment, if you don't mind?

21 JUDGE CORBETT: Sure.

22 (Discussion off the record.)

23 JUDGE CORBETT: Okay. We are back on the
24 record.

25 BY MR. BARAK:

1 Q Is this a correct statement, that your
2 analysis of market price does not explicitly account
3 for transactions between ECAR and Ontario Hydro?

4 A That would be a correct statement.

5 Q If I ask -- let me ask this question. Is
6 this a correct statement, that your market price
7 analysis does not implicitly account for transactions
8 between Ontario Hydro and ECAR implicitly?

9 A It would not, subject to, you know, what
10 other constraints that may exist that bidders may
11 have had, and to the extent that a transaction
12 between ECAR and Ontario Hydro may have had some
13 impact on the price that the winning bidder gave us,
14 neglecting that for a moment, I would say that it
15 wouldn't have any effect.

16 Q On Page 7 of your rebuttal, Line 24,
17 through Page 8 of your rebuttal, line two --
18 actually, its probably page -- strike that.

19 You are addressing there the use of a 1995
20 load shape, and then later on in the paragraph on
21 Page 8, you discuss Mr. Falkenberg and Mr. Smith
22 respectively looking into '95 or '96 load shapes. Do
23 you recall that testimony?

24 A Yes, sir.

25 Q With respect to the load shapes that they

1 are locking into, you are referring to curves that
2 are generated through the run of a model? Is that
3 right?

4 A No. What I would be referring to would be
5 the actual historic record of system load on an
6 hourly basis.

7 If you were to go look at Duquesne's System
8 Operation Department, you would find a record of
9 hourly loads for each year.

10 Those hourly loads make up the load shape.
11 That is what we refer to as a "load shape."

12 Now, what the model ends up doing then is, it
13 does a process similar to what I have described in
14 generating our price shape.

15 It takes that, that load, and it turns it into
16 some sort of an average -- I don't know the exact
17 algorithms inside of the model -- and then uses that
18 shape to project future hourly loads, so for example,
19 if in July of 1995, there were, you know, just for a
20 number, two hundred hours in that month where the
21 load was at a level of some amount, a thousand
22 megawatts, it turns that into basically kind of an
23 average.

24 Then when the load forecast gives you the
25 expected load for the next year, the forecast center

1 typically gives you the expected peak.

2 The model takes that peak load and that load
3 shape and uses that to expand that peak load into an
4 hourly expected load, and that is what I am referring
5 to as the "load shape" is the actual historic
6 pattern, and the pattern that you expect to see in
7 the future.

8 Q In your rebuttal testimony, it appears as
9 though you are trying to say in part, there is a need
10 to normalize the load shape for purposes of the
11 analysis.

12 Is this a correct concept to apply there?

13 A Basically, what I am saying in this
14 testimony, in particular in this rebuttal testimony,
15 is that the use of traditional production cost and
16 analysis tools is not appropriate for predicting
17 market prices.

18 You can use it within the context of a
19 regulated utility to develop a resource plan.

20 You can go forward and plan to build units
21 based on that expectation, but in trying to use it to
22 set a market price, there are a number of problems,
23 and some of those problems include the proper load
24 shape.

25 They include, you know, what level of reserves

1 people would except in the future.

2 They include differences in inflation
3 forecasts which, you know, we -- in discovery, it has
4 been, and in testimony, it has been pointed out,
5 particularly by HSS, that there are significant
6 differences between their forecasts of inflation and
7 our forecasts of inflation.

8 Those differences -- and I am not saying that
9 one is right or one is wrong.

10 You know, both are sales, and HSS used
11 reputable forecasting firms.

12 What I am saying is that those differences in
13 forecasts are going to yield vastly different results
14 in doing a market price analysis, and what we are
15 trying to do here is a single point determination of
16 Duquesne's stranded costs, based on an expected
17 future market that was developed using a model that
18 uses the best available inputs, but the one thing
19 that we can say about the best available inputs is
20 that they are not accurate.

21 I would think everybody would agree.

22 Q Mr. Karl, I really do appreciate your
23 lengthy attempt --

24 A Sure.

25 Q -- to explain your position, but really,

1 counsel can redirect you --

2 A Oh, that is fine.

3 Q -- and let's try to focus it, and we will
4 get you out of here before lunch, if we can.

5 Is this a correct statement, that your
6 methodology, as well as the methodology of the two
7 witnesses whose testimony you discussed there, take
8 historical data in this case, take those data that
9 generate a load shape, and use it to project, in your
10 case, a market price?

11 Is that right?

12 A We use --

13 Q Excuse me. Is that a yes or no, with an
14 explanation?

15 A No. It is a no, with an explanation.

16 Q Let me try something else, then.

17 A Okay.

18 Q Your methodology rests in part historical
19 data regarding the shape of the load on Duquesne's
20 system?

21 Is that right?

22 MR. MOOT: If I could ask for clarification
23 just as to your methodology for dot dot dot, it may
24 be important to the witness.

25 MR. BARAK: Sure. Let me rephrase the

1 question.

2 BY MR. BARAK:

3 Q Do you see the phrase that you authored on
4 Page 8 of your rebuttal, lines four and five -- quote
5 -- "if that load shape is" -- quote -- "'locked
6 into'" -- unquote -- "the analysis and projected
7 forward" -- unquote -- do you see that?

8 A Yes.

9 Q Do you recall that?

10 A Yes.

11 Q All right. With respect to that focus of
12 your testimony, you are addressing the use of
13 historical data to predict something in the future?
14 Is that correct?

15 A That's correct.

16 Q Your method, you think, takes more
17 representative historical data to project that future
18 data point or points?

19 Is that right?

20 A In this case, we use, as we believe the
21 statute directs, we use 1996 known and measurable
22 data, so to the extent that obviously 1996 load
23 shapes are both known and measurable, and they are
24 also historical data, we use them, but we don't use
25 them in the same manner that these witnesses use

1 them.

2 Q And your criticism is in part that the way
3 you use historical data to predict something in the
4 future gives you a better prediction than the way
5 they use historical data?

6 Is that correct?

7 A Yes or no, or no with an explanation?

8 Q Any way you want to explain is fine with
9 me. Just give me a yes or no first.

10 A In this case, I would say no. Do you want
11 the explanation?

12 Q Go ahead.

13 A In doing an integrated resource plan, we
14 would use historical data, normalized in this
15 particular instance, in this part of the testimony
16 corrected for weather, and we would use that in the
17 development of a resource plan.

18 That's a different purpose than what these
19 other witnesses are using this data.

20 Q Is it your testimony that your projections
21 of market price do not rely on any historical
22 information?

23 Yes or no, with an explanation, please.

24 A No, with an explanation.

25 Q Go ahead.

1 A The price level that we use in our analysis
2 was developed from the market from a forward sale.
3 As Mr. Schnitzer, I believe, quite adequately
4 testified to, it was a market derived price.

5 Now, the specific hourly prices that we used
6 in our analysis were derived in part from historical
7 data.

8 The part, the historical data that was used to
9 derive them was Duquesne's 1996 hourly Landa, which
10 is our hourly marginal cost curve which we use as a
11 surrogate for a market index, because in our opinion,
12 no other market index exists.

13 We use that hourly marginal cost curve, which
14 is historic data, together with the result of the
15 forward sale to calculate hourly prices, so our
16 prices are only in part calculated using historic
17 data.

18 Q One of the judgments that you, as a
19 planner, have to make is how much or how little the
20 conditions that generated the historical data will
21 track forward into your prediction of something in
22 the future?

23 Is that right?

24 A That's correct.

25 Q Now, we have had other witnesses mention,

1 for instance, the recent international meeting in
2 Kyoto over global warming.

3 Were you here when those witnesses mentioned
4 that?

5 A I did not hear that specific --

6 Q Let's assume that they did. All right?

7 The record will reflect that.

8 A That is a reasonable assumption.

9 Q And you know generally what these meetings
10 in Kyoto were about?

11 Is that correct?

12 A That's correct.

13 Q Assuming that those meetings result in an
14 American policy to minimize the emission of gases
15 that contribute to global warming, would we find
16 ourselves in the future with a constraint on the
17 operation of plants in this region of the country
18 that are coal fired plants, and for the purposes of
19 generating or predicting market data, would then
20 start operating less efficiently in the future than
21 historical data would suggest?

22 MR. MOOT: Objection, Your Honor. We have a
23 witness, and his name is Mr. Nelson, that testified
24 explicitly to the environmental requirements and the
25 cost impacts on the unit.

1 It is beyond the scope of his testimony.

2 MR. BARAK: I am asking a planning witness a
3 very pointed question that relates to his criticism
4 of two other witnesses' analyses, in which we says,
5 "Look, they relied historical data in a wrong way,"
6 and he has explained how in part those kinds of
7 analyses, which years or year you look at for load
8 shape, affects the future.

9 My point, Your Honor, is that as you carry on
10 any modeling exercise, as you carry historical data
11 forward into the future, there is a disconnect.

12 You can't account for new events; by
13 definition, that they weren't there to pick up in the
14 historical data.

15 My question goes to this very narrow issue,
16 which has great implications on the dispatch and the
17 ability to participate in a market of coal fired
18 facilities in ECAR.

19 JUDGE CORBETT: To the extent it bears upon
20 the planning expertise of this witness, I will allow
21 the question.

22 MR. MOOT: Your Honor, I appreciate that, and
23 I have a second and equally important objection if we
24 proceed.

25 I object to Mr. Barak continuing to refer

1 to Mr. Karl as a planner and continuing to infer in
2 his questions that he is predicting market price.

3 He has said ten times that he has not done
4 that, and it is making it very difficult for him to
5 answer the questions.

6 MR. BARAK: The question stands --

7 MR. MOOT: Fair enough.

8 MR. BARAK: -- for what I asked there.

9 Counsel may be inferring things from the question
10 that may not be in it, and the witness's
11 qualifications, it was stated in his direct testimony
12 what they are.

13 JUDGE CORBETT: All right.

14 BY MR. BARAK:

15 Q Do you remember the question?

16 A Probably, but maybe you ought to reask it.

17 Q I am afraid to. I would rather have it
18 read back, if we could find it.

19 A Okay.

20 JUDGE CORBETT: Let's see if we can find it.

21 MR. MOOT: It is clear enough to draw an
22 objection.

23 It is worth reading back.

24 (Record read.)

25 A As a planner --

1 Q Excuse me. Could you give me a yes or no,
2 and then please go ahead and explain your answer.

3 A Well, then, it would have to be no, with an
4 explanation.

5 To begin with, I suppose as a -- since we are
6 asking my opinion as a representative of Duquesne's
7 Planning Department, and my expectation of future
8 events, I guess I would have to say first of all that
9 I would expect that that treaty wouldn't survive the
10 U. S. Senate, and therefore won't be imposed.

11 However, we will assume for the moment that
12 some provision like that is imposed.

13 As Mr. Nelson has testified, that could have
14 some impact on future capital budgets at operating
15 plants.

16 It could have some impact on the efficiency of
17 those units.

18 It may tend to favor oil or gas fired
19 facilities.

20 It may. It may have an impact on market
21 prices. It may have an impact on consumer behavior.

22 Any of those events may occur.

23 At this point, it is impossible to say what
24 those impacts will be.

25 You know, would -- you know, would it result

1 in plant shutdowns?

2 Would it result in construction of different
3 facilities?

4 It is impossible to predict that at this
5 point, and that is the reason why Duquesne opposes
6 the use of production cost techniques to try and
7 predict the future market price.

8 It is virtually impossible, because to begin
9 with, price -- cost does not equal price.

10 There is substantial uncertainty in the
11 forecast.

12 Here is another large uncertainty that you
13 have recognized that could certainly have an impact
14 on future price, and that is why we propose to do
15 annual solicitations in the future, to go out and
16 determine what that market price actually is.

17 You know, I was in the room for testimony, for
18 cross examination of Mr. Lahtinen, Mr. O'Brien, and
19 you know, and we go down into the level of hundreds
20 of thousands of dollars as to, you know, whatever is
21 allocated here, allocated there.

22 It should be apparent from this discussion and
23 from my testimony that the level of uncertainty that
24 exists simply with regard to an inflation forecast,
25 let alone a fuel forecast, let alone something like

1 this, would have to call into question the use of
2 these techniques to predict the future market price,
3 and that is why we went with a market based approach.

4 MR. BARAK: I am virtually done.

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1 BY MR. BARAK:

2 Q And just as a clarification on the use of your
3 term made, in the beginning of your last statement when you
4 said it may do this or it may do that, because of your
5 knowledge of the effect of this sort of global warming
6 issue on heat rates, plant efficiencies and so forth, did
7 you mean there that it may have a tendency to increase
8 costs?

9 A It may.

10 Q Thank you. These all I have, Your Honor?

11 JUDGE CORBETT: Okay, Mr. Stewart?

12 MR. STEWART: Very briefly, Your Honor.

13 BY MR. STEWART:

14 Q I believe in response to a question posed by Mr.
15 Berger stated that load serving entities will be required
16 to maintain or at least in your opinion he would be likely
17 to be required to maintain 6 percent operating reserve
18 margin?

19 A The operating reserve correct.

20 Q Just a clarification,, would that be true
21 regardless of where the underlying source of the energy
22 was, say the purchase was made outside of ECAR and
23 delivered into ECAR, would that 6 percent still apply? If
24 you know. I mean, if you don't know --

25 A That's a good question. I would suspect that

1 ECAR would require people serving load within ECAR to
2 maintain that spinning reserve. That would be my, or that
3 operating reserve. That would be my guess. You know, I
4 don't know with certainty, that they would, but I would
5 expect that they would. And there has been -- there have
6 been some questions in discovery that they talk about
7 whether or not people serving load in ECAR should be
8 required to join ECAR. But it would be my expectation that
9 yes, they would be required.

10 Q Would you expect that requirement would be,
11 wouldn't increase if the source was located outside of
12 ECAR?

13 A I mean, if you want me to render an opinion. If
14 not --

15 Q No --

16 A I don't know the.

17 MR. MOOT: I object, again. We are again asking him
18 to say well, we know you are not the witness. We know Mr.
19 Irvin is. Can you give us your best guess. It's not fair
20 to Duquesne. It's not fair to the witness. I don't care
21 if he can give us his best guess. It's not right.

22 MR. STEWART: I'll withdraw the question. Thank
23 you. I have nothing further.

24 JUDGE CORBETT: Mr. Clearfield?

25 MR. CLEARFIELD: No, Your Honor.

1 JUDGE CORBETT: Mr. Rubin?

2 MR. RUBIN: Thank you, Your Honor. Good afternoon,
3 Mr. Karl.

4 THE WITNESS: It is afternoon.

5 MR. RUBIN: It is afternoon.

6 THE WITNESS: But not by much.

7 BY MR. RUBIN:

8 Q In your rebuttal testimony, on pages 19 through
9 22, I'll give you a second to get there.

10 A Okay.

11 Q You discuss some transmission issues associated
12 with the El Rama plant. First would I be correct that in
13 your opinion, closing the El Rama plant today would cause
14 problems with the reliability of electric service to a
15 portion of Duquesne's service territory?

16 A That would be a good assumption.

17 Q Now, on page 20, I guess on line 8, you state
18 that El Rama serves as the first contingency in Duquesne's
19 transmission planning in that portion of Duquesne's
20 system. Can you tell us what this term first contingency
21 means in this context?

22 A I'll give you my understanding on it because as I
23 have said, I am not a transmission planner. This is a
24 transmission issue. But it's my understanding that when
25 the transmission planners go out and analyze the

1 transmission system, again, reliability is one of the key
2 things that they are concerned with.

3 In this case, it's the liability associated with the
4 ability to deliver power wherever it's generated. So what
5 they'll do is they'll look at potential problems that could
6 occur. A problem might be a unit tripping off line. It
7 might be the failure of a transformer. It might be the
8 failure of a line. It could be any one of those things.

9 And it's my understanding that the transmission
10 planners view El Rama, calling it a first contingency, view
11 it as the first critical incident that could affect
12 reliability. That would be my own understanding.

13 Q In -- he mean, can we talk about it as just in
14 layman's terms, the first line of defense or the first --

15 A That would be fine.

16 Q Okay. In your testimony, you discuss several
17 ways that Duquesne could replace El Rama as this first line
18 of defense.

19 A That's right.

20 Q Have you estimated the cost of taking any of
21 those actions?

22 A No, we have not at this time.

23 Q Have you estimated the amount of the time that it
24 would take to have any of these replacements in service?

25 A The only estimate that I give was, again, a best

1 guess, as to how long it would take for the transmission
2 line option. Because that's look lie be the longest. But
3 no, we haven't really identified any time frame for going
4 there.

5 Q And on the transmission line options you said at
6 least four to five years?

7 A Based on our experience with the GPU attempted
8 sale, yes. It would be at least that.

9 Q Okay. And just so I am sure I understand your
10 testimony, it is your recommendation that El Rama should
11 not be closed until something is done to make sure that
12 Duquesne's transmission system would be reliable.

13 MR. BARAK: I am going to interpose an objection
14 against friendly cross. I do so reluctantly. But I think
15 I understand counsel's position. And effectively what he's
16 trying to do is trying to bolster the witness' testimony
17 and that really could and should have been done in the
18 witness' direct and rebuttal.

19 JUDGE CORBETT: Mr. Rubin, sounds like friendly
20 cross to me many.

21 MR. RUBIN: Well, I'll move on, then.

22 JUDGE CORBETT: Okay.

23 MR. RUBIN: Sorry.

24 BY MR. RUBIN:

25 Q Mr. Karl, would there be similar problems with

1 the reliability of Duquesne's transmission system if the El
2 Rama plants existed but it were no longer under the control
3 of Duquesne Light Company?

4 A So long as it was operated with regard to
5 stability of the transmission system, so long as it were
6 still operating, then the concern would not be there.

7 Q For example, if Duquesne did not control the
8 outage schedule at that plant, could not dispatch the
9 plant, do not even ensure that the plant would operate at
10 all, could you continue to rely on El Rama as this first
11 line of defense with the transmission system?

12 A Well, as I said, I it would have to be operated
13 with regard to transmission constraints. For example, if
14 the unit were to be sold, because I think that's -- it
15 sounds like what we are getting towards, if the unit were
16 to be sold to another entity to own and operate the unit,
17 you know, it's possible we could create some sort of
18 contractual obligation to coordinate maintenance scheduling
19 if that were required.

20 We could also, there would also be a essentially a
21 price signal similar to what exists today. It would be
22 unlikely, for example that somebody would take an outage at
23 El Rama during the summer time.

24 Because that's when the high prices exist that
25 create an incentive for an operator to keep that plant on

1 line during that period of time. So it's possible that,
2 you know, were the unit to be operated by somebody else, we
3 could continue to rely on it.

4 Q And it's also possible, depending on the nature
5 of that sale, that you could not continue to rely on it?

6 A To the extent that that sale would create a
7 situation where the plant would not be able to continue to
8 operate, for some reason, if, for example, it were sold to
9 someone who just wanted to buy it to shut it down.

10 And if we didn't put the types of contract
11 provisions in there that are talked about to protect the
12 transmission system, then in that case, it could go --

13 Q Well, for example, if Duquesne no longer owns the
14 plant, and the new owner goes bankrupt, or just decides
15 that it would rather not have that plant operating for
16 whatever reason, then you'd have a potential transmission
17 problem, wouldn't you?

18 A There would be a potential problem in that case
19 if Duquesne had no other recourse.

20 Q Hypothetically, if Duquesne were considering the
21 sale of El Rama, would you recommend that these
22 transmission system issues be very closely examined before
23 any sale was consummated?

24 A Well, in the testimony of Mr. Marshall --

25 Q I just -- I'm sorry.

1 A He describes --

2 Q Before we get into what another witness said, I
3 am asking you, in your opinion, if Duquesne were
4 contemplating the sale of the plant, there's a hypothetical
5 -- should it examine these kinds of transmission issues
6 before it make the sale? I think that's a yes or no
7 question.

8 A That would be a part of any study that would be
9 conducted prior to the recommendation that we execute a
10 sale.

11 Q Mr. Karl, in your discussion of the ways that
12 Duquesne could ensure the reliability of its system without
13 El Rama, you mentioned several options that involve the
14 installation or relocation of generating units. Is that
15 right?

16 A That is correct.

17 Q So these options assume that Duquesne remains
18 generation business, don't they?

19 A Well, not necessarily. You know, for example,
20 the one example gives the potential, and those options
21 listed are just potential. They have not been
22 investigated. They have not been costed.

23 They have not been evaluated, but it would be
24 possible in the example where I talk about relocating
25 Cheswick Units 2 and 3 or Brunot Island it would be

1 possible, I suppose, that we could sell those units to
2 someone for the installation at the El Rama substation.

3 So we wouldn't necessarily be in the transmission
4 business for those -- or in the generation business, excuse
5 me, for some of those options to occur.

6 Q Okay. But again, if you were relying on somebody
7 else's generation to provide the support for your
8 transmission system, then you would have to make sure that
9 the transmission issues were very carefully evaluated and
10 that Duquesne would have some recourse if a unit were
11 closed or --

12 A That's correct. Again, as we move to an
13 independent system operator kind of a forecast, that ISO is
14 going to be very concerned with those types of issues and
15 in contemplating a sale, we would have to be concerned with
16 those issues.

17 Q And to the best of your knowledge, have those
18 issues been fully evaluated at this point?

19 A At this point clearly they have not.

20 Q If, hypothetically, Duquesne determined that it
21 did not want to own any generating units and also
22 hypothetically, that it was unwilling to risk the
23 reliability of its transmission system on generation owned
24 by someone else, then would the only option left from your
25 testimony be the construction of a new transmission line

1 and making some very substantial modifications at El Rama
2 substation?

3 A Well, the if, given the if that you had there, if
4 we did not want to rely on generation operated by somebody
5 else, if that were a given -- which we'll make that
6 assumption, you know -- then the answer to your question
7 would be yes.

8 Q And that's -- I'm sorry. Have you conducted a
9 similar type of review of the transmission issues that
10 might arise from the closure of the Cheswick plant?

11 A We didn't even go into as much detail with
12 Cheswick as we did with El Rama. The reason being that
13 Cheswick is clearly more economic to operate than El Rama
14 and therefore, is less likely to be shut down.

15 There was some very limited discussion as to well,
16 would we contemplate a shutdown or a closure or ceasing of
17 operation of both El Rama and Cheswick? Would it be El
18 Rama or Cheswick and we just said no, at the moment, we'll
19 just focus on El Rama only.

20 Q In your opinion, would it be important to know
21 whether the reliability of Duquesne's system would be
22 compromised before any decision were made about the sale or
23 closure of Cheswick?

24 A Yes.

25 MR. RUBIN: Thank you. That's all I have, Your

1 Honor.

2 JUDGE CORBETT: All right. Is there anyone that I
3 have not called who wishes to cross examine this witness?

4 MR. CLEARFIELD: Your Honor, you had called me but
5 upon reflection, I believe there's a few questions I'd like
6 if ask for clarification if I could ask your indulgence
7 dull.

8 JUDGE CORBETT: Okay. Come forward.

9 MR. CLEARFIELD: It should only take a second. I am
10 sorry, Mr. Karl.

11 BY MR. CLEARFIELD:

12 Q I want to make sure I understand some of your
13 answers with respect to your understanding of the ECAR
14 reserve requirement and I want to try to get at it this
15 way.

16 I think you talked about the fact that in PJM, would
17 I be right or do you know whether I am right that a
18 load-serving entity in PJM is required to maintain or have
19 an 18 percent reserve requirement in addition to the amount
20 of load that it intends to serve?

21 A That is my understanding of the PJM
22 requirements. I don't want to say that I am an expert on
23 PJM.

24 Q I understand. But my understanding it -- now.
25 Do you know whether ECAR has a similar requirement for load

1 serving entities in ECAR, that is delivering serving load
2 in ECAR?

3 A The 18 percent was reserve of PJM is installed
4 planning type reserve and to my knowledge, ECAR has no
5 comparable requirement.

6 Q Now, do you know, -- if a load-serving entity was
7 required to become a member of ECAR, would that load-
8 serving entity then have such a reserve requirement?

9 A When you say reserve requirement, are talking
10 planning reserve or operating reserve?

11 Q Planning reserve?

12 A It is my understanding of ECAR that they would
13 have no planning reserve requirement. They would have an
14 operating reserve requirement. The 6 percent reserve.

15 Q The 6 percent?

16 A That we talked about earlier.

17 Q There is no, as far as you know, no comparable
18 planning reserve requirement for the 18 percent in PJM?

19 A To my knowledge, there is none.

20 Q And Duquesne has no planning reserve requirement
21 at this time that it is imposing on any load serving entity
22 planning to serve load in its service territory.

23 MR. MOOT: Objection, Your Honor. That is beyond
24 the scope of his testimony. I know the answer to that. If
25 I think it might be -- he can answer --

1 MR. CLEARFIELD: If you know.

2 JUDGE CORBETT: Is there an objection or isn't there
3 an objection.

4 MR. MOOT: If he knows absolutely for certain, I
5 don't have an objection. We don't want guesses because
6 there's an answer.

7 THE WITNESS: I don't know.

8 JUDGE CORBETT: Okay.

9 MR. CLEARFIELD: Thank you Mr. Karl. Thank you, Mr.
10 Moot.

11 MR. BERGER: I have a couple follow-up questions.

12 JUDGE CORBETT: Okay.

13 BY MR. BERGER:

14 Q With respect to Mr. Stewart's questions to you
15 and now Mr. Clearfield's concerning the operating reserve
16 requirement of 6 percent in ECAR, I think you had indicated
17 that ECAR would require that those load serving entities
18 meet that requirement out of their own generation?

19 MR. MOOT: Objection. Each time this has come up I
20 will interpose the same objection I did to Mr. Stewart's.
21 This is back to Mr. Irvin's testimony. He talks about this
22 issue.

23 MR. BERGER: He answered the questions earlier that
24 they could obtain the requirements from purchased power and
25 I am just trying to determine whether it's modifying his

1 testimony in that respect I think that's a fair question.

2 MR. MOOT: He gave his explanation and my objection
3 would be unless he knows for certain, I object to
4 speculation because it's in the testimony of another
5 witness.

6 JUDGE CORBETT: Okay. Objection is overruled. If
7 the witness knows.

8 THE WITNESS: With certainty, I don't know. It --

9 BY MR. BERGER:

10 Q Let me ask you this. Do you know whether your
11 assertion earlier -- and I am mistakenly conveying what I
12 understood, please correct it -- do you know whether your
13 assertion earlier that they could, that the load serving
14 entity could utilize power purchased outside of ECAR to
15 meet the operating reserve requirement?

16 Are you modifying your testimony in that respect?

17 A Well, to begin with, I think we were talking
18 about a load serving entity that is a member of ECAR. Or
19 if we didn't explicitly say that, that would be what I
20 meant. The actual ECAR requirement to my knowledge, and I
21 believe I said earlier, had some sort of positional
22 requirement and by that I mean that I think, and again we
23 are into speculation, I think there's some requirement for
24 it to be in ECAR, but again, Mr. Irvin has already covered
25 in his testimony.

1 Q Okay. But you would agree with me that you are
2 modifying what you said earlier?

3 MR. MOOT: Objection. Your Honor, I have want that
4 read back.

5 JUDGE CORBETT: I think the transcript will speak
6 for itself. Let's move on.

7 MR. BERGER: Just one

8 BY MR. BERGER:

9 Q Just one other question. Mr. Rubin asked you
10 some questions concerning planning for El Rama and what you
11 might do under numerous scenarios with that plant and with
12 the addressing transmission constraints in that plant.

13 To the extent that -- well, in recognition of the
14 fact that that plant had a retirement date of I believe
15 2006, does the company have any specific plans at this
16 time, with respect to the replacement of that or
17 substitution of the capacity needed in that area?

18 A We have no specific plans with regard to the
19 replacement of El Rama as contemplated in our case.

20 Q And when would the company actually begin
21 planning, given that retirement date, to either replace,
22 life extend, address these transmission constraints or
23 wherever it would need to do to deal with those issues?

24 A It would have to be several years prior to that.
25 Specifically, you know, whether it's four or five or six, I

1 don't know. It would have to be in advance of that date.

2 Q Well, it could be one or two years hence,
3 basically? I am sorry, two to five years hence?

4 A It could be.

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

7 JUDGE CORBETT: Is there any other party that I have
8 not called who wishes to cross examine this witness.

9 (No response.)

10 JUDGE CORBETT: Okay. Mr. Moot, do you have
11 redirect?

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

13 JUDGE CORBETT: Or we could take this up after lunch
14 break.

15 MR. MOOT: It's not going to take but 30 seconds.

16 (Pause.)

17 MR. MOOT: Because it relates to an objection that
18 was overruled, I would normally do this as a proffer of
19 evidence. This is kind of unusual because the evidence is,
20 as I have been saying is already in the record so I think
21 it's probably more profitable and fair on redirect.

22 **REDIRECT EXAMINATION**

23 BY MR. MOOT:

24 Q I would ask -- let the record reflect I am
25 handing the witness Duquesne's Statement Number 7 which is

1 entitled the direct testimony of Robert A. Irvin and I am
2 showing him page 14 and I will ask him to read into the
3 record lines 9 through lines 20 in their entirety.

4 A Okay. Starts out by saying Operating Reserves,
5 Spinning and Supplemental. The other two services are
6 different types of operating reserves. Spinning reserve
7 service and supplemental reserve service as described by
8 FERC, operating reserve is extra generation to serve load
9 increase with an unbundled event such as loss of generation
10 held for operating reserve should be located near the load,
11 typically in the same control area. Order Number 888 at
12 214.

13 Duquesne will offer these services to customers at
14 cost based rates as required by Order Number 888 and will
15 allow electric suppliers to offer their services to the
16 extent they are permitted to do so under ECAR rules. At
17 present, ECAR requires that spinning reserve be provided
18 one the control area but does not impose the same
19 requirement on supplemental reserve.

20 Duquesne will comply with this ECAR rule and will
21 provide spinning reserve service to all customers within
22 the control area and will allow electric suppliers to offer
23 supplemental reserves.

24 MR. MOOT: Thank you, Your Honor I have no other
25 questions.

1 JUDGE CORBETT: Any recross?

2 (No response.)

3 JUDGE CORBETT: All right. Apparently no one has
4 recross. Thank you very much, Mr. Karl, and you are
5 excused. We will take a recess until 1:30.

6 (Whereupon, at 12:28 p.m., the hearing recessed, to
7 reconvene at 1:30 p.m., the same day.)

8 AFTERNOON SESSION

9 JUDGE CORBETT: Okay. We are back on the record.
10 And Mr. Moot, your next witness.

11 MR. MOOT: Your Honor, the next witness is Joseph P.
12 Flynn, Jr.

13 JUDGE CORBETT: All right. Mr. Flynn, would you
14 raise your right hand and be sworn.

15 JOSEPH P. FLYNN, JR., called as a witness, having
16 been duly sworn, was examined and testified as follows:

17 JUDGE CORBETT: Please have a seat and would you
18 give your full name to the Court Reporter, please.

19 THE WITNESS: Joseph P -- as Peter -- Flynn,
20 F-l-y-n-n, Jr.

21 JUDGE CORBETT: Okay. Mr. Moot?

22 MR. MOOT: Good afternoon, Mr. Flynn.

23 THE WITNESS: Mr. Moot?

24 DIRECT EXAMINATION

25 BY MR. MOOT:

1 Q Did you submit rebuttal testimony in this case?

2 A Yes, I did.

3 Q Do you have any corrections to that testimony?

4 A No, I don't.

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

7 A Yes, it is.

8 MR. MOOT: Before I hand to the reporter, I would
9 note, Your Honor, that this is the only witness for
10 Duquesne who just has rebuttal and so there is no original
11 statement.

12 JUDGE CORBETT: All right.

13 MR. MOOT: I am handing to the reporter two copies
14 of Mr. Flynn's testimony and exhibit, Statement Number 14-R
15 and move them into evidence subject to motions.

16 JUDGE CORBETT: All right. They will be so
17 admitted.

18 **(Duquesne Statement No. 14-R was produced and**
19 **marked for identification and admitted in**
20 **evidence.)**

20 JUDGE CORBETT: Any rejoinder?

21 MR. MOOT: No, Your Honor.

22 JUDGE CORBETT: Ms. Melillo, do you have any cross
23 on behalf the OTS?

24 MS. MELILLO: I have a few questions, Your Honor.

25 JUDGE CORBETT: All right.

1 MS. MELILLO: Good afternoon, Mr. Flynn.

2 THE WITNESS: Good afternoon.

3 CROSS EXAMINATION

4 BY MS. MELILLO:

5 Q Mr. Flynn, is the company's preferred approach to
6 collecting the universal service costs and energy
7 conservation costs on a per kilowatt hour basis?

8 A After determining the rate to be charged it
9 becomes per kilowatt hour.

10 Q And when you say after determining the rate to be
11 charged -- strike that. Let me ask this question first.
12 If you are collecting these costs at on a per kilowatt hour
13 basis would it then be correct that what higher user of
14 electricity would pay more than a lower user of
15 electricity?

16 A Within a rate class that would be true.

17 Q Am I correct that Duquesne proposes to allocate
18 the universal service and energy conservation costs within
19 a rate class based on distribution allocation?

20 A Yes.

21 Q Could you please turn to your exhibit JPF-1, page
22 9 and 10.

23 A Okay.

24 Q Do you see, there, the section headed cost
25 recovery and it continues on to the next page with a

1 table?

2 A Yes, I do.

3 Q Could you please explain your methodology for
4 allocating the distribution cost of each rate class and
5 then how you use this allocation to develop a per kilowatt
6 hour charge for each rate class?

7 A We determined the total universal service loss
8 costs which as in the exhibit is \$12.275 million. We
9 distributed that across the various rate classes in the
10 same manner that we allocate distribution to those rate
11 classes, distribution costs to those rate classes.

12 We then took the kilowatt-hours that had been used
13 and I believe the base year was 1996 in each rate class
14 divided the amount of money which would be allocated to that rate
15 class and came to the charge per kilowatt hour.

16 Q Was the data, the underlying data used to develop
17 that schedule shown on pages 9 and 10 of your exhibit, is
18 that data in this filing somewhere?

19 A It's not in my testimony. I do not know whether
20 it's elsewhere in the filing. It was gathered from our
21 rates department.

22 Q Could I make an on the record data request for
23 the data underlying that filing or I am sorry, data
24 underlying the derivation of that table?

25 MR. MOOT: Yes.

1 BY MS. MELILLO:

2 Q Mr. Flynn, in your view, what is the relationship
3 between distribution costs and universal service and energy
4 conservation costs which caused you to propose or caused
5 Duquesne to propose an allocation of these costs on an
6 allocated distribution cost basis?

7 A It is candidly an area in which I am not
8 sufficiently familiar to even have an opinion.

9 Q Thank you.

10 A When I made the request this was this was how it
11 was proceeded.

12 Q Would there be another person then that could
13 tell me why the decision was made to allocate the costs on
14 this basis?

15 A The answer would be yes.

16 Q Who is that?

17 A I don't know whether it's the contact I had or
18 his boss, either Mr. Lahtinen or Bill Pfrommer,
19 P-f-r-o-m-m-e-r, with whom I was working.

20 Q At this point I'd like to make another on the
21 record data request for the reason that the company decided
22 to allocate its universal service and energy conservation
23 costs in this manner. Reflect in this maybe manner.

24 MR. MOOT: May I address the witness?

25 JUDGE CORBETT: Yes.

1 MR. MOOT: Do you understand the question
2 sufficiently to convey it to the company.

3 THE WITNESS: I think I can take it back to Bill.

4 MR. MOOT: Fair enough.

5 MS. MELILLO: That's all I have. Thank you, Mr.
6 Flynn.

7 THE WITNESS: You are welcome.

8 JUDGE CORBETT: Who will cross on behalf of OCA.
9 Ms. Sifontes?

10 MS. SIFONTES: Yes, Your Honor.

11 MS. SIFONTES: Good afternoon, Mr. Flynn.

12 THE WITNESS: Good afternoon.

13 MS. SIFONTES: First of all, I'd like to, Your
14 Honor, I'd like to have marked as OCA Cross Exam Exhibit 4
15 the company's response to OCA interrogatory Set Number 5,
16 Number 24.

17 JUDGE CORBETT: All right. Give two to the Court
18 Reporter.

19 (OCA Cross Examination Exhibit No. 4 was produced
20 and marked for identification.)

21 BY MS. SIFONTES:

22 Q Mr. Flynn, could you just take a moment to look
23 over that.

24 (Pause.)

25 Q Have you had an opportunity to review that?

1 A Yes.

2 Q Let me ask you about this interrogatory. Mr.
3 Hoffmann responded to us. The question was for the company
4 to provide the schedule of the annual costs to Duquesne of
5 the programs now referenced as universal service programs
6 for each of the last five years. Is that what that says?

7 A That's correct.

8 Q Is that what is contained in this document?

9 A Yes, it is.

10 Q And you are able to verify it?

11 A Yes.

12 Q Okay. Thank you. On to other matters, Mr.
13 Flynn. In Duquesne's November 3, universal service plan it
14 cites the company will modify eligibility requirements and
15 administrative principles as we continue to learn from our
16 implementation expense and valuations, quote unquote.

17 Does the company propose to make such changes
18 without prior notice to any party, without prior notice to
19 the Commission and without advance approval of the
20 Commission or its staff.

21 MR. MOOT: Objection, Your Honor; compound
22 question. I'd appreciate if it could be broken down.

23 BY MS. SIFONTES:

24 Q Okay. Does the company propose to make such
25 changes without prior notice to any party?

1 A We would have to notify the Public Utility
2 Commission of the change. So of course, not.

3 Q So you would give notice to the Commission?

4 A Correct.

5 Q Would you anticipate that you would have to have
6 approval from the Commission?

7 A It's my understanding that wherever we would head
8 with these proposals we would be going back to the
9 Commission for review and approval, yes.

10 Q Would you also notify the parties that are
11 involved in this matter?

12 A If it's a legal requirement, I presume so. I
13 don't know that it's a legal requirement. Our contact,
14 again, would be with the Public Utility Commission.

15 Q Is that for every change that you make to these
16 plans?

17 A I don't know that I can answer that simply. We
18 have not traditionally made any changes though any of our
19 existing programs without contact or discussion with the
20 staff of the Commission.

21 Q Are there certain -- my question is are there
22 certain types of changes that you would make that off the
23 top of your head you don't think you would need Commission
24 approval for?

25 A I imagine we could change a data base. We could

1 change an agency to be used. We could change our letters
2 to customers without prior approval. But I don't think
3 anything substantial as to the actual implementation of the
4 program would be done without their approval.

5 Q That's fine. Thank you, Mr. Flynn. Do you not
6 agree that the terminology makes reference to experimental
7 tryout of a program?

8 A I'll accept that definition.

9 Q Okay. And do you agree that your CAP pilot has
10 been intentionally limited in scope so as to try out the
11 CAP before deciding to implement it further?

12 A I think it says it was limited to the guidelines
13 provided by the Commission. The intent would be to
14 determine how best to implement a larger program.

15 Q Do you agree with one of the limitation in the
16 pilot has been the limitation on the number of
17 participants?

18 A I might not characterize it as a limitation. It
19 was an enrollment target which may change.

20 Q Have you turned away customers from the CAP
21 program because of the limitation of the number of
22 customers?

23 A Recently, we have.

24 Q Now, turning to the topic the LIURP, would you
25 agree that in some months for a customer who does less than

1 125 percent of the average residential amount of
2 electricity there's a cost effective potential for energy
3 savings?

4 A Yes.

5 Q And is it your view that eligibility for a
6 program that may reduce a customer's electric bill, write
7 off an arrearage and is predicated on breaking a payment
8 arrangement, that customers can be encouraged to break
9 their payment arrangement in order to qualify?

10 A As you posited, some might. I don't know that I
11 would agree with that totally.

12 MS. SIFONTES: Okay. Thank you. Nothing further,
13 Your Honor.

14 JUDGE CORBETT: All right. Ms. Jones, does the OSBA
15 have any cross.

16 MS. JONES: Yes, Your Honor. Thank you.

17 JUDGE CORBETT: Okay.

18 MS. JONES: Good afternoon, Mr. Flynn.

19 THE WITNESS: Good afternoon.

20 BY MS. JONES:

21 Q OSBA has noticed previously from the testimony of
22 the intervenors that there is some confusion as to how the
23 company method of charging and collecting universal service
24 charges, so basically what I am trying to do is clear up
25 that confusion. And I am going to be taking up the line of

1 questioning that Ms. Melillo had for OTS.

2 She had asked about the preferred method and I
3 believe that you answer in your what is called your
4 rebuttal testimony on page 25 the first two lines.

5 A I have it.

6 Q Do you have that?

7 A Yes.

8 Q And would you agree that that is a description of
9 your preferred method? Or the company's preferred method?

10 A Lines 1 and 2 describe what we prefer, yes.

11 Q Okay. Now, is the company's proposed universal
12 service charge reflective of the rate treatments that the
13 universal service programs received in the company's last
14 base rate proceeding?

15 A Because I know CAP is not in the last rate base
16 proceeding, I believe the answer to your question is no.

17 Q Okay. Let's exclude CAP.

18 A I know that the LIURP funding was in the last
19 rate base or the last rate case. I believe that the
20 hardship fund administration money is a corporate
21 contribution. I would doubt that CARES and consumer credit
22 counseling CARES. Maybe I shouldn't say that. I don't
23 think they would have been in the rate base.

24 Q Okay. So CARES and consumer counseling, you are
25 not sure?

1 A Right.

2 Q But you don't think so?

3 A I don't think so. The collection costs and the
4 writeoffs, I believe, would have been part of a rate case.

5 Q I am sorry. Collection costs?

6 A And the low income writeoff. The writeoffs
7 generally would have been part of a rate case.

8 Q Okay. I am not sure if this is the same request,
9 data request as Ms. Melillo made. I guess what we would be
10 interested in is for the company to identify the total
11 amount of universal service costs by number that Mr.
12 Lahtinen had provided in his JAL-1 exhibit and that
13 basically is the accounts by the FERC numbers. Is that
14 possible or is that -- can you do that? Can you provide
15 that to us?

16 A I don't believe we can provide it. I think we
17 had attempted to determine it but we have not been
18 successful to the best of my knowledge and that's one of
19 the reasons we allocated the distribution costs. I am led
20 to believe that approximately \$9 million is attributable to
21 four of the rate classes clearly but I haven't seen that
22 either or the residential and then the general small and
23 medium.

24 Q So --

25 A Others are not in --

1 Q So RS, RA, GS, GM?

2 A RS, RA, GS slash GM is where the 8.7 million, say
3 approximately nine million can be found. The other is not
4 as directly visible or identifiable. And if I may, if that
5 wasn't responsive to your other document request, I don't
6 know if that does address your data request or not.

7 Q I guess --

8 MR. MOOT: Could I address the witness at this
9 point?

10 JUDGE CORBETT: Yes.

11 MR. MOOT: Are you, would you prefer to check on
12 what you just told her or would it be better to have your
13 statement stand and we'll get back to them if there's
14 anything different?

15 THE WITNESS: Sure.

16 MR. MOOT: If you are sure, let's leave it at that.
17 But if not, we'll treat it as a data request and we will
18 answer it if the answer is different if we have different
19 information.

20 THE WITNESS: Fine.

21 MS. JONES: Okay.

22 BY MR. JONES:

23 Q So there is -- so you are saying that you cannot
24 show computation of the allocation of the cost to rate
25 classes by account. You have tried that?

1 A That is what I am led to believe. That is what
2 we have tried to do and we have not been successful to
3 distribute it across all FERC accounts which is where we
4 were going to go.

5 MS. JONES: Just a minute, Your Honor.

6 JUDGE CORBETT: Sure.

7 MS. JONES: Okay. I have nothing further, Mr.
8 Flynn. Thank you.

9 MS. SIFONTES: Your Honor, I apologize but I did not
10 remember to move OCA Cross Exam Exhibit Number 4.

11 JUDGE CORBETT: Okay. I was going to ask you about
12 that. You beat me to it. Hearing no objection, it will be
13 so admitted

14 (OCA Cross Examination Exhibit No. 4 was admitted in
15 evidence.)

16 JUDGE CORBETT: Does the city have any cross for
17 this witness.

18 MR. AKERS: Yes, Your Honor.

19 JUDGE CORBETT: All right, Mr. Akers.

20 BY MR. AKERS:

21 Q Good afternoon, Mr. Flynn. My name is Rodney
22 Akers and I represent the City of Pittsburgh. I just have
23 a couple of questions for you. First, has the company made
24 any commitment or assurances regarding principles and
25 funding levels for universal service and energy

1 conservation programs as set forth in your testimony beyond
2 1998?

3 A Could you repeat that question?

4 Q Sure. Has the company made any commitments or
5 assurances regarding principles and funding levels for
6 universal service and energy conservation programs as set
7 forth in your testimony beyond 1998?

8 A The principle of continuing the program to
9 maintaining level funding, I believe, are without a time
10 limit.

11 Q I am not sure I understand.

12 A You are asking if we have any commitment beyond
13 1998?

14 Q Yes.

15 A And you have started with the principles and the
16 funding contained --

17 Q And I'm specifically referring, for example, I
18 just point to maybe page 6 of your rebuttal testimony, line
19 27, for example.

20 A Yes.

21 Q Wherein you indicate Duquesne Light is committed
22 to maintaining existing funding support for universal
23 service programs. You go on further to say should they
24 determine that additional needs exist requiring additional
25 funding, the company will seek Commission approval for rate

1 cap relief to collect those moneys through its universal
2 service charge.

3 And what I'm asking you, in effect, is this a
4 statement that the company is committed to maintaining
5 existing funding support as set forth in the principles and
6 the funding levels set forth in your testimony?

7 A As I believe I stated, yes. There's no time
8 limit to that statement.

9 Q Okay. Are you aware of any circumstances which
10 may change that statement?

11 A No.

12 Q You are not aware of any circumstances which may
13 change that statement?

14 A When you are asking am I aware of a circumstance,
15 I am presuming things like war don't count. I am not aware
16 of any circumstance which would cause us to change that
17 statement.

18 Q So you -- okay. So you are -- okay. Okay. Has
19 Duquesne made a decision as to whether the principles and
20 funding levels will survive the planned merger of Allegheny
21 Power and Duquesne Light as they propose?

22 A I am not qualified to speak to whether there's
23 anything in the merger case speaking to it.

24 MR. AKERS: Okay. I have nothing further. Thank
25 you, Your Honor.

1 JUDGE CORBETT: Okay. Ms. Polacek?

2 MS. POLACEK: Your Honor, I don't have any
3 questions. I think Ms. Melillo ably covered my area of
4 concern. I would like to note, however, and although I
5 believe it's the practice that we would be served with the
6 answers to those data request that Ms. Melillo made, we
7 would be interested in seeing those.

8 MR. MOOT: That's fine. The only reason I am
9 hesitating is that up until now, we have just given, made
10 copies for the individual requester at the hearing. If
11 that requester wanted to introduce it, he or she has.
12 That's not going to be a problem.

13 MS. POLACEK: Thank you.

14 MS. JONES: Excuse me, Your Honor. I would like to
15 be included as well.

16 MR. MOOT: Now that we are at the end of hearings
17 and we are not going to be in this room we will be putting
18 that in the mail or on the fax.

19 MS. JONES: Thank you, sir.

20 JUDGE CORBETT: Okay. Mr. Wiseman?

21 MR. WISEMAN: No questions, Your Honor.

22 JUDGE CORBETT: I don't see Mr. Barak --

23 MR. BARAK: Ah, but I am here.

24 JUDGE CORBETT: Sorry. I think we have to -- I
25 called you out of turn. I am sorry, Mr. Barak. I didn't

1 see you because you were hiding behind Ms. Sifontes. And
2 secondly, I apologize because I think Mr. Zielonis is up
3 next.

4 MR. ZIELONIS: I have none, Your Honor.

5 JUDGE CORBETT: All right. Now, Mr. Barak. Thank
6 you.

7 MR. BARAK: Thank you, Your Honor. I think we're
8 involved in a variable feeding frenzy on copies of that
9 discovery response, so if the company is sending them out
10 to everybody, great. If not, we are interested in those
11 outstanding requests as well.

12 BY MR. BARAK:

13 Q Good afternoon, Mr. Flynn.

14 A Good afternoon.

15 Q My name is Alan Barak and I represent the
16 environmentalists and you have responded to some of our
17 witnesses' testimony which are in response to the city. So
18 I am quite sure you are aware of our positions.

19 Could you please turn to page 7, lines 15 through 19
20 of your rebuttal. You ask yourself there what the goal of
21 the universal service and energy conservation programs is
22 and you answer in part, to cost effectively ensure that low
23 income payment troubled customers have access to affordable
24 energy. Do you recall that?

25 A Yes.

1 Q Cost effective, I want to focus on that for a
2 moment. Does cost effective mean that for the purposes of
3 selecting providers for your various programs that you must
4 go to low bid?

5 A No.

6 Q How do you respond to the claim that gee, cost
7 effective means that you start out with the lowest bidder
8 and you just ride them to make sure they give you the best
9 performance?

10 A It may not be a need to ride someone to providing
11 a better level of performance to begin with.

12 Q So in terms of understanding your chosen methods
13 and programs for meeting your goal as stated there, is --
14 would it be correct to say that the results are the first
15 and most important aspect of the program to look at?

16 A Results are clearly important.

17 Q In terms of setting priorities, and I have given
18 the two topics, one is what are the results. Another
19 factor is what's the cost or who's the low bidder. How do
20 you prioritize?

21 A I don't know that you have to. You might include
22 other factors that would also be weighing on the decision.

23 Q So is it correct, then, that you have a series of
24 factors that are important in evaluating your program
25 meeting its goals, but you don't prioritize among them?

1 A I think you have -- we have selected over a
2 period of time a number of vendors to provide different
3 parts of service. As we go forward, criteria that we have
4 used, cost is one of them, delivery is one of them.
5 Sometimes geography is one of them, past experience is one
6 of them.

7 Whether we would rate them or whether we'd set up a
8 ranking process would depend on the RFP at the time, but
9 all of them would be of importance to us.

10 Q Could you please turn to page 6, lines 27 through
11 30 of your rebuttal?

12 A I am sorry. Line numbers, again.

13 Q Twenty-seven through 30. You answer then a
14 question regarding future funding for your universal
15 service energy conservation programs where you say the
16 company is, quote, committed to maintaining existing
17 funding support for universal service programs, unquote.
18 Do you recall that testimony?

19 A Yes.

20 Q What is the evidence of that commitment other
21 than the statement in this testimony or in the testimony of
22 other witnesses in this case? Is there anything else that
23 embodies that concept?

24 A I am not sure what you would want other than
25 that.

1 Q Well, you had, for instance, a question a few
2 moments ago about contracts in 1998. Do you have contracts
3 that extend out for four or five years to do the same
4 things you have done before? Something like that?

5 A The existing CAP contracts extend past 1998. The
6 others don't. As things are coming up for renewal, they
7 are reviewed against the status of the merger to ensure
8 that we are not committing beyond that which we can see.
9 But there's no -- there is no action taken to stop doing
10 any of these things in the future, either.

11 Q How do you react to this statement? This
12 commitment is worthless past the point of any merger
13 because Duquesne and the people from Duquesne who have been
14 testifying here won't be in the driver's seat to ensure
15 that commitment's made.

16 A I wouldn't be able to --

17 Q Let me ask the question differently so I can get
18 some kind of comment from you. Is this a correct
19 statement? The only evidence the Commission has of the
20 company's commitment to maintain the programs that are
21 presently the universal service programs, are the
22 statements in the testimony in this case and the fact that
23 we have some contracts that extend past today through the
24 end of 1998. Is that correct?

25 A The way you are using evidence, it may be.

1 Q How do you -- what was your interpretation of my
2 use of the term evidence?

3 A If you are looking for something tangible beyond
4 the statement that is in here, which I don't know what
5 other witness you are referring to. If that's not
6 sufficient compliance on the part of the company, I don't
7 know of any other documents in evidence.

8 I think our track record and experience with the
9 Commission and with the staff there, this would probably be
10 satisfactory to them to indicate a commitment.

11 Q Is it correct that the company's commitment --
12 maybe I'll get an objection, "asked and answered" -- can't
13 recall your precise answer. Is it correct that the
14 company's commitment does not have a time component other
15 than that point in time or where any merger might be
16 consummated? It doesn't go past that point?

17 A I don't believe I'd agree with that statement.
18 Again, I stand by what is said here and this doesn't have a
19 time commitment.

20 Q In order for you to make this statement in your
21 testimony, have you received some written authorization or
22 memorandum or order from senior management of the company?

23 A I have received nothing in writing.

24 Q In order for you to make this statement here,
25 have you received some oral assurance from senior

1 management?

2 A This statement has been reviewed by senior
3 management.

4 Q In the form that it appears here in the
5 testimony?

6 A Yes.

7 Q And you could state that it has been approved by
8 senior management? Is that right? You said reviewed?

9 A I think the fact that it's been reviewed and it
10 wasn't changed -- I have not received anything in writing
11 or handed to me that said it's approved but there was
12 opportunity for it to be revised.

13 Q Please turn to page 9, line 15, of your testimony
14 and rebuttal testimony. I am sorry. That would be the
15 paragraph that starts on line 16 and ends on line 15. We
16 have had a few questions now about the CAP program and
17 would this be a correct statement? That if someone calls
18 the company today seeking assistance under the CAP program,
19 they would be turned away because you have met your target,
20 as you put it?

21 A That's one reason they would be turned away.

22 Q Another reason might be that they haven't met one
23 of the criteria you state in your paragraph? Is that
24 right?

25 A That would not have been why they would have been

1 turned away. They would have been turned away because you
2 are not allowed to ask to be enrolled in CAP.

3 Q Why is that?

4 A CAP is a tool to be used in the credit and
5 collection process and entry to that was through the
6 routine credit process, not as a separate, stand alone
7 programs to which you could simply call and say I want to
8 apply for that.

9 Q And your answer would be the same if the question
10 were about some worker at a social service agency, private
11 or governmental, who called to recommend a client of theirs
12 to the CAP program. Is that right?

13 A Yes, it is.

14 Q So it's an internal decision based upon an
15 internal perception that there is a client. Excuse me,
16 there is a customer that should be examined for CAP
17 eligibility that determines whether somebody, at least,
18 gets to the door of the program. Is that right?

19 A Are you talking today or during the pilot?

20 Q Today.

21 A Today, the door is closed.

22 Q During the pilot?

23 A During the pilot, we had a screening process
24 done in our information system. Accounts were flagged as
25 CEL was the header which made them CAP eligible. A

1 customer like that calling in would typically be referred
2 to an agency until such time as we reached the enrollment
3 target.

4 Q What is the primary reason for having the
5 exclusive internal screening for CAP program evaluation?

6 A I am not sure I understand what you mean by
7 internal screening.

8 Q Well I asked if a social worker or a customer
9 themselves could ask to be in the program and your answer
10 was well, somebody decides in the company based on your
11 information system. That's what I am referring to.

12 A The intent of the CAP, the intent of the pilot
13 was to compare the cost effectiveness of CAP with the cost
14 effectiveness of routine credit and collection as it
15 applied to low income customers, generally.

16 So the pilot was not meant to be announced, "y'all
17 come" self select. It was to take people calling in
18 because they had a credit or collection problem with us.
19 And if they were eligible for CAP they would, in turn, be
20 referred to CAP. Other low income customers would call
21 in.

22 We were treating it in a normal course of events,
23 not as something which was held up here that would cause
24 people to get on the telephone.

25 Q Now that the pilot is closed, the company's

1 evaluating the results of the pilot?

2 A Yes, we are.

3 Q Have you determined whether you are going to
4 continue the program as a non-pilot program?

5 A No, we have not. I -- no we have not, the way
6 you asked the question.

7 Q It's possible the program might be continued?

8 A It's possible.

9 Q Hypothetically, if the program were to continue
10 would these screens or entry criteria be the same?

11 A As I think it says in there -- and I won't try to
12 quote it, we look at the results of the evaluation to make
13 determinations both of eligibility, program design, how we
14 would size it. There are questions to which we don't have
15 answers that will come under evaluation.

16 Q You stated the goal a moment ago, which I'll
17 paraphrase as a goal of an experiment to see what the
18 experiment derived for you. Again, hypothetically, if the
19 CAP program were to continue, what would the goal of that
20 program be?

21 A The goal would be the goal of universal service,
22 which is to cost effectively assure that low income payment
23 troubled customers have access to affordable energy. CAP
24 will be one of a number of services we'll offer to achieve
25 that goal.

1 Q Would it be correct that the company would test
2 its screening mechanisms, as you have described them,
3 internal versus external, against that goal in the future
4 rather than that experimental goal I mentioned just a
5 moment ago?

6 A It may be one of the things we have looked at. I
7 don't see that on the horizon as an area that we are going
8 to explore.

9 Q Boy, I confused myself, I guess, by asking that
10 question.

11 What is it that you don't see as an area that you
12 would explore?

13 A I don't think the issue is whether it's internal
14 or external screening.

15 Q The issue would be whether it's cost effective.
16 Is that one of the issues?

17 A Cost effective would be one of the issues.

18 Q Whether it advances the goal you have stated a
19 moment ago?

20 A Goal for universal service.

21 Q On line 6 -- page 10, line 6 of your rebuttal
22 testimony, you're discussing the Smart Comfort program and
23 you state there that it, quote, has been sufficient to meet
24 the number of customers seeking its assistance, unquote.
25 Do you recall that testimony?

1 A Yes, I do.

2 Q There, you don't have that internal screen as I
3 described it with you earlier; correct?

4 A We might want to go back and re-define what you
5 meant by internal screen.

6 Q Let me avoid that terminology. How does a
7 customer become -- I don't want to say become eligible.
8 How does the company start the process to determine whether
9 a customer may receive Smart Comfort assistance? Is it
10 entirely internal review of documents regarding the account
11 or are there other ways that they could get into the
12 system?

13 A You can come into Smart Comfort by any you could
14 be referred by another utility. You could be referred
15 because you called in for some sort of assistance and the
16 company representative refers you or you could refer
17 yourself. This company, this program, unlike CAP, is
18 publicized. People are able to self seek.

19 Q So what you were trying to communicate in this
20 paragraph on pages 10 is that for everyone recommended to
21 the program from company employees or from outside, however
22 from outside the company, if they met your criteria, they
23 were served?

24 A Yes.

25 Q There may have been people who sought your

1 assistance for this program but because they didn't meet
2 your eligibility criteria, they weren't served. Is that
3 correct?

4 A That would be correct.

5 Q The only way to have an expanded -- I am going to
6 rephrase this. The only way to have not met the number of
7 customers seeking the Smart Comfort assistance, as you are
8 describing the process here, is if the criteria had somehow
9 been changed to expand eligibility. Is that right?

10 A I don't know that changing the criteria would
11 have meant we couldn't have served them.

12 Q Does that mean you underspent your budget for
13 that program?

14 A No.

15 Q You spent your budget?

16 A We have been spending the budget over the time of
17 the program.

18 Q Have you read the motion of Commissioner Hanger
19 that was approved by the Commission -- I lose track of time
20 -- last week on the PECO restructuring case?

21 A If by read you mean have I turned the pages and
22 been somewhat familiar, the answer is yes. If you mean
23 understand as part of read, the answer is no.

24 Q Have you read in the sense of turning the pages?
25 Have you read the portion that related to the universal

1 service programs?

2 A I looked at that a little bit more closely but
3 again, we may find a very quick disjuncting in this
4 discussion.

5 Q Hypothetical, then. Let's assume that that
6 motion substantially increased, maybe doubled the proposal
7 before the Commission for that company's universal service
8 programs -- I asked you about budget a moment ago -- does
9 the company have a position right now that you can
10 articulate, on whether it would be prepared to double this
11 universal service program budget?

12 A Is your question do we have a position right
13 now? Not to the best of my knowledge.

14 Q So -- could you please turn to page 25 of your
15 rebuttal testimony. Lines 1 and 2. We have had some
16 questions about this. Per KWH basis based on allocated
17 distribution costs for each rate class. I only want to ask
18 you a couple questions to follow up on the others.

19 In your view, if you have a view, does your answer
20 describe a change in the way the programs that would be
21 subject to universal service charge would be allocated to
22 the customers? From what is done now?

23 A The difficulty I have in answering it, as I had
24 the prior two questions is it starts to go past that which
25 I know about. I do not know in depth how we allocate costs

1 today or in the future. The couple programs that I know of
2 that I can cite where the funding comes from or where I
3 know the funding to be as I did earlier I am un-
4 comfortable.

5 When you move past that and your question
6 encompasses more, I am more than sure I won't know what I
7 am talking about and I won't be providing you with a full
8 answer. I know that LIURP money is in a rate case. I know
9 that CAP money comes out of the company's O&M. I don't
10 know which FERC account.

11 We did not go in for a rate case on that. And then,
12 as I did earlier, I can go with those couple other programs
13 that I know where the funding is. But I don't think that
14 that necessarily leads me to be able to easily answer or
15 answer at all the rest of the question or the rest of
16 what's contained in the question.

17 Q Let me ask you a different question but related.
18 When you, as you described earlier, asked someone in Mr.
19 Lahtinen's area to perform the allocation that you needed,
20 I guess it was for this testimony?

21 A I didn't ask for an allocation. The question
22 posed was how would we charge -- how would we construct the
23 universal service charge. This is the answer.

24 Q In other words, you did not express a desire to
25 maintain a method that was similar to that which is used

1 today. That wasn't part of your instructions or request?

2 A No. The guidelines and the documents issued by
3 the Commission talk about the non-bypassable charge across
4 all customers, that there was much debate there in the
5 universal service work group. The Commission is clear in
6 its guidelines it does mean exactly a KWH charge which is
7 why I tried to modify earlier why ours becomes KWH.

8 It's not KWH solely. It's after you allocate the
9 costs by class. That part I know or I understand. The
10 resident. So we do not go into a KWH. And there's enough
11 guidance that says that's not what we meant. We did some
12 stuff, and I believe in the universal service programs all
13 commenters agreed that they would pay that which they had
14 paid before so that was what we were using as guidelines to
15 arrive at this and then this is the process that came
16 back.

17 Q A little lower down on that page, lines 9 and 10,
18 you talk about Mr. Colton's testimony?

19 A Yes.

20 Q And his use of the phrase, quote, through
21 distribution charges, unquote and then you used the phrase,
22 well, you say, quote, the company's approach is based on
23 distribution costs, ellipses, close quote. What did you
24 mean by distribution costs as opposed to charges?

25 A I don't think I was making the distinction. I

1 used the distribution cost in line 2 and it's the same
2 distribution cost used on line 10.

3 Q And you weren't seeking at that point, to
4 interpret or re-interpret Mr. Colton's statement. Is that
5 right?

6 A No. I am presuming, if anything, that his phrase
7 distribution charges is the same as distribution costs.
8 For the way you are using distribution costs, no. That was
9 not a rate interpretation.

10 Q There probably is, but that's all right. You
11 made very clear what your had --

12 A I believe sentence 2 agrees that the sentence on
13 9 and 10 agrees with my view of Mr. Colton's position as I
14 state on 8 and 9.

15 Q On page 25, line 27, you are again discussing Ms.
16 Brockway's proposal on the photovoltaics. Do you recall
17 that testimony?

18 A Yes.

19 Q And to the extent or with a caveat as mentioned
20 before, you do you recall mentioning Ms. Brockway's
21 proposal for the PECO case in that Hanger order?

22

23

24

25

1 A I remember that the Hanger order discusses
2 photovoltaics in Philadelphia.

3 That's all I remember.

4 Q Let's hypothecate, then, that that order
5 does recommend adoption of Miss Brockway's proposal
6 in that case for a \$250,000 program, well, renewables
7 program, and bearing in mind your critique in this
8 paragraph, are you saying, then, "No way, no how; it
9 doesn't make sense; we shouldn't do it"?

10 A I mean, I --

11 Q Is that how strongly -- are you saying that
12 the company very strongly would oppose anything that
13 smacked of renewables -- and I underlined
14 "renewables" -- in --

15 A That's different from photovoltaics, and
16 the only proposal before me was in a photovoltaic
17 proposal, with a payback that exceeded twelve years.

18 Our Smart Comfort program has its payback
19 somewhere between three and four years, and as I
20 state in the testimony, I would not use precious
21 universal service moneys on a project that has got a
22 payback about four years longer, or four times longer
23 than anything we are looking at now.

24 Q What if you had before you a proposal that
25 said, "Look, we would like to do a renewables pilot.

1 "We would like you to integrate, integrate it
2 with your Smart Comfort program," so this concept of
3 using renewables can be somehow rationally mated with
4 the logic of your Smart Comfort program?

5 Is that more acceptable than what you are
6 critiquing here?

7 A If I may have a minute?

8 I think if you turn to Page 9 of my exhibit
9 that is attached to that rebuttal testimony, and this
10 unfortunately is not numbered, but it is the last
11 paragraph under "potential opportunities," the
12 statement that "we will continue to explore the
13 introduction of new energy conservation measures," I
14 include renewables in that.

15 We will always look at ways to make the
16 program more cost effective.

17 This particular proposal doesn't do that as it
18 is presented.

19 Q You are familiar with the concept that when
20 you have a portfolio of energy efficiency measures,
21 you may have varying paybacks for those items in the
22 portfolio?

23 A Yes.

24 Q All right. And that is acceptable to you
25 as through your program you deliver the Smart Comfort

1 services?

2 Is that right?

3 A That -- are you asking, different measures
4 have different paybacks?

5 Q Yes.

6 A Yes, that's acceptable.

7 Q So within the context of considering
8 renewables in this last paragraph of part small b on
9 Page 9, are you saying that the introduction of a
10 renewable component to the delivery of Smart Comfort
11 services would require that renewable to have at
12 least as good a payback as all of those measures in
13 the Smart Comfort portfolio?

14 A I would not enter into a pilot with
15 something that I did not think would achieve the
16 payback of the program.

17 I certainly would not fund something that I
18 know doesn't come close.

19 Would we take a chance and look at an
20 alternative that might have some benefits and serious
21 cost benefit results?

22 We could take that opportunity or that chance,
23 and we might be proven wrong.

24 Again, what was presented here was something
25 that the author's own statement, if I recall it

1 correctly, said that it is going to look at a twelve
2 to fourteen year payback.

3 That is not even in the realm.

4 The Commission talks about seven years. It
5 permits it to go up to twelve.

6 We have been striving for three to four.
7 Candidly, I like three to four. I would like to get
8 twenty-five percent on my own money.

9 That is what we are pushing for.

10 This is money that is used for our customers
11 to enable them to reduce their bill, and that is what
12 ought to be one of our focuses, not pilot and
13 photovoltaics pilot.

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

16 JUDGE CORBETT: Okay. Mr. Stewart for MAPSA
17 has left, and he is not scheduled for any cross of
18 this witness.

19 Mr. Clearfield, do you have any cross?

20 MR. CLEARFIELD: No, no cross examination,
21 Your Honor.

22 JUDGE CORBETT: All right. Mr. Rubin is not
23 scheduled for any cross for this witness, and I don't
24 believe he is in the hearing room at the present
25 time.

1 Is there any other party who has cross
2 examination for this witness whom I have not called?

3 (No response.)

4 JUDGE CORBETT: All right. Any redirect?

5 MR. MOOT: No, Your Honor.

6 JUDGE CORBETT: Okay. Mr. Flynn, thank you
7 very much, sir. You are excused.

8 (Witness excused.)

9 JUDGE CORBETT: Do you have any rejoinder for
10 your next witness?

11 MR. MOOT: No.

12 JUDGE CORBETT: Why don't we take a ten-minute
13 break at this point?

14 (Recess taken.)

15 JUDGE CORBETT: Okay. We are back on the
16 record.

17 Mr. Moot?

18 MR. MOOT: Thank you, Your Honor. We now
19 present the last great witness, Frank A. Hoffmann.

20 JUDGE CORBETT: All right. Would you raise
21 your right hand, sir, and be sworn?

22 FRANK A. HOFFMANN, called as a witness, having
23 been duly sworn, testified as follows:

24 JUDGE CORBETT: Please have a seat, and would
25 you give the court reporter your full name, please?

1 THE WITNESS: It is Frank A. Hoffmann,
2 H-o-f-f-m-a-n-n.

3 JUDGE CORBETT: All right. Mr. Moot?

4 DIRECT EXAMINATION

5 BY MR. MOOT:

6 Q Good afternoon, Mr. Hoffmann. Did you
7 prepare direct and rebuttal testimony in this case?

8 A I did.

9 Q Do you have any corrections to that
10 testimony?

11 A I do not.

12 Q Is it true and accurate, to the best of
13 your knowledge, information and belief?

14 A Yes, it is.

15 MR. MOOT: We the now hand Duquesne's
16 Statement No. 6 and 6-R to the court reporter, which
17 are the direct and rebuttal testimony of Mr.
18 Hoffmann, and move them into evidence, subject to
19 appropriate motions.

20 JUDGE CORBETT: All right. They will be so
21 admitted.

22 (Thereupon, Duquesne's Statements 6 and 6-R
23 were marked for identification and admitted in
24 evidence.)

25 MR. MOOT: The witness is now available for

1 cross examination.

2 JUDGE CORBETT: Okay. Miss Melillo?

3 MS. MELILLO: We have no cross, Your Honor.

4 JUDGE CORBETT: All right. Miss Sifontes, I
5 take it that you will be crossing on behalf of the
6 OCA.

7 MS. SIFONTES: Yes, Your Honor, I will be.
8 Thank you.

9 CROSS EXAMINATION

10 BY MS. SIFONTES:

11 Q Good afternoon, Mr. Hoffmann.

12 A Good afternoon.

13 Q My name is Marisa Sifontes, and I am with
14 the Office of Consumer Advocate.

15 First of all, I would just like to ask you a
16 few questions about your background and your current
17 responsibilities at Duquesne.

18 Am I correct that you are the general manager
19 of Duquesne's Marketing and Sales Unit?

20 A That's correct.

21 Q And is your unit responsible for marketing,
22 communication, and customer research?

23 A Yes, it is.

24 Q Okay. Now, your current responsibilities
25 involve working on a marketing and sales process

1 team?

2 Is that a correct characterization?

3 A Yes.

4 Q Does that work include marketing Duquesne
5 as a corporate entity?

6 A No, it does not.

7 Q Okay. Does it include marketing or
8 positioning Duquesne as a seller of generation
9 services?

10 A You mean as part of the process team? No,
11 it does not.

12 Q Do your other -- I understand that your
13 responsibility as part of the process team is not the
14 sum total of your responsibilities.

15 Do your other responsibilities involve that?

16 A Well, as head of the Marketing and Sales
17 Unit, we do manage accounting with our customers, and
18 as part of the traditionally integrated company,
19 Duquesne Light Company,

20 Q Okay. At this time, Mr. Hoffmann, does
21 Duquesne plan to sell generation service in its own
22 service territory in the competitive market?

23 A In the pilot program, we have -- we have
24 not participated in the pilot, selling generation
25 services, and we have taken that position in the

1 pilot.

2 Q After the pilot, are you intending to?

3 A That is still something that is being
4 looked at.

5 We know we are taking the position of being --
6 we will have generation as still part of the business
7 at least when we are talking about the beginning of
8 the phase-in period, so we will still be providing
9 the service to customers from our generating plants,
10 if that is what you mean.

11 Q I'm sorry. I didn't hear the end of that.

12 A We will still be providing service, energy
13 coming out of our generating plants, and delivering
14 them as part of the phase -- throughout the phase-in
15 period and the transition period.

16 Q All right. Now, Mr. Hoffmann, are you
17 aware of Duquesne's plans, if the merger is
18 completed, to market as part of Allegheny Energy
19 Solutions in Duquesne's service territory?

20 A Am I aware of what? I'm sorry.

21 Q Of Duquesne's plans, if the merger is
22 completed, to market energy as part of Allegheny
23 Energy Solutions in the service territory?

24 A I am not aware of any specific plans. It
25 is my understanding, Allegheny Energy Solutions was

1 -- is participating in the pilot programs right now,
2 and I am not aware of any specific plans beyond the
3 pilot.

4 Q But if the merger is completed, then part
5 of what Duquesne will be doing is marketing the
6 energy as part of Allegheny Energy's unregulated
7 affiliate?

8 A Duquesne Light Company would not be.

9 Q Okay. Now, I would like to ask you some
10 questions on customer education.

11 MS. SIFONTES: Your Honor, at this time,
12 already I have provided to the court reporter two
13 copies and a copy to yourself and a copy to the
14 witness, the company, and all parties the pilot
15 brochure that Duquesne used and sent to its customers
16 that were selected in the pilot, and also the
17 response to OCA Set 2, No. 19.

18 May those be marked?

19 JUDGE CORBETT: Okay. The document, I take it
20 the first document you referred to is on the
21 letterhead of Duquesne Light?

22 MS. SIFONTES: Yes, it is, Your Honor.

23 JUDGE CORBETT: And concerning the
24 notification to the public concerning the eligibility
25 to the program for the pilot program.

1 That will be -- the first exhibit will be
2 marked OCA Cross Examination Exhibit 5, Cross
3 Examination Exhibit 5, and the interrogatory Response
4 No. 19, that will be OCA Cross Examination Exhibit 6.

5 (Thereupon, OCA Cross Examination Exhibits 5
6 and 6 were marked for identification.)

7 BY MS. SIFONTES:

8 Q Mr. Hoffmann, do you need a chance to go
9 through those?

10 A I am familiar with it. It depends on the
11 nature of your question, how specific it gets.

12 Q Okay. Did you look at the second one, sir?

13 A Yes.

14 Q Now, Mr. Hoffmann, would you agree with me
15 that one of the purposes of the pilot information of
16 the advertorials contained in the second exhibit is
17 to convey Duquesne's position of their restructured
18 industry?

19 A It was really to convey to our customers
20 and introduce to our customers some of the issues
21 surrounding the changes going on in the industry.

22 It was designed to be informational in that
23 respect.

24 There are some issues obviously in the
25 restructuring that there are different points of view

1 on, and since we offered it, it was -- and it was
2 signed by Duquesne Light Company, it would have our
3 point of view, although we have tried to present each
4 one of these issues in an objective manner.

5 Q But do you admit, then, that some -- in
6 some places your point of view does stand out?

7 A Yes.

8 Q And would you agree with me that one
9 purpose is to increase the positive image and
10 awareness of Duquesne as well?

11 A It would be secondary or tertiary at best.

12 The primary objective of this campaign was to
13 increase awareness of the changes and keep our
14 customers educated and informed about those changes.

15 Q Okay. But positive image and awareness was
16 on the list somewhere?

17 A It was on list, down on the list.

18 Q Now, let's turn to the budget, if we can.

19 MS. SIFONTES: Your Honor, I would like to
20 mark for identification the answer to OCA Set 2,
21 Number 11.

22 JUDGE CORBETT: All right. This document will
23 be marked and identified as OCA Cross Examination
24 Exhibit 7.

25 That deals with OCA's interrogatory response

1 to OCA 2-11.

2 (Thereupon, OCA Cross Examination Exhibit 7
3 was marked for identification.)

4 MR. MOOT: Could I ask for clarification at
5 this point?

6 Marisa, have you indicated if there are any
7 pages that you deleted from the responses that you
8 are passing out?

9 I noticed most didn't have an attachment, and
10 I just --

11 MS. SIFONTES: All the exhibits are the way we
12 received them, to the best of my knowledge.

13 MR. MOOT: Thank you.

14 BY MS. SIFONTES:

15 Q Mr. Hoffmann, have you had a chance to
16 review that?

17 A Yes.

18 Q Okay. So according to this, you spent
19 \$620,000 on customer education for the pilot program?

20 A That was the budget.

21 Q Right. Okay. And if I understand
22 correctly, there is no current budget prepared for
23 customer education after 1997?

24 Is that correct?

25 A No, that's not correct. In my rebuttal

1 testimony, I indicated that we had a budget for 1998
2 for customer education of 1.95 million dollars, as I
3 recall.

4 Q Okay. Was there a break-down of that?

5 A There was no breakdown.

6 Q Could you please provide that, as an
7 on-the-record data request?

8 MR. MOOT: Let me ask, if I may ask the
9 witness --

10 JUDGE CORBETT: Sure.

11 MR. MOOT: -- is it possible to have a
12 comparable breakdown or --

13 THE WITNESS: It would be the same level of
14 detail.

15 It won't necessarily be the same line items.

16 MR. MOOT: Thank you.

17 MS. SIFONTES: That is fine.

18 BY MS. SIFONTES:

19 Q Now, Mr. Hoffmann, am I correct that you
20 intend to use the PUC's core curriculum in
21 implementing your customer education program?

22 (Discussion off the record.)

23 JUDGE CORBETT: If you can slow down a little
24 bit, and speak up a little bit?

25 MS. SIFONTES: Sure. I am trying to get home.

1 JUDGE CORBETT: That's all right. Take your
2 time.

3 BY MS. SIFONTES:

4 Q Am I correct that you intend to use the
5 PUC's core curriculum in implementing your customer
6 education program?

7 A Yes.

8 Q Since you intend to use that curriculum, do
9 you support a state-wide approach for a portion of
10 customer education?

11 A Yes, integrated with customer education by
12 Duquesne Light Company.

13 Q And does Duquesne commit to include LIURP
14 as part of its efforts?

15 A It will be -- as part of the overall
16 promotion of LIURP, there would be education and
17 awareness of that as well, yes.

18 Q Does the company plan to include
19 community-based organizations in its development of
20 customer education materials?

21 A Yes, we do.

22 Q And is Duquesne willing to provide
23 customer-based organizations with funds to conduct
24 their own education program?

25 A Funding is a possible mode of support.

1 There are various other ways we can work with
2 community-based organizations.

3 Q Now, I would like to ask you a few
4 questions about Duquesne's bill format?

5 A You can ask, though I'm not sure I am that
6 familiar with it.

7 MS. SIFONTES: Okay. Your Honor, I would like
8 to have marked for identification as OCA Cross
9 Examination Exhibit No. 8 a bill format that was
10 submitted as a Bureau of Fixed Utility Services data
11 request in the pilot docketed at P-971175.

12 JUDGE CORBETT: All right. This document will
13 be so marked and identified.

14 (Thereupon, OCA Cross Examination Exhibit 8
15 was marked for identification.)

16 BY MS. SIFONTES:

17 Q Have you had a chance to look at that, Mr.
18 Hoffmann?

19 A Yes.

20 Q Okay. To the extent that you are able to
21 answer, this is the residential bill format that
22 Duquesne is using in the pilot program?

23 A That is how it is indicated, yes.

24 Q Okay. And do you have any idea if you
25 intend to use this bill format on an ongoing basis?

1 A I have -- I really don't know. This data
2 request was prepared by the Finance Group, and Mr.
3 Allison would be the appropriate person to ask about
4 that.

5 Q Okay. I apologize about that. I assumed
6 it should have been directed to you.

7 MR. MOOT: The bill formats are attached to
8 Mr. Allison's direct testimony.

9 MS. SIFONTES: Okay. That is fine. Thank
10 you, Mr. Hoffmann.

11 BY MS. SIFONTES:

12 Q Now, you should know the answer to this
13 one, though.

14 With regard to the residential bill, have you
15 conducted any focused group research on customer
16 reaction to the understanding of bill detail?

17 A Last late winter or early spring, it was,
18 we had conducted some focus groups.

19 I think we had three different focus groups.
20 We were asking them a series of questions, and we did
21 present to them the unbundled bill, just to get their
22 reaction to that, so yes, we did.

23 Q Now, if I can ask you a short question on
24 termination --

25 MS. SIFONTES: Your Honor, I would like to

1 have marked as OCA Exhibit 9, Cross Examination
2 Exhibit No. 9, the company's response to OCA Set 2,
3 Number 10.

4 JUDGE CORBETT: Yes. This document will be so
5 marked and identified.

6 MS. SIFONTES: Thank you, Your Honor.

7 (Thereupon, OCA Cross Examination Exhibit 9
8 was marked for identification.)

9 BY MS. SIFONTES:

10 Q Mr. Hoffmann, have you had a chance to
11 review that?

12 A Yes.

13 Q Okay. Is the company's position that it
14 can terminate a customer for the failure to pay any
15 portion of a supplier's charges?

16 A The response is that it is not the position
17 of the company that it can terminate.

18 Q Okay. And is your answer the same, whether
19 or not a customer is billed by the company for
20 supplier charges or not?

21 A And the company's answer does not differ.

22 Q Thank you, Mr. Hoffmann. Okay. Now, Mr.
23 Hoffmann, I would like to ask you some questions on
24 economic development.

25 With respect to the Rule 4 contracts, and as I

1 understand it, these 18 contracts represent 190
2 megawatts of load?

3 A That's right.

4 Q Okay. Is this firm or interruptible load?

5 A Most of it is firm load.

6 Q Can you tell me how the costs associated
7 with service to Rule 4 customers were allocated in
8 the last base rate case in the cost of service study?

9 A There were no -- the best of my knowledge,
10 there were no Rule 4 customers in the last base rate
11 case.

12 Q Okay. Mr. Hoffmann, can you provide the
13 background documentation of work papers referenced on
14 Page 5 and 6 of your testimony pertaining to Rule 4
15 benefits?

16 MS. SIFONTES: Let's ask it as an
17 on-the-record data request.

18 JUDGE CORBETT: Let the witness, first of
19 all --

20 MS. SIFONTES: Sure.

21 A Was this in rebuttal?

22 Q Yes, in your rebuttal.

23 A Yes, we have those work papers. The only
24 -- I guess the reservation I would have there is
25 just, as we have done in some other interrogatories

1 on Rule 4, is each Rule 4 contract is proprietary
2 information, so any work papers that I would give to
3 you, we would typically, as we have in
4 interrogatories, code the customers just with a
5 letter designation.

6 We could reconstruct the work sheets such that
7 we would keep -- maintain that confidentiality.

8 Q That would be fine. Now, would you agree
9 with me that in a competitive market, it would make
10 no sense to sell generation to Rule 4 customers at
11 prices below marginal cost?

12 A We would not do that, sell energy below
13 marginal cost.

14 Q Okay. Thank you. Now, Mr. Hoffmann, we
15 are going to get into that area that we spoke about
16 earlier, just so you know.

17 Mr. Hoffmann, at Page 18 of your rebuttal
18 testimony, you discuss a survey and provide certain
19 results from the survey.

20 Would you look at that page?

21 A Yes.

22 Q Now, we asked for the survey in formal
23 discovery, and it was provided to us in a
24 confidential document, correct?

25 A That's correct.

1 Q Is there an executive summary on this
2 survey, or to this survey?

3 A Only if it is contained within the survey
4 document itself that we gave to you.

5 Q In your testimony, you stated that the
6 survey was conducted to determine what customers
7 already know and how they want to learn more about
8 Customer Choice? Is that --

9 A That was one of the objectives of the
10 survey, yes.

11 Q What were some of the other objectives?

12 A Well, typically, a monthly tracking
13 instrument, where we are continuing -- continuing to
14 monitor various customer satisfaction, performance
15 and perceptions of performance, and because we are
16 going out each month with this survey instrument, as
17 there are specific issues to the time that we also
18 wanted to explore from the standpoint of efficiency,
19 we will use that survey instrument to explore those
20 other issues, such as the ones that are contained
21 here in this passage.

22 Q You said "performance." Could you
23 elaborate on that?

24 A Oh, customer satisfaction, customers'
25 perceptions of various employees, reliability, issues

1 such as that, and some overall questions about
2 satisfaction with Duquesne Light Company.

3 Q Does the survey ask such things as customer
4 loyalty to Duquesne?

5 A There are questions to that respect, yes.

6 Q Okay. And customer perception of Duquesne
7 I think is another thing that you did.

8 Okay. Does Duquesne plan to share the results
9 and the data from this survey relating to what
10 customers already know and want to learn in the PUC
11 core curriculum?

12 A We had submitted to the PUC a -- one thing
13 was a pilot evaluation plan, which would extract from
14 the tracking survey, as well as from other research
15 instruments that were designed specifically to
16 investigate the results of the pilot, and what
17 customers have learned, and what they haven't
18 learned, and what they know about, and what they
19 haven't learned about, so we would be reporting that
20 to the PUC, and we indicated in -- I believe we
21 indicated in that plan, anyway, that some of it would
22 be from a monthly tracker, but that some of the data
23 would come from there.

24 MS. SIFONTES: Okay. I have nothing further,
25 Your Honor.

1 JUDGE CORBETT: Okay.

2 MS. SIFONTES: Thank you, Mr. Hoffmann.

3 THE WITNESS: Thank you.

4 MS. SIFONTES: Oh, Your Honor, at this time I
5 would like to move into the record the OCA Cross
6 Examination Exhibits Numbers 5 through 9.

7 JUDGE CORBETT: Okay. Hearing no objection,
8 they will be so admitted.

9 (Thereupon, OCA Cross Examination Exhibits 5
10 through 9 were admitted in evidence.)

11 JUDGE CORBETT: Miss Jones, do you have any
12 cross?

13 MS. JONES: No, Your Honor.

14 JUDGE CORBETT: Okay. Mr. Akers, for the
15 City?

16 MR. AKERS: The City has no cross, Your Honor.

17 JUDGE CORBETT: Okay. Miss Polacek.

18 MS. POLACEK: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MS. POLACEK:

21 Q Good afternoon, Mr. Hoffmann.

22 A Good afternoon.

23 Q I have a few questions for you regarding
24 phase-in.

25 I would just like to clarify from the start,

1 when you use the term "customer," you mean the
2 industrial and commercial customers that under the
3 company's proposal would be phased in via SIC code?

4 A That's correct.

5 Q All right. Are you aware of the Duquesne
6 Industrial Intervenors' proposal for the selection of
7 customers for the first two stages of phase-in,
8 generally?

9 A I am aware of what was in the testimony.

10 Q All right. Just as long as you have a
11 general understanding of how it would work, that it
12 would be all customers who desire to be in a phase
13 would sign up, and then there would be a pro rata
14 reduction to get to the one third?

15 A If it's over subscribed.

16 Q If it is over subscribed, to get to the one
17 third eligible?

18 A But it is based on first come, first
19 served.

20 Q Unless it is over subscribed, correct.

21 Now, I would like to ask you a few questions
22 comparing the worst case scenarios for customers
23 under the company proposal and the DII proposal for
24 phase-in.

25 Under the company proposal, if the company --

1 if a customer desires to participate in the first
2 phase of direct access, that customer will not be
3 permitted to do so unless it is in one of the SIC
4 market segments designated as qualifying for the
5 first phase, correct?

6 A That's correct.

7 Q So the worse case scenario in that, where
8 that customer, under the company phase-in proposal,
9 would be that it desired to fully participate in the
10 first phase, and it would not be permitted to do so
11 at all?

12 A No. The first phase was predicated on how
13 that customer and the rest of the customers in that
14 class basically voted for their participation in the
15 pilot program, so it was the customers deciding who
16 was in the first phase and who wasn't in the first
17 phase, and in the interests of one customer not
18 disadvantaging another customer in that rate class,
19 that was the underlying principle of going to the SIC
20 code phase methodology.

21 Q But it is true, is it not, that an
22 individual customer could have actually responded to
23 the pilot solicitation, not gotten into the pilot,
24 and because the rest of the customers in that SIC
25 segment did not have as avid a response, they will be

1 precluded from participating in the first phase of
2 direct access?

3 A That's correct, except for, we would
4 envision a dispute resolution process, which the
5 Commission has alluded to as well.

6 Procedurally, none of those details have been
7 worked out, but if a customer in that first phase,
8 for whatever reason, feels that they are
9 competitively disadvantaged, there would be a dispute
10 resolution process where they could pursue that
11 avenue as kind of an appeal process, I would
12 envision.

13 Q But do I understand that the company, as
14 far as that dispute resolution process, there are
15 only very limited circumstances under which the
16 company proposes to allow that customer into the
17 first phase, and the one that comes to mind is if the
18 customer was misclassified?

19 A Either misclassified, or there is another
20 provision, which it would be that they can
21 demonstrate that they are being competitively
22 disadvantaged --

23 Q Assuming there are no competitive
24 disadvantaged issues here, customers --

25 A -- but that was -- okay. Go ahead.

1 Q No. I mean, actually, that wasn't the
2 question.

3 A All right.

4 Q The question was: Isn't it possible,
5 actually, that somebody who wanted to participate
6 fully in the first phase wouldn't even get into the
7 second phase if they could not demonstrate a
8 sufficient competitive disadvantage?

9 A That is true. Based on our proposal, that
10 is true.

11 Q Based on your proposal?

12 A Yes.

13 Q Now, under the DII proposal, would you
14 agree that the worst case scenario for a customer
15 wanting to participate in the first phase is that the
16 customer would be assured to have 33 percent of their
17 load on direct access?

18 A That is my understanding of the proposal.

19 Q So under the DII proposal, every customer
20 that wants to participate in the first or second
21 phase of direct access will in fact get in?

22 A Only for one third of their load.

23 Q Or for sixty-six percent of their load?

24 A If it is possible, yes.

25 Q But they are guaranteed that level of

1 participation?

2 A For that, based on that proposal, and for
3 the second phase-in, yes.

4 Q In determining which SIC segments will be
5 in the first or second phase under the company's
6 proposal, is it correct that the company proposes to
7 do so, based on a percentage response to the pilot
8 enrollment solicitation?

9 A Yes.

10 Q Is percentage response to the solicitation
11 being used as a proxy for interest or desire to
12 participate in the deregulated market?

13 A It was in this proposal to find an
14 objective way of having the market segments phased
15 in.

16 We relied on the customers in the pilot
17 program voting, and so that there -- that was the
18 best way we thought to do that, the most objective
19 way to do that.

20 Q And the vote is based on desire?

21 A The enrollment in the pilot program, how
22 many customers in a particular market segment
23 expressed interest in the pilot and participating in
24 the pilot, and therefore having access to alternative
25 sources of generation, which we thought was, the

1 pilot was a test of the generation market and their
2 interest.

3 Q Do you agree with me that there are factors
4 other than a desire to access the competitive market
5 that may have influenced whether a customer responded
6 to the pilot solicitation?

7 A Sure.

8 Q And wouldn't you agree that some of those,
9 that possibly could have been the limitation on the
10 total eligible load to five percent of a class?

11 A As to why they would not have participated?

12 Q Just one of those factors?

13 A It is highly speculative right now. We --
14 in our evaluation plan to the PUC, we had indicated
15 that that was one of the issues we were going to
16 research with customers, to find out why they
17 participated, and why they didn't participate, so we
18 are waiting for the customers to tell us.

19 Q But we do agree that there are other
20 factors that could have entered into the decision,
21 correct?

22 A I would expect that there are.

23 MS. POLACEK: Now, previously, I distributed
24 an exhibit.

25 At this point, I would like to have marked and

1 identified in the record as DII Cross Exhibit 1, and
2 it is a response by Mr. Hoffmann to
3 Environmentalists' Interrogatory Set 1, No. 23.

4 JUDGE CORBETT: All right. This document is
5 so marked and identified.

6 (Thereupon, DII Cross Exhibit Number 1
7 was marked for identification.)

8 BY MS. POLACEK:

9 Q And I would like to ask you a couple of
10 questions about the calculation of the total
11 requisite peak load contribution to the SIC segments
12 under the company proposal.

13 Is it correct that Duquesne plans to do this
14 calculation by taking the average 1996 demand for
15 each customer that would be phased in according to
16 the SIC segment, summing those for each of the
17 segments, to come up with an average 1996 demand for
18 that market segment, and then summing all of those to
19 come up with the entire, I'm sorry, commercial -- the
20 entire load for the commercial and industrial
21 customers that will be phased in according to that?

22 A Yes. Generally speaking, though, you have
23 to make the distinction between, when you say "load,"
24 distinction between system peak load, which is
25 represented on this exhibit, which was, frankly, the

1 analysis that was done when we did our original pilot
2 filing suggested this phase-in approach.

3 More recently, the Commission is looking at
4 nine points of incidental peak loads, so in the
5 actual phase-in of the market segments, we would be
6 using nine coincidental peak loads.

7 Q Now, in column two, you have actually
8 anticipated one of my questions with respect to this
9 exhibit.

10 On the third column, "System Peak," that is
11 the coincident peak?

12 A Yes, it is.

13 Q And would Duquesne now propose to do the
14 calculation based on non-coincident peak?

15 A In fact, that is how we have done it in the
16 pilot.

17 In the reports that we sent to the PUC with
18 respect to enrollment in the pilot, we are displaying
19 the five percent goal for the pilot in terms of
20 non-coincidental peak, so that is what we would be
21 proposing for the phase-in.

22 Q Now, on this exhibit, in the system peak
23 load contribution, is that based on the 1996 demands?

24 A That is my understanding, yes, because it
25 totals to twenty-six sixty-one, which was our peak, I

1 believe, in that summer of that year.

2 Q And that's going to the peak. Has the
3 company calculated what the system contribution would
4 be, based on non-coincident peak?

5 A Well, for the pilot, just to give you some
6 idea five percent of this is 133 megawatts, so when
7 we are doing it on the basis of coincidental peak, it
8 was 133 megawatts.

9 For the pilot now, based on non-coincidental
10 peak, the pilot sizes on the order of 205 megawatts,
11 so presumably you could just extrapolate that to
12 system wide, just multiply it by twenty, and it
13 wouldn't be 2656.

14 It would be close to 4,000 megawatts. Do you
15 follow the math?

16 Q I follow the math.

17 MS. POLACEK: Your Honor, could we make an
18 on-the-record data request for basically the same
19 information that is under system peak contribution
20 here, but based as it would be on a non-coincident
21 peak?

22 THE WITNESS: Yes.

23 MR. MOOT: Yes.

24 BY MS. POLACEK:

25 Q Now, still sticking with the cross

1 examination exhibit, under "Commercial," on the line
2 right above "Subtotal" for this, there is a segment
3 called "Small Business," correct?

4 A Yes, that's correct.

5 Q And is it correct that the company proposes
6 a separate phase-in schedule based on the geographic
7 areas of choice for small commercial customers?

8 A For -- yes, that's correct.

9 Q Now, would the small business on this
10 exhibit equate with the small commercial customers
11 that would be phased in under the GAC?

12 A That's correct.

13 Q And is that -- and if you could actually
14 turn to your Exhibit FAH-4?

15 A Okay.

16 Q Would that be -- those would be the small
17 businesses that would be phased in according to the
18 GAC. Is that why they are not listed as one of the
19 market segments there?

20 A That's correct, but you will notice, on the
21 adjoining page of that exhibit, the title is
22 Residential and Small Commercial, so they are
23 included in those numbers.

24 Q I am just trying to get the correlation --

25 A Yes.

1 Q -- between the -- yes, the data response
2 and --

3 A Right.

4 Q -- what is on here. Would any of the other
5 segments listed back to the -- let's go back to the
6 cross examination exhibit.

7 Would any of the other segments listed on that
8 exhibit be wholly or partially phased in as small
9 commercial under the company proposal?

10 A No. That would be -- small business would
11 be the only one.

12 Q Now, if I could get you back on FAH-4,
13 approximately five lines from the bottom, there is a
14 market segment listed as mining total, and that is
15 not listed on the cross examination exhibit.

16 Is mining somehow subsumed into another
17 segment listed on the cross examination exhibit?

18 A I would have to check the actual SIC codes
19 that we assigned to each one, so I can't answer that
20 question right now.

21 I don't have the detail with me.

22 MS. POLACEK: Could we make an on-the-record
23 data request for that?

24 MR. MOOT: Yes.

25 MS. POLACEK: Thank you. And I would ask the

1 same for construction total and agriculture total.

2 MR. MOOT: Can you give me a second?

3 BY MS. POLACEK:

4 Q Mr. Hoffmann, am I correct that the company
5 proposes to phase segments in its entirety into a
6 load on direct access equal to or exceeding
7 thirty-three percent?

8 A Yes. We would go down through this list,
9 particularly on both of these lists, such that one
10 third of the load, minimum one third of the load
11 would have an opportunity for direct access.

12 Q So for example, if you were going down the
13 market segment list, and you got to industrial steel,
14 and it was going to take you up to, say, forty
15 percent, the entire market segment would still be
16 phased in as one group?

17 A That is the proposal.

18 Q All right. Thank you, Mr. Hoffmann. I
19 have no other questions.

20 MS. POLACEK: I would like to move for
21 admission of DII Cross Exhibit 1.

22 JUDGE CORBETT: All right. Hearing no
23 objection, it will be so admitted.

24 (Thereupon, DII Cross Exhibit 1 was admitted
25 in evidence.)

1 JUDGE CORBETT: Mr. Wiseman?

2 MR. WISEMAN: Your Honor, we do have cross for
3 Mr. Hoffmann, and with your permission, I am asking
4 that my colleague, Robert Lamkin, be permitted to
5 conduct that cross examination.

6 JUDGE CORBETT: All right.

7 MR. WISEMAN: His appearance has been
8 previously entered.

9 JUDGE CORBETT: All right.

10 MR. WISEMAN: Thank you, Your Honor.

11 JUDGE CORBETT: Mr. Lamkin, would you please
12 spell -- tell the court reporter how to spell your
13 name?

14 MR. LAMKIN: L-a-m-k-i-n.

15 JUDGE CORBETT: Okay. Thank you.

16 CROSS EXAMINATION

17 BY MR. LAMKIN:

18 Q Good afternoon, Mr. Hoffmann. I have a few
19 questions to ask you today with respect to your
20 testimony concerning Duquesne's economic development
21 rate incentives.

22 Let me preface my question by stating that I
23 am not trying to elicit any sort of proprietary or
24 confidential information from you, nor to the extent
25 that it may sound this way am I trying to solicit any

1 opinion as to my --

2 JUDGE CORBETT: We are having a hard time
3 hearing you up here, Mr. Lamkin.

4 MR. LAMKIN: Oh, I'm sorry.

5 JUDGE CORBETT: Try to speak up, if you can.

6 MR. LAMKIN: Okay.

7 BY MR. LAMKIN:

8 Q Turning to page two of your rebuttal
9 testimony --

10 A Yes.

11 Q -- you testified that the purpose of
12 Duquesne's economic development and limited
13 incentives -- excuse me -- you defended as to the
14 purpose of Duquesne's economic development and rate
15 incentives.

16 Is it a fair statement that the purpose of
17 these rate incentives is to promote and strengthen
18 growth in Duquesne's service territory?

19 A That's correct.

20 Q Moving to pages four and five of your
21 rebuttal testimony, with respect to Rule 4 contracts,
22 is it a fair statement that in addition to the
23 promotion and strengthening of economic growth,
24 Duquesne has designed Rule 4 contracts as in part as
25 a mitigation strategy?

1 A That is correct.

2 Q You testified on Page 5, lines fifteen and
3 sixteen, that the -- excuse me. Are you ready?

4 A Go ahead. Yes.

5 Q -- the ability to enter into Rule 4
6 contracts was designed by Duquesne to prevent the
7 loss -- to prevent lost sales associated with a
8 competitive threat.

9 With respect to Rule 4 customers, is it fair
10 to say that Duquesne was forced to negotiate lower
11 electric rates with certain customers to prevent them
12 from seeking alternative sources of electricity?

13 A First of all, one point of clarification.
14 It is not just a load retention provision.

15 It is also a load attraction provision, but we
16 are talking about incremental load, either retained
17 or attracted, so I thought you had characterized it
18 just as a load retention.

19 We are not forced into negotiating with the
20 customers, so that the provision is in the tariff,
21 and we will apply all the appropriate provisions of
22 the tariff, but it is in the best interests of the
23 rate payers in the region for us to enter into
24 discussions with customers that have competitive
25 alternatives.

1 Q To try to recharacterize your answer,
2 essentially, these customers came to Duquesne saying
3 that they had alternatives that might force them to
4 leave the system if Duquesne wasn't able to offer
5 them a better alternative?

6 A Yes, that's one scenario. Some of it is
7 incremental load again, and sometimes it is an
8 attraction of customers coming into the territory as
9 well.

10 Q Okay. Hypothetically speaking, if a Rule 4
11 customer can pay less for electricity after the
12 restructuring proceeding than it currently does in an
13 unbundled service, is it Duquesne's position that
14 that customer would be permitted to abrogate its Rule
15 4 contract?

16 A We would have to look at the terms and
17 conditions of each of the contracts.

18 They weren't just a standard contract,
19 necessarily.

20 There's a lot of standard -- some standard
21 language in it, but it depended on how much
22 flexibility both we, as well as the customer needed
23 with respect to a clause like that, so it would
24 depend on the individual contract.

25 Q Okay. Does Duquesne propose to retain the

1 ability to enter into Rule 4 contracts after this
2 restructuring proceeding?

3 A Yes. We had no proposal to withdraw Rule 4
4 from the -- Rule 4s from the tariff.

5 Q All right. Does that mean then that with
6 respect to prospective Rule 4 contracts, Duquesne
7 proposes to enter into agreements in which, through
8 negotiation, Duquesne could agree to waive a CTC?

9 A No. We would never -- we don't agree to
10 waive a CTC.

11 The Rule 4 customers would also be paying a
12 CTC, along with other -- other customers as well.

13 Q Okay. Could Duquesne redesign a CTC in the
14 context of a Rule 4 contract?

15 A Well, as we have proposed, the CTC would be
16 customer specific, and following the principles that
17 we have already used for Rule 4, we would use those
18 same principals in pricing Rule 4 -- the Rule 4
19 customers in the preview.

20 It would just be unbundling it into the
21 separate charges that would reflect an explicit CTC
22 charge.

23 Q Okay. Thank you, Mr. Hoffmann.

24 A All right.

25 MR. LAMKIN: Nothing further.

1 JUDGE CORBETT: Okay. Mr. Zielonis, on behalf
2 of PRA.

3 MR. ZIELONIS: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. ZIELONIS:

6 Q Good afternoon, Mr. Hoffmann.

7 A Good afternoon.

8 Q I assume you would agree with me that the
9 electric industry, including your company and its
10 customers, are moving into a competitive environment?

11 A I would even submit that we are already
12 there.

13 Particularly here in the Pittsburgh area, we
14 have had intense competition of electric and gas in
15 this area, but as the electric industry expands, the
16 level of competition will intensify.

17 Q Would you agree, then, that in a
18 competitive environment, those who may have more
19 information may do better than those who don't?

20 A Yes. I think the efficient working with
21 markets typically relies on information, yes.

22 Q And those who may have more initiative to
23 find new products may do better than someone else?

24 A That is not necessarily new products. It
25 is products customers need.

1 Q And those who work more efficiently may do
2 better than someone else?

3 A Generally speaking.

4 Q All right. And those willing to spend a
5 little more on research and development may do better
6 than those that are not willing to do that?

7 A Not necessarily. It depends on -- there
8 are other ways, other than research and development,
9 to stay technologically fresh.

10 Q But that's one way do to do it, is it not?

11 A That's one way to do it.

12 Q And those who respond more quickly to
13 market demands may do better than someone else?

14 A In a competitive market.

15 Q Yes. I mean, that is what competition is
16 all about, correct?

17 A Generally speaking, yes.

18 Q But you oppose first come, first serve
19 eligibility criteria, because you assume some
20 customers may not be better informed, respond more
21 quickly, are willing to spend more for an overnight,
22 rather than -- overnight express, rather than a 32
23 cent stamp, correct?

24 A The --

25 Q Is that a yes or no?

1 A The earlier characterization of a
2 competitive marketplace was a mature competitive
3 marketplace.

4 What we are describing here in that response
5 is a competitive marketplace which is just evolving
6 on the electric side, so the assumptions that you
7 laid out are a little bit different with respect to
8 information.

9 The availability of information, the
10 efficiency of market information is, as you
11 indicated, a critical underpinning of the effective
12 workings of that competitive marketplace.

13 Unless that industry is mature, then those
14 mechanisms aren't in place.

15 Q But someone has to take the initiative,
16 though? Is that correct?

17 A To do what?

18 Q To respond to the market.

19 A You have to take -- anyone has to take a
20 initiative to --

21 Q If I assume your Exhibit FAH-4 --

22 MR. MOOT: I don't mean to interrupt, but you
23 cut him off in the middle of a sentence.

24 MR. ZIELONIS: Oh, I thought he was finished.

25 MR. MOOT: Well, he was in the middle of a

1 sentence.

2 If you have more --

3 THE WITNESS: No. Go ahead.

4 BY MR. ZIELONIS:

5 Q In FAH-4, page one of one --

6 A Which is?

7 Q It is your commercial/industrial market
8 segment ranking.

9 A Okay.

10 Q If I sum the total accounts, will that be
11 equivalent to Duquesne's total customer basis for
12 commercial and industrial class, leaving out small
13 business?

14 A It should.

15 Q Can you tell me what kinds of businesses
16 would be included in utility services?

17 A We had provided, as one of the
18 interrogatories, specific references to each one of
19 these market segments as to what SIC code
20 classifications there were, so I can't -- right now,
21 I cannot remember all those details, but there is an
22 interrogatory that spells out bought the SIC
23 classifications for each one of these market segment
24 listings or titles, and then if you just go to the
25 SIC codes, it gives an expansive description of the

1 types of businesses that are in there.

2 Q Are there subcategories in the SIC codes
3 for each of these market segments?

4 A There are extensions to the numbers, yes.

5 Q Okay. And what you have done is
6 essentially sum those market extensions into the main
7 category?

8 A That's correct.

9 Q Now, how do you define, on Page 4, lines
10 thirteen to fourteen, I believe, of your direct
11 testimony --

12 A I'm sorry. The reference again, please?

13 Q It is page four --

14 A Uh-huh.

15 Q -- lines twelve to fourteen, and
16 particularly the statement or the phrase, "customers
17 that compete with each other."

18 How did Duquesne, or how did you make that
19 determination?

20 A We are using basically the underlying
21 assumption that customers in the same market
22 segments, as defined by the SIC classifications,
23 effectively have -- there is probability that they
24 would be competing against each other.

25 There are other factors, obviously, but by

1 using those market segment breakouts, the presumption
2 is that customers aren't competing across those
3 market segments, but are competing within the market
4 segments.

5 Q How about a -- let's take a gas station in
6 the Harrisburg area, like a Sheetz, which has gas
7 pumps, as well as a convenience store.

8 Where would they fit in your market segments,
9 if you know?

10 A It is wherever that customer had told us
11 what their SIC classification is, and if that was
12 misclassified, as I indicated before, there would be
13 a dispute resolution process where they could correct
14 that.

15 Q When would the customer tell you this?

16 A During the phase-in period.

17 Q So they have to take the initiative to
18 figure out what kind of SIC code they fit into?

19 A Well, they have already told us what their
20 SIC classification is.

21 It is in our computer system, assigned to
22 their account, so -- and they would know from this
23 proceeding right now which phase of the transition
24 they would be in.

25 They could plan for that right now.

1 They could tell us right now if they are
2 misclassified.

3 Q Well, how about a gas station, then, that
4 has no convenience store attached to it?

5 Would you agree with me that the gas station
6 with the convenience store competes with the gas
7 station without a convenience store, but may be in
8 two different market segments?

9 A That's for that customer to decide.

10 Q I am asking you: Is that a possibility?

11 A Well, the gas would compete with the gas.

12 Q And the station, one gas station competes
13 with the other gas station, correct?

14 A Under that scenario, yes.

15 Q But one may be in a separate SIC code; the
16 other may be in another, correct?

17 A If that is what they told -- if that is
18 what they sign their SIC code classifications
19 respectively, then yes.

20 Q And so one may be in the phase-in because
21 it is in one of your ranked, higher ranked segments,
22 while the other may not be?

23 Is that a possibility?

24 A That's a possibility, because the one
25 customer -- one customer had told us they are not

1 really in the gas business.

2 They are in the convenience store business,
3 and that is what they view as their core business,
4 and that is what they compete in.

5 Q How about, then, an office building?

6 For example, the -- I think that's Fifth
7 Avenue.

8 Would that office building, would its master
9 meter be an office building total?

10 A Yes.

11 Q And would you agree with me that there are
12 retail shops in that office building?

13 A Yes. Yes, there are.

14 Q And those retail shops may compete with
15 other retail shops which have their own separate
16 meters?

17 A That's possible. When that retail shop
18 moved into that office building, they looked at the
19 economics, the operational costs of running that
20 retail store in that office building, which obviously
21 included rents and utilities and everything else, so
22 that was their decision to site in that particular
23 location.

24 Q But based on your, or the company's theory,
25 though, they weren't supposed to be tracking market

1 trends, were they, to consider whether electric
2 competition would come --

3 A Sure.

4 Q -- when they made that decision to locate
5 there, were they?

6 A They are looking at overall operating
7 costs.

8 Q And how about the Hilton across the street
9 here?

10 There are retail shops in that building?
11 Would you agree?

12 A I think if you were to ask the Hilton, what
13 do they classify themselves as, it would be the
14 classification that they have told us, that they are
15 in the business of providing a hotel.

16 That is the business they are in, and that is
17 what they compete in.

18 Q Let me ask you the question again, if you
19 don't understand it.

20 Are there retail shops in that hotel?

21 A It is my understanding there are.

22 Q Okay. Now, how about a book store that has
23 a restaurant contained within it?

24 Where does it fit into?

25 Is it based on what the customer told you

1 their SIC code was?

2 A Yes.

3 Q So if it happened to, on your ranking, say,
4 indicate that it was more a restaurant rather than
5 merchandise, even though it may compete with another
6 book store, one may get in the first year, and the
7 other may not?

8 A Since you called it a book store, I presume
9 the book store calls itself a book store, and that it
10 would have told us it was a book store.

11 If it wants to become a restaurant, it has a
12 dispute resolution process where it could tell us it
13 is a restaurant.

14 Q How about a -- when you did your rankings
15 of the commercial, residential and small business,
16 did you account for the demographics of the
17 individual Zip Codes?

18 A Did we account for the demographics?

19 Q Yes.

20 A No. The numbers spoke for themselves.

21 Q So you didn't consider the population of
22 the Zip Code?

23 You didn't consider the age, income level,
24 educational level?

25 A No. The ranking came from the customers

1 saying they wanted access to competitively priced
2 generation, so it was completely -- there was no
3 other evaluation of the Zip Codes.

4 This is what the customers had voiced.

5 Q Could population, age of that population,
6 income level, educational levels affect the
7 customers' intent to enter into the pilot program?

8 A It could. It is not evident that it did.

9 Q You haven't completed your study at this
10 time, then?

11 A That's correct, though I will note from
12 that exhibit that there are Zip Codes in both Phase 1
13 and Phase 3, for example, which would be
14 characterized as having high income customers, and
15 there is no discernable trend, just looking at that
16 list, with respect to demographics, but we haven't
17 done a detailed study of that yet.

18 Q And I believe you answered a question of
19 the Industrials, that if as you go through your
20 rankings, and you happen to come to one ranking which
21 exceeds the 33 percent, that you will then exercise
22 your discretion to go above the statutory 33 percent
23 that you rely on in your testimony?

24 A That would be the intent.

25 Q Now, could I, for purposes of determining

1 when segments would achieve eligibility for the
2 phase-in retail access, in order to compute the
3 ranking similar to what you have done for the
4 residential and small commercial group, could I take
5 -- I assume I could take the DII Cross Examination
6 Exhibit 1 system peak load contributions, for
7 example, for the commercial class, and I would deduct
8 roughly 196 megawatts for the commercial class to
9 come up with a total class contribution to the peak,
10 correct?

11 A No. As I indicated, that particular
12 exhibit was based on contribution to system peak load
13 and we were going to be -- from the data request we
14 just heard, we would give you numbers on a nine point
15 basis.

16 Q And I could use the same methodology,
17 though?

18 A Use the same --

19 Q Let's just use this for now, since we have
20 that.

21 A I am just clarifying, that those aren't the
22 numbers, though.

23 Q I understand. But I could compute a
24 ranking of which segments on your exhibit, on this
25 exhibit will get into the first year of the phase-in

1 by computing the total commercial, less small
2 business, taking 33 percent then of that sum,
3 correct, or of that difference, correct --

4 A Yes.

5 Q -- and then start with your ranking on
6 FAH-4, government total, and move through each of
7 these total system peak load contributions to
8 determine who would get in the first year, correct?

9 A That is the methodology.

10 Q And I would use the same, then, for your
11 coincident peak that you are going to provide,
12 correct?

13 A The non-coincident peak, yes.

14 Q And you indicated before that you don't
15 think it is appropriate to use first come, first
16 serve, because of, people aren't -- some people are
17 better informed than others, et cetera, yet for your
18 competitive disadvantage complaint proceeding, would
19 you agree with me that the customer now has to become
20 informed and initially, at least, regarding that
21 process?

22 A But even as we speak, customers are
23 informed.

24 They have different levels of awareness about
25 these issues.

1 Q Does he have to become informed of the
2 entire process initially?

3 A Yes, to participate, to understand how to
4 participate.

5 Q And he has to figure out, does he not, what
6 the burden of proof is, as you have indicated on Page
7 4, Lines 17 to 20?

8 A On which testimony?

9 Q Your direct testimony, Mr. Hoffmann.

10 A Page 4?

11 Q Yes. It is your discussion regarding, for
12 the customer to prevail, he has to prove two things,
13 correct?

14 A Could I read the actual passage?

15 Q Yes.

16 A Page 4 of the direct, which lines?

17 Q It would be starting on line sixteen
18 through line twenty.

19 MR. MOOT: I assume by the reference to
20 "burden of proof," you are just using that loosely,
21 and not in the legal sense?

22 MR. ZIELONIS: Yes, that's correct.

23 A The customer would have to take the
24 initiative to bring this to our attention.

25 We would have no information to suspect that

1 the current classification was incorrect, or that
2 somehow or other the customer is competing across
3 market segments, so that, yes, the customer would
4 have to come to us.

5 Q He may have to spend some money to do this,
6 and he may have to respond quickly, correct?

7 A There is no -- the procedure, dispute
8 resolution procedure, hasn't been spelled out, so I
9 don't know the timing issue.

10 I don't know what would be considered to be,
11 he has to respond quickly, and I don't know why there
12 would be a level of expense associated with it, other
13 than just notifying us of it.

14 Q His time is worth something, is it not?

15 A I would presume it has some.

16 Q How would you make the -- if Duquesne has
17 determined this, how will Duquesne make the
18 determination of a specific competitive disadvantage?

19 A We haven't -- as I have said now a couple
20 of times, we have not completed procedural aspects of
21 the dispute resolution process, and it would have to
22 be addressed then.

23 Q Do you know who will make that
24 determination in Duquesne?

25 Has that been decided?

1 A No, no, it has not.

2 Q Do you know whether Duquesne will create
3 records regarding these disputes?

4 A No, I do not.

5 Q Do you know whether customers will be able
6 to review those records?

7 A The process has not been defined.

8 MR. ZIELONIS: Your Honor, that's all the --
9 if I could have just a minute, I think I am finished.
10 BY MR. ZIELONIS:

11 Q One last question. On Page 5, Lines 7
12 through 12, you discuss --

13 A Of which testimony?

14 Q Of your direct testimony.

15 A Page five, seven through twelve?

16 Q Yes.

17 A Okay.

18 Q It is your discussion regarding a rejection
19 of one third of load for all customers.

20 I would assume, since you are worried about
21 the convenience of the customers, that if the
22 customers -- if you took a poll of your customers,
23 and they said, "We don't think it has complex, and we
24 don't think it is inconvenient," that you would then
25 utilize that type of proceeding, or that type of

1 schedule for phase-in?

2 A I would still have the concern about
3 competitive disadvantage with first come, first
4 serve.

5 It seems to be an inherent weakness of that
6 approach.

7 We are not completely rejecting first come,
8 first serve.

9 We are just suggesting that the approach that
10 we are proposing is superior to it.

11 Q Now, this was not a first come, first
12 serve?

13 This was, everyone is in, but for only one
14 third of the load?

15 A Oh, in that instance, if the customers
16 didn't have a problem with that. We generally tried
17 to meet what the customers' needs are.

18 If they like that, that is fine. We would
19 still have to clarify what "one third" means.

20 Q So is it now the company's position that if
21 all your commercial, or a majority of your commercial
22 and industrials telephoned and said, "Do one third,"
23 the company would do one third, rather than your
24 proposal?

25 A That's correct.

1 Q And that would be one third for every
2 customer, rather than a market segment ranking?

3 A Generally for commercial, industrial
4 customers, yes.

5 MR. ZIELONIS: Your Honor, that's all the
6 questions I have.

7 JUDGE CORBETT: Okay. I note Mr. Barak is not
8 in the room at this time for the Environmentalists.

9 Mr. Stewart indicated to me before he left
10 that he had no cross for this witness on behalf of
11 MAPSA.

12 Mr. Clearfield?

13 (Recess taken.)

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1 JUDGE CORBETT: We're back on the record.
2 Mr. Clearfield.

3 MR. CLEARFIELD: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. CLEARFIELD:

6 Q. Good afternoon, Mr. Hoffmann. I want to
7 ask you some questions first about the proposal to
8 phase in direct access for residential customers
9 using a GAC process that you describe in your direct
10 testimony.

11 JUDGE CORBETT: You might want to spell that
12 for the court reporter.

13 MR. CLEARFIELD: G-A-C.

14 BY MR. CLEARFIELD:

15 Q We've had some discussion already about
16 that at least in passing this morning, or this
17 afternoon. Is the proposal that the company is
18 making that customers in the area codes that you show
19 on Exhibit FAH-3 would be designated as--that is in
20 the left-hand column there--would be designated as in
21 the first third of direct access phase-in?

22 A That's correct. The zip codes, not area
23 codes.

24 Q I'm sorry.

25 A That's all right.

1 Q And how would they be informed that they
2 have been so designated?

3 A Through the customer education process.

4 Q Does that include direct mail?

5 A Direct mail.

6 Q Are you expecting or planning to require or
7 elicit any kind of response from those customers once
8 you've informed them that they've been so designated?

9 A Response for what? What purpose?

10 Q Well, an indication of their interest or
11 acquiescence in being designated as part of the first
12 third of direct access or any other kind of response
13 card, response from the customer that they wish to
14 participate?

15 A There would be other responses and other
16 communications with respect to the first third and
17 the second third, similar to what we went through
18 with the pilot program with respect to introducing
19 customers to the marketplace and alternative
20 suppliers.

21 But if you're asking do I send them a letter
22 either through bill insert or a stand-alone letter
23 saying, Dear Customer, you're in this particular zip
24 code, which based on the pilot results is in the
25 first third; you can choose your customer starting

1 1/1/99 --

2 Q Your supplier?

3 A -- your supplier starting 1/1/99; do you
4 want to do that? we don't expect to ask that question
5 again. We're using the pilot results as the basis
6 for the one-third.

7 Q So, in fact, after designating that first
8 third of residential customers as being the third
9 that will be initially included for direct access,
10 either a third of those customers or any number below
11 a third could actually decide to switch to an
12 alternative supplier under your proposal; is that
13 right?

14 A Consistent with the legislation, which says
15 that one-third of the customers would have an
16 opportunity for direct access, we would be giving an
17 opportunity to one-third of those customers for that
18 direct access.

19 Q Your proposal does not assure that one-
20 third would, in fact, either -- Well, it doesn't
21 assure that one-third would actually switch to an
22 alternative supplier. Let's start with that.

23 A Legislation doesn't ask for that.

24 Q Mr. Hoffmann, does it or doesn't it?

25 A It does not. There is a possibility that

1 one-third would switch.

2 Q And there's a possibility that none would
3 switch?

4 A Correct.

5 Q Is it also possible that -- Your proposal
6 doesn't assure that one-third would even make it a
7 conscious decision to stay with Duquesne, does it?
8 You don't know if they don't switch whether they've
9 decided consciously affirmatively to stay with
10 Duquesne as the supplier of last resort, if you will,
11 under your rate cap service or whether they simply
12 didn't understand their choice or didn't bother to
13 take any action?

14 A The actual procedures for signing up during
15 the first phase haven't been finalized. In the pilot
16 program, customers just selected a supplier or they
17 didn't during a prescribed period of time that the
18 PUC had mandated. So we don't know if the pilot
19 procedure is going to be the same procedure for Phase
20 1 or not.

21 Q We don't know whether the Commission will
22 designate or require that procedure? Is that what
23 you mean?

24 A That's correct.

25 Q I'm just trying to explore your proposal at

1 this point because it's different than the pilot
2 procedure. Isn't that right?

3 A That's correct.

4 Q Even if you amended your proposal to
5 require or to add some form of positive response from
6 the customers so that they would indicate affirmation
7 that they wish to be eligible -- Are you following
8 me now? Either a response card or something else
9 that would come back from the customer saying, Yeah,
10 I think I'd like to participate. It's true, isn't
11 it, that there's a large difference between the
12 number of customers who might indicate they wish to
13 switch or wish to participate, have the opportunity
14 to switch, and the percentage that would actually
15 switch at the end of the day, if you will?

16 A But I'm not asking them whether --

17 Q I'm just asking you, isn't it true, if we
18 amended your proposal so there was some kind of
19 eligibility --

20 A The answer is yes.

21 Q The answer is, yes, there still is a
22 difference between the customer saying, Yeah, I'd
23 like to participate, and those customers actually
24 switching?

25 A Yes.

1 Q What I'm trying to get at is, in fact, you
2 testified in the pilot on behalf of Duquesne, didn't
3 you?

4 A That's correct.

5 Q Did you testify about a study that was
6 conducted by EPRI and some Bell system operating
7 companies and I think some telephone equipment
8 manufacturers concerning the degree to which
9 customers would switch when offered certain levels of
10 discounts?

11 A The survey covered telephone companies'
12 long-distance service but also gas and electric, as I
13 recall. The survey was trying to get at switching
14 behaviors.

15 Q I wanted to ask you some questions about
16 the results of that that were reflected in your
17 testimony there. I have a copy of the transcript if
18 you would like to review that.

19 Let me ask you the question. Isn't it true
20 that the study indicated that at certain levels of
21 discount customers -- Strike that.

22 The survey indicated that if there were no
23 discounts offered to a customer, that is, the price
24 offered by the competitor and the price offered by
25 the incumbent, if you will, were the same, still

1 about 10 percent of the customers would switch. Do
2 you recall that?

3 A There was some switching. I don't remember
4 the exact number, but it was that order of magnitude.

5 Q I'll give you the transcript, and you can
6 take a look at it, if you like. I believe it's on
7 Page 246 of that transcript.

8 MR. CLEARFIELD: May I approach the witness,
9 Your Honor?

10 JUDGE CORBETT: Yes. Again, what transcript
11 are you referring to?

12 MR. CLEARFIELD: This is the transcript from
13 the pilot proceedings that were held in which
14 Mr. Hoffmann testified.

15 Mr. Moot, I only have one copy, if you'd like
16 to look over his shoulder.

17 BY MR. CLEARFIELD:

18 Q Do you see that it indicates about 10
19 percent of the customers would switch even if there
20 was no discount offered?

21 A That's correct.

22 Q Do you recall that the study also indicated
23 that if there was a 10-percent discount about 60
24 percent of the customers would indicate that they
25 would switch?

1 A I believe that's correct.

2 Q Now, didn't the study also find that, in
3 fact, only about 40 percent of the customers that
4 would so indicate would actually follow through on
5 their decision?

6 A In the one example where they could, in
7 fact, look at that, which was telecommunication
8 service, as I recall, long-distance service, that was
9 the result.

10 Q And you used that indication to make a
11 prediction about how many customers might subscribe
12 in your pilot depending on the level of discount that
13 was offered, didn't you?

14 A That was the only available research we had
15 at the time, yes.

16 Q So you did use that to make that
17 prediction?

18 A As an indicator, yes.

19 Q So that even if you provided a --
20 According to this study, even if you provided a 10-
21 percent discount from the present rate, this study
22 indicated that only 40 percent of the customers who
23 even indicate, self-selected that they wanted to
24 switch, would actually follow through on that
25 decision; is that correct?

1 A From that particular research for long-
2 distance telephone service.

3 Q Mr. Hoffmann, you used that study in the
4 pilot case, and you testified before the Commission
5 to make a prediction about how many customers would
6 enroll in the Duquesne pilot based on the Duquesne
7 proposed credit, didn't you?

8 A That testimony predated what the Commission
9 rules were in the pilot. The research did not
10 reflect a small window of time for customers to make
11 decisions, which was prescribed in the pilot. The
12 customers only had a certain amount of time to make a
13 decision before they were out of the pilot.

14 So I'm not sure that this testimony is even --
15 can even be relevant now to the current rules that
16 were in the pilot.

17 Q Are you saying that now you believe that
18 less than 40 percent of the customers who might
19 indicate that they would switch or be interested in
20 switching would actually follow through on that
21 decision?

22 A It depends on the amount of time you give
23 them to make the decision. If you give them one day,
24 if I told you right now you have until midnight
25 tonight to take this offer, there'll be a smaller

1 percentage than if I give you two weeks to think
2 about it.

3 It's also going to be a factor of how much
4 information you have and how complex the decision is.
5 So it depends on a lot of factors with respect to how
6 many customers are actually going to make the
7 decision.

8 Q The point I'm trying to make is: This
9 study and your testimony in the pilot indicated that
10 even for customers that self-select and indicate that
11 they would switch at a certain level of discount,
12 that more than half fail to follow through on their
13 decision in that context. Isn't that right?

14 A That's what that research showed for that
15 particular circumstance, yes.

16 Q Do you have any reason to think that
17 results similar to that would not apply when retail
18 access was being phased in for the first third of
19 customers, that you'd still have this divergence
20 between customers who even indicated they wanted to
21 switch and those customers who actually followed
22 through ultimately?

23 A There would probably be a divergence. The
24 numbers, though, I have no idea what the numbers
25 would be.

1 Q Well, is there any reason why it wouldn't
2 be at least the 40 percent that this study had found?

3 A Sure. There could be all kinds of reasons
4 why it would be a different number than 40 percent.

5 Q Have you done a study to determine how the
6 results in the one-third phase-in would differ from
7 the study that you presented in the pilot?

8 A I haven't presented any.

9 Q I'm asking you if you've done any research
10 or any study to determine or to identify any factors
11 that would result in a different conclusion than that
12 which was presented by you in the pilot to indicate
13 the number of customers who would not follow through
14 on their decision even after they've designated that
15 they would like to switch.

16 A As I indicated earlier, we're planning to
17 do research to find out, get some insights into the
18 customers' decision-making behavior with respect to
19 these decisions. Why they switched, why they didn't
20 switch, and so forth. Right now the answer is, no, I
21 do not have that research.

22 Q Let me just ask you about the pilot. First
23 of all, that was a first come, first serve
24 methodology?

25 A I wouldn't characterize it as such, no.

1 Q My understanding is that there was an
2 enrollment period. Correct?

3 A Correct.

4 Q And how many customers or what percentage
5 of your customers indicated they wished to be in the
6 pilot?

7 A About 11 percent of our customers.

8 Q And there was five percent slots?

9 A That's correct.

10 Q That was an over-subscription?

11 A That's correct.

12 Q And how was the determination made
13 considering the over-subscription?

14 A We had a computer-based random generation
15 routine that went into the customer records of those
16 customers who had volunteered for the pilot and
17 randomly selected those customers out of that pool
18 until we reached the five-percent goal. That was
19 consistent with how the rest of the utilities across
20 the state were asked to do it.

21 Q So the result was the targeted five percent
22 was reached; is that right?

23 A Through the random selection process.

24 Q By the way, in that pilot study, I believe
25 you indicated that with respect to the total

1 customers that would actually switch, based on the
2 study, that, for example, in the instance in which
3 there was no discount provided they would estimate
4 that 10 percent of the customers would say they would
5 switch and that based on this 40-percent factor only
6 four percent would actually follow through. Do you
7 recall that?

8 A If you used the results of that research,
9 that would be the math, yes.

10 Q Now, in the pilot, do you know
11 approximately the level of savings that are being
12 offered by suppliers to Duquesne customers,
13 residential customers?

14 A It varied by supplier, although I think the
15 nominal number everyone is using is about 10 percent.

16 Q I was curious -- You stated in answer to a
17 previous counsel that Duquesne plans to continue to
18 offer Rule 4 service after the restructuring.

19 A That's correct.

20 Q And other economic development rates would
21 continue to be offered?

22 A Riders 9 and 20 for new customers would be.

23 Q Are you responsible for marketing those
24 economic development riders?

25 A Yes.

1 Q Will you continue to do that after
2 restructuring?

3 A Yes.

4 Q And are those services going to be part of
5 what other witnesses have labeled Duquesne's rate cap
6 service, that is, its default service it will
7 continue to provide after restructuring?

8 A I don't know what that's referring to. The
9 riders are just part of our overall tariff structure
10 for qualifying manufacturing companies that come into
11 our service territory as an economic development
12 incentive. Riders 9 and 20 basically provide some
13 discounts in the early years in the five-year stream.
14 So it's based on the rate for that particular
15 customer, which tariff it is, and then we apply the
16 rider to that tariff.

17 So I think the answer is yes, but I didn't
18 really understand. Maybe you could rephrase the
19 question a different way.

20 Q Let me try it a slightly different way.
21 There's not going to be any change in the corporate
22 entity that would be offering these services, if you
23 know? That is, this service isn't going to be
24 transferred to a competitive licensed supplier?

25 A The tariffs are Duquesne Light Company

1 tariffs, so they would be offered by Duquesne Light.

2 Q Are you responsible for marketing any other
3 retail services other than these industrial services?

4 A We have a few other products or services
5 that we offer. Surge Shield, which is a whole house
6 surge protection service. Through a third party, we
7 make customers aware of carbon monoxide testers. We
8 have relationships with dealer networks on heat
9 pumps, though they sell the heat pumps. We don't
10 sell the heat pumps, but we work in partnership with
11 them. There are marketing programs like that.

12 Q What about retail electric service, retail
13 and commercial electric service? Do you market that
14 service in any way?

15 A Not as part of Duquesne Light Company, I
16 don't market that.

17 Q On whose behalf do you market that service?

18 A I don't. But someone had referred to
19 Allegheny Energy Solutions earlier. That's what they
20 do for a living.

21 Q Do you market that service in any capacity
22 or does your department?

23 A No. We work with Duquesne Light Company
24 customers for Duquesne Light Company tariffs, and we
25 apply those.

1 Q You sponsored testimony on the code of
2 conduct that would apply to Duquesne, haven't you?

3 A Yes.

4 Q Are you also going to be responsible for
5 enforcing that code of conduct for Duquesne, if you
6 know?

7 A Well, typically, compliance of Duquesne
8 Light Company policies and things like that, there's
9 an oversight role of the legal unit to do that. But
10 because marketing and sales reports to me, I have to
11 administer that policy across my staff.

12 So, if that's what you mean by compliance, I
13 administer it, make sure all of my reps and people
14 reporting to me are aware of it and are abiding by
15 it.

16 Q Will you have any responsibility beyond
17 your marketing and sales department to administer
18 this policy?

19 A Well, the policy, as stated in the code of
20 conduct, applies to all Duquesne Light Company
21 employees, as well as affiliated companies. So I do
22 not police them. I just work for Duquesne Light
23 Company in my marketing and sales unit.

24 Q Do you know who will, if anyone, have
25 responsibility to administer it beyond the marketing

1 and sales department?

2 A Again, the only structure that we have in
3 place right now that I'm aware of would be the
4 compliance aspect, that the legal unit provide some
5 oversight of these types of things.

6 Q In your testimony, you refer to the fact
7 that you believe that the code of conduct, the final
8 code of conduct that should apply to Duquesne should
9 be determined through the competitive safeguards
10 working group process; is that right?

11 A Well, basically, by the PUC, whether
12 they're actually going to use that working group.
13 Our view is, the code of conduct that applies to us,
14 we see no reason why it shouldn't apply to the rest
15 of the utilities in the state as well. So we would
16 be looking for a consistent code of conduct across
17 the state.

18 So someone -- And we're looking to the PUC to
19 take that leadership role, and they've taken it to a
20 certain extent with the competitive safeguards
21 working group to resolve some of these issues.

22 Q Have you had an opportunity to review the
23 now infamous PECO Commission decision of last week?

24 A I've scanned through it. I haven't studied
25 it in depth.

1 Q Have you looked at the section that
2 established an interim code of conduct for PECO?

3 A No, I have not.

4 MR. CLEARFIELD: I believe I'm finished.

5 JUDGE CORBETT: Mr. Rubin, I note, is not in
6 the room, and the IBEW is not listed or scheduled for
7 any cross-examination of this witness.

8 Is there any other party who wishes to
9 cross-examine this witness whom I have not called?

10 (No audible response.)

11 JUDGE CORBETT: I note no response for the
12 record.

13 Any redirect, Mr. Moot?

14 MR. MOOT: Yes, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. MOOT:

17 Q Mr. Hoffmann, I'd like to refer you again
18 to the testimony in the pilot proceeding that
19 Mr. Clearfield discussed with you. Is it correct
20 that he was discussing a study that indicated that
21 for telecommunications customers for a 10-percent
22 discount at least in that study 60 percent indicated
23 the desire to switch?

24 A That's correct.

25 Q Do I also recall you discussing with him

1 that some research also showed that in that study 40
2 percent of those customers actually switched?

3 A For long-distance service, yes.

4 Q And would a mathematical -- Would the
5 product of those two be 24 percent?

6 A Yes, it would.

7 Q I'd like to turn your attention to the
8 question and answer that immediately follows the
9 discussion that Mr. Clearfield pointed you to. Would
10 you please read into the record Lines 13 through 24
11 on Page 249.

12 A Question: Is there anything in particular
13 about Duquesne's rates or its location that would
14 cause customers to be interested in switching
15 suppliers?

16 Answer: There is a lot of awareness within
17 our service territory of what is going on--the
18 legislative changes, the changes proposed in the
19 industry. There's a lot of awareness within our
20 marketplace basically because there is a rate
21 disparity in the cost of service rates between us and
22 some of the neighboring utilities which gets a lot of
23 prominence and is at the forefront of some of the
24 media coverage and so forth. So a lot of customers
25 are very aware of these changes that are going on.

1 Q Mr. Hoffmann, in your view and as you
2 remember it, what was the relationship and the
3 purpose of that testimony as it related to the
4 testimony on the telecommunications study that was
5 immediately preceding it on the transcript?

6 A We were trying to establish that there was
7 a limited amount of research with respect to what
8 customers would -- what level of participation one
9 would expect in the pilot.

10 But then we were trying to also demonstrate
11 that for Duquesne Light Company's service territory
12 one would expect the research results to be
13 conservative, at best, meaning we would expect more
14 people interested because of the factors inherent in
15 this particular marketplace, our service territory
16 that I mentioned in that response.

17 So we're looking at the research as, really,
18 kind of a lower bound, all things being kept equal,
19 consistent with that research study.

20 MR. MOOT: Thank you, Mr. Hoffmann. No
21 further questions.

22 JUDGE CORBETT: Any recross, Ms. Sifontes?

23 MS. SIFONTES: Just a second, Your Honor.

24 (Pause)

25 MS. SIFONTES: I don't think so.

1 JUDGE CORBETT: Did the OSBA cross?

2 MS. JONES: No. No, we didn't.

3 JUDGE CORBETT: The City.

4 MR. AKERS: No, Your Honor.

5 JUDGE CORBETT: Ms. Polacek.

6 MS. POLACEK: No, thank you.

7 JUDGE CORBETT: Mr. Wiseman.

8 MR. WISEMAN: No, Your Honor.

9 JUDGE CORBETT: Mr. Zielonis.

10 MR. ZIELONIS: No, Your Honor.

11 JUDGE CORBETT: Mr. Barak, you weren't here
12 before.

13 Mr. Clearfield.

14 RECROSS EXAMINATION

15 BY MR. CLEARFIELD:

16 Q. Mr. Hoffmann, to the extent that you
17 believe there's relatively more awareness of what's
18 going on in the electric industry in Duquesne's
19 service territory, you would agree with me, wouldn't
20 you, that that would tend to indicate that to the
21 extent customers choose not to participate either in
22 a pilot or in a first third phase-in that's because
23 of some effort on their part or some understanding of
24 whether they want to or don't want to?

25 A Obviously, they have some basis for making

1 the decision to participate or not to participate.

2 Q And it's more likely in Duquesne's service
3 territory that they have enough understanding, so
4 your concern about customers being left out because
5 of a lack of information would be ameliorated, if you
6 will -- I'm sorry, mitigated.

7 A I believe so. We believe they have a
8 greater awareness of what's going on here in this
9 marketplace.

10 MR. CLEARFIELD: That's all I have.

11 JUDGE CORBETT: Any further redirect?

12 MR. MOOT: No, Your Honor.

13 JUDGE CORBETT: Thank you, Mr. Hoffmann. You
14 are excused. Thank you.

15 Is there anything further from the company?

16 MR. MOOT: No, Your Honor.

17 JUDGE CORBETT: Before we adjourn, is there
18 anything that the parties want to bring up?

19 Yes. We'll start with Ms. Melillo.

20 MS. MELILLO: Your Honor, I just wanted to
21 reserve the opportunity to place into the record
22 responses that we anticipate receiving to on-the-
23 record data requests we have. I think I have about
24 five myself that haven't been answered yet.

25 JUDGE CORBETT: Why don't we take those up

1 first day of the hearings in January. Okay?

2 MS. MELILLO: Thank you.

3 JUDGE CORBETT: Mr. Berger.

4 MR. BERGER: I was going to make the same
5 request, Your Honor.

6 JUDGE CORBETT: Okay. Does anybody else have
7 anything else that they want to bring up before we
8 adjourn?

9 MR. WISEMAN: Your Honor, I just have one
10 question for clarification. I thought that Mr. Moot
11 indicated that he was going to provide the data
12 responses to all parties. I just wanted to confirm
13 that understanding.

14 MR. MOOT: That is correct, consistent with
15 our current practice, which is where there's a large
16 document attached we don't make 50 copies. That
17 notwithstanding, the answer is yes.

18 MR. WISEMAN: That's fine. Thank you very
19 much.

20 JUDGE CORBETT: Anything else?

21 MR. BARAK: Is it 9 o'clock on the 5th, Your
22 Honor?

23 JUDGE CORBETT: Nine o'clock on the 5th,
24 that's right, per scheduled.

25 MS. MELILLO: See you next year.

1 JUDGE CORBETT: Happy holidays, everybody, and
2 happy new year to you. We'll see you on January 5th.

3 MR. MOOT: Thank you, Your Honor.

4 JUDGE CORBETT: Thank you all.

5 We're in recess until January 5, 9 o'clock.

6 (Whereupon, at 4:17 p.m., the hearing recessed
7 until January 5, 1998.)

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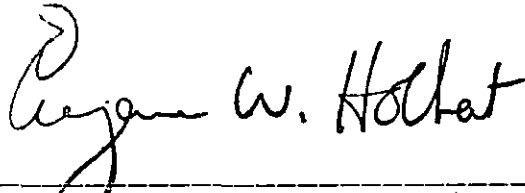
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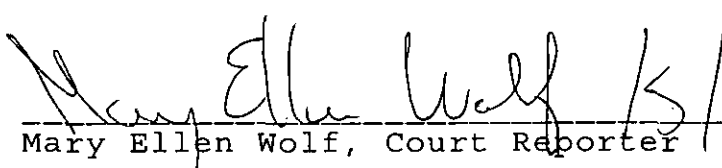
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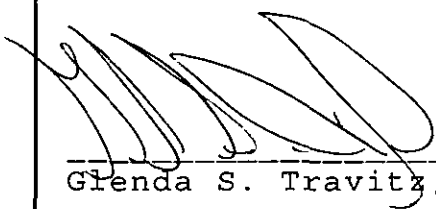
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