

NUCLEAR REGULATORY COMMISSION



IN THE MATTER OF:

TOLEDO EDISON COMPANY and
CLEVELAND ELECTRIC ILLUMINATING CO.

Format File.

(Davis-Besse Nuclear Power
Station, Units 1, 2 and 3)

50-286A

50-500A

50-500B

and

CLEVELAND ELECTRIC ILLUMINATING
CO. et al.

50-440A

50-440B

(Perry Nuclear Power Plant, Units
1 & 2)

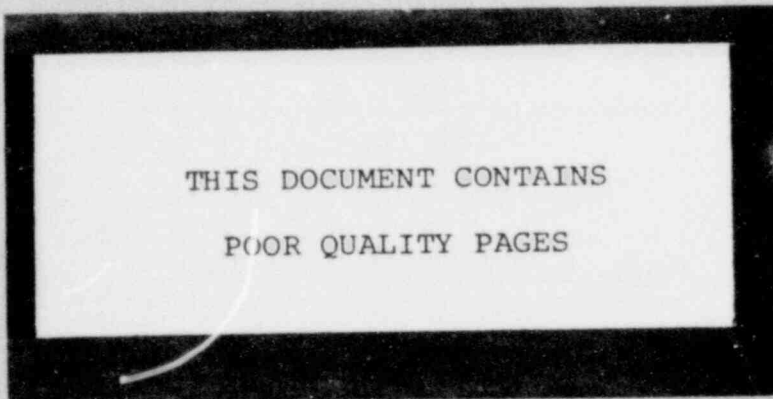
Place -

Silver Spring, Maryland

Date -

Friday, May 14, 1976

Pages 8110 - 8120



ACE - FEDERAL REPORTERS, INC.

Official Reporters

415 Second Street, N.E.
Washington, D. C. 20002

NATIONWIDE COVERAGE

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Witness

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John White

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PROCEEDINGS

Whereupon,

JOHN WEAVER

resumed the stand and, having been duly sworn, was examined and testified further as follows:

CROSS-EXAMINATION (Cont'd)

BY MR. CHARNIC:

Q Did you testify that Ohio Edison originally joined CAPCO for reliability and economy?

A I think that is substantially correct, Mr. Charnic.

Q In fact, did Ohio Edison increase its reliability by virtue of joining CAPCO?

A I think I would have to say, Mr. Charnic, that, as a result of the new formulas, so to say, that were developed within CAPCO, for the purpose of determining the amounts of installed reserve that ought to be carried or ought to be provided, that the result for Ohio Edison viewed alone was the installation of a smaller amount of reserve than Ohio Edison would have installed with CAPCO.

Q Would that result in a greater or smaller degree of reliability for the Ohio Edison system?

A Again, Mr. Charnic, viewing the Ohio Edison system alone that would have resulted in some lessening of reliability.

That is to say, the more installed reserve you have, speaking generally now, the greater the degree of

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1 reliability. But since that reduction for the Ohio Edison
2 system alone was accompanied by a like increase of the total
3 CAPCO arrangement, when the fact that there was somewhat
4 less reserve installed on the Ohio Edison system must be
5 considered in connection with the fact that we were in
6 a position in CAPCO to depend more upon the reserves of
7 others than we might have been.

8 I just wanted to finish the thought, Mr. Charno, to
9 say that the reliability of the Ohio Edison system was
10 reduced. I think that would be incorrect.

11 Q Would you say through reserve-sharing you have
12 maintained the same standard of reliability?

13 A I think Mr. Finestone would answer that
14 question better than I, if you are trying to get a
15 precise answer in terms of numbers.

16 I would say that our reliability remained at the same
17 level, and it was probably enhanced.

18 Remained at least at the same level and was
19 probably enhanced.

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1 Q Did the reduction in Ohio Edison's reserves
2 result in savings to Ohio Edison?

3 A Certainly. It is a matter of prudence and
4 of caution to that extent.

5 There was no reduction in Ohio Edison's reserves.
6 There was, however, looking to the future, a plan to install
7 on the Ohio Edison system less equipment than we would
8 have installed had it not been for CRPCO and had we been
9 pursuing it in a completely independent manner.

10 Q Did that projected equipment investment result
11 in a projected savings?

12 A Yes, indeed.

13 Q Sir, is the maximum term for a contract
14 between a private corporation and a municipal corporation
15 in Ohio 10 years?

16 A There is an Ohio statute, Mr. Chairman, which
17 provides that a contract such as a contract for street
18 lighting service or for service to City Hall or to a fire
19 station what-have-you, may be for a term as long
20 as 10 years, up to 10 years.

21 Q Is that a maximum?

22 A I have always thought so.

23 Q Is there a minimum under that statute?

24 A Not to my knowledge.

25 Q Would such a statute be applicable to sales

1 of electric power at wholesale to a municipal system?

2 A No, I think it is not.

3 Q Sir, I believe that you testified that the
4 reasons for Ohio Edison's 10-year contracts with municipal
5 systems were because the life of the facilities involved
6 and the issuance of the securities to finance those
7 facilities were both long-term affairs.

8 Is that still your testimony?

9 A No, I said that because of those reasons,
10 Mr. Charno, we, of course, like to make contracts for long
11 terms or relatively long terms. I said that from the
12 point of view of a municipal wholesale station or municipal
13 system purchasing wholesale, that at least in many instances
14 a longer term contract may be attractive to them simply
15 because they serve themselves thereby having a source of
16 supply for a long period.

17 I said that the fact that we have usually
18 suggested in those cases a term of 10 years is simply a spillover
19 over habit, so to say, because our other contracts with
20 municipalities have been typically 10-year contracts, that
21 is the street lighting contracts and those of that
22 character.

23 I also said that we have on occasion entered
24 into municipal wholesale contracts for shorter periods.

25 Q Sir, in your answers concerning service

1 to municipalities in the context of the terms of the
2 contract, what facilities were you referring to?

3 A I was referring essentially to the bulk
4 power supply facilities. That is to say the generating
5 units and the transmission system.

6 The same thing is true, of course, of all of
7 our facilities, including distribution facilities and
8 some of our municipal wholesale customers, we do serve at
9 distribution voltages.

10 Q Are your securities then in any way so
11 specific assets of the company?

12 A No, sir. One exception again. We have in
13 the past two or three years, I believe, participated in some
14 revenue bond financing of pollution control facilities.
15 So there is a tie in those cases.

16 That is not true of the normal issues of
17 securities, bonds, preferred stock and common stock.

18 Q Are those revenue bonds -- garden or.

19 Is the interest from those revenue bonds
20 subject to federal and state income taxes?

21 A No, sir, and thereby we are able to finance
22 those pollution control facilities at a somewhat lower cost
23 than if we did it by first mortgage bonds or other
24 conventional financing.

25 Q Do you recall the magnitude of the revenue

1 bond issues involved?

2 A I'm sorry, I don't, Mr. Charno. I think we
3 may have -- I think your involvement in the type of
4 financing may be \$25-40 million, something of that sort. But
5 don't hold me to that because I'm not at all sure that's
6 correct.

7 Q Does Ohio Edison serve retail industrial
8 customers with loads as large as some of its wholesale
9 municipal customers?

10 A We serve retail industrial loads that are
11 larger than the total of our municipal wholesale customers,
12 Mr. Charno.

13 Q Can you give me the range of the terms of
14 the contracts with those industrial loads?

15 A In most cases those are one-year contracts
16 with evergreen clauses.

17 Q Sir, if I correctly recall your testimony
18 yesterday, you indicated that territorial provisions
19 between Ohio Edison and its wholesale municipal
20 customers would help to eliminate confusion as to the
21 source of service at the retail level. Does that
22 represent your statement?

23 A I testified that that was one of the things that
24 we had in mind as a possible benefit, if you will, from that
25 kind of provision at the time those agreements were first

1 made.

2 Q Could you explain how confusion would be
3 eliminated by virtue of these agreements?

4 A It was our hope, our thought as Mr. Charno,
5 Mr. Charno, that the kind of arrangement we were discussing
6 would enable us to know and could enable the
7 municipalities to know with more precision what was the
8 extent in our case of the public utility's obligation
9 to serve and in their case of the area which they
10 propose to serve.

11 Now, as I'm sure you are aware, there is
12 no public utility obligation imposed upon an Ohio
13 municipality which operates a utility at least insofar
14 as its operating outside corporate limits.

15 Q Well, then, the confusion you were referring
16 to, sir, was not of the retail customers via
17 Ohio Edison or the municipality, but the confusion
18 that might exist in the corporate minds of Ohio Edison
19 or the municipality; is that correct?

20 A Essentially that, yes, although there were
21 instances and there are today instances in which a
22 customer will express some uncertainty, shall I ask for
23 service here or shall I ask there.

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1 Q Would that have been eliminated by virtue of the
2 territorial provisions of the new act?

3 A With time, yes, sir.

4 Q What effect would that have upon it, would it?

5 A If the areas were larger relative to Chicago,
6 than they are, it seems to me reasonable to suppose that
7 over some period of time that lines would become known to
8 customers, as well as to us and to a municipality.

9 Q Sir, isn't it possible to use a contractual
10 plan to avoid duplication of facilities by competing
11 companies in a manner so that one company can artificially
12 restrict the growth of the other simply by building lines?

13 MR. STEVEN BERGER: Can I have that
14 back?

15 (Whereupon, the Reporter read the pending
16 question, as requested.)

17 THE WITNESS: I suppose that there may be some
18 possibility of that, Mr. Charno, although I would
19 expect that it would be small, and it is a fact whether
20 there is such an agreement or not, that the construction
21 of lines by a utility, the development, if you will, of and/or
22 by a utility with its facilities, in practical physical terms can
23 achieve very much the same result.

24 So I would think that there isn't much difference,

25 Q Could you give us an illustration of that, sir?

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1 A Well, the area is suitable for the installation of
2 utility distribution systems, if the areas suitable for
3 the installation of utility distribution systems are already
4 occupied, it is a difficult thing and costly thing for
5 another utility to attempt to come in and occupy the same
6 space, the same area, for instance, at least in Ohio,
7 most streets are occupied by pole lines which carry electric
8 facilities or facilities of electric utilities, and those
9 of telephone utilities.

10 Some years ago, ten, twelve, fifteen years ago,
11 cable TV companies appeared and wished to construct their
12 facilities to reach essentially the same customers.

13 That is to say, the people who were customers
14 of telephone companies and electric companies.

15 The only feasible way for them to accomplish their
16 objectives was to find some way to gain permission to occupy
17 the poles of the electric companies or the telephone
18 companies whichever happened to own them in particular
19 instances.

20 I well recall that there was a long period, I'm
21 not sure it is over yet, in which efforts were made by cable
22 TV companies to gain just that kind of permission.

23 There simply -- it simply was not a practical
24 alternative for them to come in and build an additional
25 pole line down each street.

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1 Q As I understand your testimony, you indicated that
2 it would not be practical for two utilities to attempt to
3 serve at the distribution level in exactly the same
4 area.

5 Moving from that, would it be equally difficult
6 for one utility to build over the distribution area of another
7 utility, in order to serve customers on the other side,
8 without having customers in the middle?

9 A There are instances of that, yes, indeed.
10 That is to say, if I understand correctly the situation
11 that you are hypothesizing, a distribution feeder or
12 transmission line of one electric utility may well pass
13 for some distances through an area in which another electric
14 utility is serving the customers at retail. That is not
15 the usual thing.

16 You don't see it on every street or in every
17 neighborhood, but it does -- these situations do exist.

18 Q Is it more costly to run that distribution
19 facility through somebody else's territory when you are not
20 serving customers off of it?

21 A Mr. Charno, I have to presume that the reason
22 the distribution feeder, if that is what it is, is located
23 as it is, that that was a less costly alternative for the
24 utility which built it.

25 In other words, it was necessary for them for

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1 one reason or another to get from a substation to an area in
2 which they had some customers, and I presume, normally,
3 they would look for the least costly way to get them.

4 That may, in some instances mean that for some
5 distance, the feeder will, as I say, pass through an area
6 where a different utility is serving the customers.

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7 Q Might it also mean that utility would look at the
8 distance between the substation and the customers and decided
9 it wasn't worthwhile to try to reach the customers?

10 A I think there have been instances of that, yes,
11 sir.

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1 Q Sir, could you define wheeling as you have used
2 it in your testimony?

3 A In the sense in which I used it, I was referring
4 to the use of the transmission system of a utility to move, in
5 that is a correct word, electrically, electric power and
6 energy from a source outside the system of the utility
7 to whose transmission system I refer, to another point,
8 another person, another entity which is also outside
9 the system of the utility.

10 Q I believe you also used the term "third party
11 wheeling." Would you define that in the same manner?

12 A I think that is what I just did define, Mr.
13 Charno. There is another kind of transaction which might
14 be called wheeling, although I would probably not use
15 the term myself in connection with it, I think many do,
16 and that is the kind which is contemplated in, for instance,
17 the one or indeed more than one of the possible
18 solutions to the negotiations between ourselves and WCOE.

19 As I said, one of the things which has been
20 discussed in those negotiations is the ownership or joint
21 participation contracts with WCOE of portions of generating
22 units of Ohio Edison Company.

23 In that case, in a legal sense, but perhaps
24 not in a physical or electrical sense, the source of the
25 power and energy to be moved would not be outside the system

1 of Ohio Edison Company, although the point to which it was
2 to be moved would at least in the legal sense be outside
3 that system.

4 That kind of thing I would normally refer to
5 as transmission service, although I am well aware that
6 many people would refer to that also as wheeling.

7 Q Sir, when you were -- scratch that.

8 Do you recall whether the Buckeye arrangements
9 between Buckeye Power and Ohio Power provided for Ohio
10 Power providing backup for Buckeye's Cardinal Unit in
11 exchange for Buckeye's surplus power from that Cardinal Unit?

12 A Mr. Charno, I am not all that familiar
13 with the Buckeye arrangement. I know that, or I think I
14 know, at least, that Ohio Power has agreed to back up
15 the Cardinal Unit. I know that Ohio Power did agree to take
16 the surplus output of the Buckeye unit.

17 Whether the contracts were so structured that
18 one of those is an exchange for the other, I don't know.

19 Q Does Buckeye Power have any other generating
20 facilities other than the one Cardinal unit?

21 A I believe, Mr. Charno, there is a second unit
22 under construction. I know of no others.

23 Q Is Ohio Edison presently wheeling power from
24 either Buckeye or Ohio Power to the cooperative members
25 of Buckeye?

1 A Contractually, Mr. Charno, I think that we are
2 not. Our arrangement provides that we buy energy from Ohio
3 Power at our points of interconnection with that
4 company, and that we sell energy to Ohio Power at the
5 points of delivery to the cooperative member of Buckeye.

6 Now, that energy is priced in such a way
7 at each end of the line, so to speak, that those prices
8 wash each other. And the compensation to Ohio Edison
9 Company bookkeeping aside is in the form of a charge
10 for transmission service.

6 11 Q I believe yesterday, Mr. Whited, you testified
12 that -- strike that.

13 Mr. Berger asked you if you had ever received
14 a specific request for third party wheeling. At 9687
15 you replied, "Not unless, Mr. Berger, you include in
16 your question the Buckeye transaction which I described
17 earlier."

18 A Right.

19 Q What was the nature of that specific request,
20 sir?

21 A Well, the nature of that specific request,
22 Mr. Charno, as I believe I said yesterday, was a request
23 that we sign the power delivery agreement which I
24 described.

25 That was put on the table in front of us by

1 Ohio Power and Buckeye.

2 Well, I think I said that there were discussions
3 of it and so on. We chose not to sign it, and to work
4 out a different arrangement.

5 Q Then did you in fact refuse to waive under that
6 specific request to waive, but instead entered a buy-sell
7 arrangement?

8 MR. STEVEN BERGER: I think the witness
9 has already answered that question.

10 CHAIRMAN RIGLER: Let me hear it again.

11 (Whereupon, the reporter read the pending
12 question, as requested.)

13 CHAIRMAN RIGLER: I will permit it. He may
14 have.

15 THE WITNESS: We did refuse, Mr. Chairman,
16 to sign that particular agreement. We did indicate
17 a willingness to work out with Buckeye and with Ohio
18 Power an arrangement which would provide us a practical
19 matter what it was that they wanted.

20 We worked out that arrangement and we signed
21 that contract with them.

22 BY MR. CHARNO:

23 Q Sir, was the reason for that refusal that
24 the power delivery agreement would provide insufficient
25 compensation for the service that OE was providing?

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1 A In our view, it would have provided insufficient
2 compensation. So we said no. We said if you want to work
3 out a deal, if you want to negotiate something and work
4 us, we will negotiate.

5 We did negotiate and our agreement with them
6 resulted.

7 Q Do you recall being informed that representa-
8 tives of Ohio Edison had told Buckeye that a buy-sell
9 arrangement might cost them even less than what they
10 would cost them?

11 A I'm not sure that I was informed of that,
12 Mr. Charno, but I well recall in the final stages of the
13 preparation of the agreement, which we did sign, that
14 there was a meeting at which one of the subjects on the
15 agenda was the suggestion by us of the size and form of
16 the charges that we would wish to see in the contract, and
17 I very well remember that there was a great feeling of
18 relief and pleasure on the other side of the table when
19 we made that suggestion.

20 And, in fact, we were complimented rather
21 extravagantly in our statesmanship in having proposed
22 such charges.

23 Whether that was because they were lower
24 than the charges that -- whether that was because they
25 would have resulted in a lower overall cost to Buckeye

1 and Ohio Power, I don't know.

2 But I know that this I have just described
3 took place at that meeting.

4 Q Do you recall whether Ohio Edison began
5 operations under the buy-sell arrangement in approximately
6 August 1970?

7 A Well, I got in trouble with that --
8 pretty much the same question the other day with Mr.
9 Berger, Mr. Charno.

10 The reason I'm fuzzy on the date is that the
11 agreement was to have gone into effect at a date which is
12 specified and then because of difficulties in completing
13 the Cardinal Unit, I believe, or for other reasons which
14 prevented either Buckeye or Ohio Power or both from being
15 ready to commence those operations, we were requested at
16 least twice and I think three times to extend that date
17 for periods of six months or so in each case.

18 So I have this morning the same trouble I
19 had the other day recalling whether operations started
20 in '68 following these extensions or whether the
21 agreement was signed in '68 and then operations started
22 some time later following the extensions.

23 If the agreement was signed in '68, 1970 would
24 sound to me as a reasonable date for the operations to
25 have started.

1 Q Sir, were you aware that transmission services
2 under the power delivery agreement began over two years
3 before Ohio Edison began to operate under the buy-sell
4 agreement?

5 A No, I was not. I had thought that transmission
6 services didn't start until the Cardinal Unit was completed,
7 Mr. Charno, but I may be wrong.

8 MR. STEVEN BITZER: Just as a point of
9 clarification, Mr. Charno, is there a basis for that
10 question in the record presently?

11 MR. CHARNO: Yes. The basis for the question
12 would be page 4 of DJ 136, which indicates that Toledo
13 Edison began service under the Buckeye agreement on June
14 23, 1968.

15 DJ 507, page 16, which indicates that service
16 commenced under the buy-sell arrangement on August 1, 1970,
17 and DJ 18, which are notices of cancellation of two
18 contracts between Ohio Edison and the Buckeye member
19 cooperatives within its system effective August 6, 1970.

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BY MR. CHARNO:

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Q Sir, you testified yesterday that under

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Administrative Order Number 110 of the Public Utilities

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Commission of Ohio, Ohio Edison has the power to guarantee

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a minimum monthly bill; is that correct?

6

A No, sir.

7

Q To require a guaranteed minimum monthly bill?

8

A In cases to which that rule applies, yes, sir.

9

Q In cases which fall within that rule, is that

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a permissive rule or a mandatory rule?

11

A It is a permissive rule.

12

Q I believe you stated the scope of the rule

13

as when the costs are unreasonably high, with respect to

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expected revenues, Ohio Edison might require such a

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guaranteed minimum monthly bill; is that correct?

16

A I missed the first part of the question, Mr. Charno.

17

Q When the cost of service was unreasonably high

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with respect to the expected revenues resulting from that

19

service --

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A I mean the part that preceded that.

21

Q I asked you if that was a correct statement of

22

your standard of the rule.

23

A Well, Mr. Charno, what I was attempting to describe

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yesterday, was simply the concept of the rule. And not to state

25

its terms in any detail at all. As a matter of fact, I haven't

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1 seen the rule for some years. The concept is that there is
2 a point at which to require a utility to invest its funds
3 would be unreasonable, if the relationship between -- well, there
4 is a particular relationship between the cost of the investment
5 and the revenue expected to be derived from the customer.

6
7 That thing, that concept is set out in the
8 rule as I remember it, in terms of a formula, so to say, which
9 I don't recall to mind, I'm sorry, but it is in that form that
10 the rule operates.

11 Q Sir, I believe in your testimony yesterday on
12 contractual limitations on the amount of capacity, was that
13 testimony applicable to both Ohio Edison and Pennsylvania Power
14 or was it limited to one of the two companies?

15 A Mr. Charns, there were several questions coming
16 upon that subject matter.

17 I believe, certainly, that some of what I said
18 would apply equally to both companies. I'm not sure
19 everything I said would, in detail. I was speaking
20 principally from the point of view of Ohio Edison Company
21 as such. I don't recall anything I said that would, wouldn't
22 at least in general terms be applicable to both, but there
23 may be some such thing.

24 Q Would your statement of the reasons for the
25 inclusion of such provisions be applicable to both companies?

A Yes, indeed.

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Q Would it be a fair statement of those reasons that the clauses are placed in contracts in order to assure you that your facilities are adequate to handle parties and to determine the extent of the obligation which the company was required to undertake?

A That is the essential and primary reason for provisions of that sort.

That is to say, so that we will know or have some assurance as to the extent of our obligation. The presence of those provisions certainly doesn't assure us that our facilities are adequate, but it does give us some assurance of an opportunity to make them adequate, if that becomes necessary.

L.S.

ari 1 Q Sir, if a municipal disincorporated
2 utility were to condemn the facilities of either Ohio
3 Edison or Pennsylvania Power with which the company
4 served an industrial customer as would it would not affect
5 either the capacity of your facilities or the extent of
6 your obligation to provide service?

7 A If a municipality appropriated the facilities
8 serving any customer, it would render it impossible for
9 us to continue that service, obviously.

10 Q Would there be any impact upon the amount of
11 generation required on your system or the amount of
12 transmission capacity to the municipal system?

13 A It might or might not. That would depend on what
14 the municipalities or what source of power supply, what
15 was the source of power supply for the municipality?

16 Q Well, if the municipality were an all-requirements
17 customer of either Ohio Edison or Pennsylvania Power and
18 the industrial retail load had been a retail customer
19 of the same company, would there be any impact upon the
20 generation or transmission of that company by virtue of
21 the condemnation?

22 A I would think not at the moment of the condemna-
23 tion, certainly.

24 Q What would be the impact thereafter, sir, as
25 distinguished from the impact that would take place if the

1 municipal and the industrial certain agencies, correct?

2 A As far as the manufacturing companies, I
3 receive all of the power supply from the utility, and
4 facilities if it is appropriated, then I suppose Mr.
5 Charno, that there would be no impact upon the generating
6 or transmission facilities of that company.

7 Q Sir, yesterday in testifying about the question of
8 filing rates for service at high voltages, Mr. Sargent
9 asked you a question which assumed some things, and I would
10 like to question you as to whether you agreed with the
11 assumptions in his question.

12 When a municipality is faced with regarding
13 the voltage at which it is going to take service, is it
14 true that they are going to have to make a substantial
15 investment in order to receive service at that higher
16 voltage?

17 A Certainly.

18 Q And is it true that it is difficult for them
19 to determine the financial feasibility of going to that
20 higher voltage without knowing what the demand is
21 going to be on power at that higher voltage?

22 A I should think, Mr. Charno, that anybody
23 who wants to consider an investment in electric facilities
24 would wish to estimate the costs and the benefits of
25 making that investment.

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1 MR. SMITH: Mr. White, does your company make
2 investments based upon information of a character of type

3 THE WITNESS: Certainly.

4 BY MR. CHARNO:

5 Q Mr. White, I believe you testified yesterday
6 that you had given some information to principal systems
7 who had inquired about high voltage service, as to the type
8 of discount they might receive; is that correct?

9 A Yes. I said that on several occasions, I had been
10 asked by Mr. Stout, the Superintendent of the
11 Cuyahoga Falls system, what would be the case, when
12 we would charge Cuyahoga Falls for service at 138 KV

13 In each instance, and these occurred over a period
14 of years, I said to Mr. Stout, that he could expect that
15 the rate at which we would provide that service would be,
16 in effect, the rate he was then paying, less a
17 discount of five percent.

18 I had similar conversations, again on several
19 occasions, with Mr. Burgess, the Superintendent of the Lakewood
20 system.

21 Q Do you recall when those conversations occurred?

22 A Mr. Charno, these conversations occurred and they
23 were informal telephone conversations on several occasions
24 over the past ten or twelve years and perhaps longer.

25 On another occasion, Mr. Burgess, who is deceased

1 for WCOE, and this would have been, I think, in perhaps
2 '71 or '72, somewhere there about, Mr. Duncan asked
3 similar questions with me, and I wrote a letter to
4 Mr. Duncan setting all of this out.

5 I may have written letters in the interim
6 to Mr. Stout or Mr. Burgess or both, although I don't
7 recall it.

8 On each occasion, in which I discussed this
9 matter, and in the letter to Mr. Duncan, I pointed out that
10 the rules of the Federal Power Commission or its regulations
11 under the Federal Power Act provide that a rate schedule
12 not be filed more than 90 days before the date on which
13 the expected service is to begin.

14 I point out also ---

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CHAIRMAN RIGLER: I think this is somewhat
repetitious. It is not as important as it was
detail the testimony from yesterday.

I want to try to have that story and get you
out of here.

THE WITNESS: I'm sorry, I thought I was
just responding to the question.

CHAIRMAN RIGLER: If there is something
important you want to add, feel free, of course.

THE WITNESS: No, I said everything I had
to say on the subject yesterday.

The only thing I might add is we did not actually
inform both of those two cities, those being the only cities
that had made such inquiry, what kind of information
they could use for estimating purposes.

MR. CHAMNO:

Q Six, do you recall either of those cities
being informed that notwithstanding the existence of the
industrial retail high voltage discounts, 3.3 and 3 percent,
Ohio Edison could not say with certainty that the
municipal systems would receive a similar discount?

A Yes. I said to them and I said in my letter
to Mr. Duncan that inasmuch as we were talking about
service which obviously on those occasions wouldn't begin
for several years, that the precise rate for the service

1 would have to depend on the cost of providing it at the
2 time it began.

3 I said also that at that time it might be
4 more appropriate as a matter of course to establish a
5 new rate reflecting these costs rather than to take the
6 existing rate and apply to it a discount.

7 Q Do you recall either Hides or Dryden stating
8 being informed that because of the difference in character
9 of service to industrial and municipal customers, detailed
10 studies would be required in order to determine what
11 the appropriate discount rate would be for municipal
12 service at high voltages?

13 A I recall having said on several
14 occasions that because of differences in load characteristics
15 and service requirements, I did not consider that the
16 industrial rates would be appropriate rates for service
17 to municipal wholesale customers.

18 I don't recall having said to them that I thought
19 your question suggested I might have said.

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1 BY MR. CHARNO:

2 Q Sir, in the context of C-400 was there a
3 buy-sell arrangement worked out with respect to the
4 respect to the entitlement of a unit, are there any
5 arrangements simply committed to provide a certain number
6 of megawatts of power or are they committed to provide
7 a certain number of megawatts of unit power?

8 That is to say, at the cost of a specific unit.

9 A I believe that the buy-sells, Mr. Charney, are
10 in the terms you first mentioned.

11 That is to say, commitment to take the units
12 to take megawatts, rather than megawatts from particular
13 units.

14 I have to say that subject to check this.

15 CHAIRMAN RICLER: May don't we take two
16 minutes here?

17 Do you have a few more on this line?

18 MR. CHARNO: This is a convenient spot.

19 MR. STEVEN BERGER: Before we take a break, I
20 would like to ask a question of the Department, if I may.

21 I didn't want to interrupt Mr. Charney, as he
22 is going along. Back to the line with regard to
23 Buckeye I have a little bit of a problem, and I would
24 like to get an answer from Mr. Charney, if I may.

25 Not to suggest that his questioning was in any
way beyond the scope of Mr. White's direct examination, but

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1 I don't think that the question of whether the operation
 2 of the Buckeye agreement had regard to the cooperatives
 3 in Ohio Edison's service area being in 1933 has ever been
 4 alleged by the Department to have been in any way important
 5 in terms of the timing of it. I certainly got the impression
 6 from Mr. Charno's line of questioning that at the very
 7 least, there was a suggestion that perhaps since 1933
 8 had delayed in some way the availability of surplus
 9 Power to the cooperatives in their area.

10 Now, if that is the case and that was all that
 11 Mr. Charno was running, it is the first time I have heard
 12 of it, and I would like to know if that is the case.

13 MR. CHARNO: The Department was engaged basically
 14 in clarification of the record, as we understood it.

15 I haven't had a chance to go further into that
 16 matter overnight.

17 It came up yesterday for the first time.

18 I'm not sure what point was being made
 19 direct by the Witness, and I have not looked at the contents
 20 of the contracts to which the Witness referred, so I can't
 21 really answer that question.

22 MR. STEVEN BERGER: Okay.

23 CHAIRMAN RIGLER: Ten minutes.

24 (Recess.)
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BY MR. CHAMBERLAIN:

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Q Mr. White, I would like to refer to your testimony of yesterday -- specifically to the questioning by Mr. Smith.

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5

Your answer at the top of page 2072, I would like to give you a copy of that and ask you to look over your answer.

7

8

Have you had a chance to make a check about?

9

A Yes, I have.

10

Q Sir, in view of your answer just before the break, could you explain what problem of Edison's ability to meet its obligations to GEPCO partners you were referring to at 8512 of the transcript?

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A Mr. Chamberlain, I gave you an answer before the break which would appear to be inconsistent and indeed is inconsistent with the testimony, my testimony of yesterday which I have just read.

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I said to you at the time that the answer I gave you, I would have to make subject to check, because I was not sure that it was accurate.

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In my response to Mr. Smith, if you will notice the word at the end of the fourth line from the bottom of that response, I said we might have an obligation not only to own, but to sell. And I was not sure when I answered Mr. Smith and I was not sure when I

1 answered you.

14 2 Q Sir, are there any problems of which you are aware which
3 meet your obligations as a power utility and which are not
4 the one you set forth on page 9617 of the transcript of
5 which you are aware?

6 A Mr. Charnock as I've said you know --
7 MR. STEVEN BERGER: Excuse me, Mr. White.
8 When you say problem, you mean problem in
9 connection with the question put to Mr. White on page 9622,
10 by Mr. Smith?

11 MR. CHARNOCK: Yes, and in the context of
12 the witness' answer on 9622.

13 THE WITNESS: Generating capacity is installed
14 by utilities and by CAPCO in response to changes in load
15 and in amounts which appear to be sufficient to handle
16 the forecasted changes in load on a year plus some margin
17 into the future.

18 If, for instance, a CAPCO was ever established
19 in which the ownership of the Ohio Edison system had been
20 determined to be 400 megawatts, that determination would
21 have been made having in mind the expected loads for that
22 year.

23 We would have not only a need for that to serve
24 our own loads, but some need which would be supplied in the
25 400 megawatts to provide reserves for our own load and to

1 have available some amount of capacity for other CAPCO
2 members.

3 My response to Mr. Smith was upon the
4 hypothesis that if MOOS were to take all of that 400
5 megawatts, we would have problems or might well have
6 problems in meeting our obligations to other CAPCO members.

7 I said it might be that we would have an obligation
8 to sell a specific amount out of that unit to other
9 CAPCO members.

10 I'm not sure if I have said that or not
11 so. But, certainly, if all of the 400 megawatts were taken,
12 we would not be in a position to provide reserves for other
13 CAPCO members in the amounts which they would then have a
14 right to expect from us.

15 The result of that would be or might well be at
16 least under the CAPCO arrangements, we would find ourselves
17 obliged to pay penalties to other CAPCO members.

18 BY MR. CHAMNO:

19 Q Sir, wouldn't the obligation to provide
20 reserves for that unit pass with the capacity of that unit?

21 A I'm not sure I follow you.

22 Q You are saying that you have an obligation to
23 provide reserves which would be increased by the addition
24 of a 400 megawatt block of capacity.

25 Now, if you lost that 400 --

1 A No, no, no. I said that if 400 megawatts
2 were the number, Mr. Charney, that the quantity of power
3 been arrived at having in mind whatever would be the
4 it was forecast that we would have to the time, plus
5 an amount of reserve for our own loads, plus an amount
6 of reserve or including an amount of reserve, in fact, well,
7 upon which other members of CARGO might have a call.

8 Q Well, sir, wouldn't the projected load of
9 400 megawatts, which would be supplied by WCOE, be included
10 in your projection, whether or not it was supplied directly
11 by WCOE or by Ohio Edison?

12 A Mr. Charney, I have no reason at this moment
13 moment that the load of WCOE would be as much as 400 in 1978.
14 If the only portion of the unit which WCOE took was an
15 appropriate amount in relation to the loads of WCOE, then
16 the problems I speak of might not arise. When I was
17 addressing myself to in discussing this matter with WCOE
18 and again in response to Mr. Smith's question was a
19 situation in which if WCOE were permitted voluntarily to
20 decide how much of any unit and which unit it would take,
21 WCOE then decided to take all of our ownership in a
22 particular unit, in that case these problems might arise.

23 And that was the possibility against which I
24 wanted to protect Ohio Edison Company and its investors
25 and its customers in the negotiations with WCOE.

ar5 1 Q Sir, is it not true that the transfer of

2 Would any problem arise in having to transfer to
3 more capacity from a single unit than the total load can be
4 off?

5 A On the face of it, Mr. Brown, I don't think
6 that problems would be less likely to arise in that circum-
7 stance.

8 I'm not sure that none could arise. I would
9 have to think about that.

10 Q Keeping in mind the reserve situations attendant
11 upon a bulk power supply from a large single unit, is it
12 likely that WCOE would choose to supply their entire load
13 from a single unit if that option were open to them?

14 A I think they would be extremely loath to do that.
15 But I don't run WCOE. My interest is in the rights of
16 the customers and the investors in Ohio Edison Company.
17 My interest is in doing what I can to protect them.
18 My interest is in attempting to develop WCOE, if that is their
19 desire, an orderly and practical scheme for their
20 participation in some of our generating capacity.

21 Q Sir, yesterday I believe you testified that
22 Ohio Edison is willing to study a specific request for
23 wheeling.

24 Did you further testify that the reason that
25 you were willing to do so because a specific request gave

1 you an opportunity to determine whether your facilities
2 were adequate in order to carry with them business.

3 A Mr. Chasno, what I believe was said in a previous
4 directs to me the question, will you recall and carry
5 power, that I have no practical way of responding to claim
6 that I did not intend to do anything which would in effect
7 dedicate Ohio Edison's transmission system to common
8 carrier type service.

9 I said further that if we have you asked with a
10 request for wheeling which included an estimate of the
11 points, points at which the power would enter our system,
12 the time when it was expected to take place and your idea as
13 to the compensation we might expect, that I would be
14 perfectly prepared to take such a study, to consider
15 it, to negotiate out a transaction if it could be done on
16 terms which first would not injury the interests of
17 Ohio Edison Company and its investment and operations and
18 which might in effect provide some benefits in those
19 respects.

20 Q Would it be fair to say that Ohio Edison
21 would wheel third party power if the company could receive
22 such a benefit from such a transaction and if it had
23 adequate facilities to do so?

24 MR. STEVEN BERGER: I think it is getting a
25 little repetitious, Mr. Chairman.

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CHAIRMAN REGLER: I agree.

BY MR. CHARNO:

Q Mr. White, do you recall the exact agreement to territorial allocation of a letter agreement between Ohio Edison and Holmes-Wayne Rural Electric Coop. dated

This would be an agreement executed in approximately 1961.

A No, sir.

Q Do you recall arranging for the disposal of any documentary materials relating to such an agreement in 1972 or 1973?

A No, I don't, Mr. Charno.

Q Mr. White, did you, in fact, arrange for the collection and disposal of documents relating to territorial agreements between Ohio Edison and other utilities in 1972 or '73?

A I did.

Q At that time did you order any division of Ohio Edison adhering to such an agreement to cease doing so immediately?

A I did.

Q Was that order verbal or written, sir?

A It was verbal.

Q Was it delivered by you to each of the division managers of Ohio Edison?

A Not to each of them, Mr. Charno. It was delivered

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1 by me to Mr. Zimmerman, a vice president, in
 2 charge of division operations, and I immediately
 3 requested Mr. Zimmerman to be sure that each of the
 4 division managers understood that his own reports to me

5 I did have occasion to discuss it in detail only
 6 with some of them, but not all of them.

7 Q Are you aware of any reason that Mr. Wilson
 8 did not inform the Department of Finance of these
 9 documents at the time of the company's response to discovery
 10 requests?

11 A I think the only reason, Mr. Wilson, I can think
 12 my fault, is that I had not occasioned to consider the
 13 of thing which I had under consideration these days
 14 proceeding.

15 I had thought in my earlier participation
 16 involvement with this proceeding that it related to
 17 relations with other wholesale customers and that it was
 18 related to what may have been our relations with regard
 19 to retail customers.

20 MR. CHARNO: I have no further questions.
 21 Thank you, Mr. Wilson.

22 CHAIRMAN EGLER: Let us ask a question on the
 23 subject Mr. Charno was just pursuing.

24 In 1972 or 1973, you told Mr. Zimmerman that to
 25 the extent Ohio Edison had a commercial association

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1 agreements with other utilities that this division was
2 no longer to observe those agreements.

3 THE WITNESS: Yes, I did.

4 CHAIRMAN RISLER: Now, Chairman, do you, through
5 that information to the division regarding

6 THE WITNESS: Re did.

7 CHAIRMAN RISLER: Was that the content of your
8 action taken with respect to those territorial allocation
9 agreements?

10 THE WITNESS: Yes. Through that, as I mentioned
11 to Mr. Charne a few minutes ago, Mr. Risler, I let the
12 papers which I had look at sit around the office for a
13 time. And on the -- as a matter of fact, what happened is
14 one day my secretary asked me what I was going to do with all
15 that stuff, and I said you might as well get rid of it.
16 It is useless.

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ari: CHAIRMAN RIGLER: Now were the two, so to speak,
2 in charge of the project of developing a law to
3 down the line with respect to the responsibility on the
4 part of OE of these agreements. It was your responsibility?

5 THE WITNESS: It was my responsibility to do it,
6 yes.

7 CHAIRMAN RIGLER: All right.

8 Did you discuss these agreements with
9 representatives of any other company?

10 THE WITNESS: No, sir.

11 I might say, Mr. Rigler, that what had led to
12 my concern was two things:

13 One, some time before that period, there had
14 been an effort as between the investor-owned utilities
15 in Ohio and the cooperatives to draft a territorial inter-utility
16 law.

17 You may recall that Rural Electrification
18 Administration was very interested in seeing that that kind
19 of law was enacted in each of the states and recommended
20 strongly to the cooperatives that they try to secure that
21 kind of legislation.

22 I was on a committee which attempted to draft
23 such a law. Our efforts were never successful, but
24 that is another story.

25 In the course of doing that, however, we

1 concluded at some point that it would be useful to ask
2 the companies and the associations on the basis of a map
3 run to go out and see whether it was feasible to have
4 maps delineating boundaries between the two. That was
5 done.

6 CHAIRMAN HICKER: Approximately when was this?

7 THE WITNESS: In the '60s. Early '60s, roughly.

8 No, no, I would say it was probably in '63-'64.
9 About in that time.

10 It came to my attention on a couple of
11 occasions that some of the co-ops had misinterpreted the
12 purpose of that mapping effort and were suggesting to our
13 division people that those maps constituted a statement.

14 I spoke to Mr. Cummins, the manager of the
15 about it and he told me later he had corrected his
16 impression.

17 Nevertheless, I was fearful that such misstatements
18 might not have been cleared up entirely.

19 Second, the other kind of thing that caused
20 me concern was that I became aware that from time to time
21 our people would be in the field with representatives
22 of co-ops or with representatives of municipal electric
23 systems and would in one way or another, usually on the
24 basis of who was closest, agree that one or other of the
25 other ought to serve a particular new customer.

1 That was the kind of thing they were discussing
2 me. That was why I asked them to bring in their
3 papers in.

4 CHAIRMAN RIGLER: Now, under this arrangement when
5 your division people were in the field with representatives
6 of co-ops or municipals?

7 THE WITNESS: Yes.

8 CHAIRMAN RIGLER: Could it also occur that
9 they were in the field with representatives of other
10 investor-owned utilities?

11 THE WITNESS: Yes.

12 So I'm sure that in many cases there were
13 sound reasons for what they were doing, and yet it seemed to me
14 at the time that we might be getting pretty close to this.
15 And so that is what I wanted to have straightened out.

16 CHAIRMAN RIGLER: Now, you did not contact
17 officials of other companies at the time that you advised
18 Mr. Zimmerman of the cessation of the purchase, you just
19 said.

20 Did any other official operating pursuant to your
21 directive make such contacts?

22 THE WITNESS: I certainly told nobody to make
23 such contacts, Mr. Rigler. I expect it is entirely
24 possible that at some time or another some of them have made
25 such things, yes.

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I have no knowledge of that.

CHAIRMAN ROSEN: Thank you.

BY MR. LESBY:

Q Mr. White, in 18 years of testimony did it ever
was a causal relationship between the 1964 strike and
power blackout and the formation of the utility we know
today as CAPCO?

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1 A When you use the word "causal relationship,"
2 you trouble me a little bit, Mr. Lesay.

3 It is certainly true that in that period, there was
4 a widespread and accelerated interest in matters of system
5 reliability, protection from cascading in areas just of
6 service, all through the utility industry.

7 And that interest existed in the Edison company,
8 and I believe the other CAPCO companies, and I think
9 in companies without exception from coast to coast.

10 Q By "causal relationship," would you mean it
11 in the legal sense of approximately caused or in using
12 a but for standard.

13 Does that help you in the clarification of the
14 question, as to an answer?

15 MR. STEVEN BERGER: Off the record.

16 (Discussion off the record.)

17 THE WITNESS: Mr. Lesay, I don't know that there
18 is any chain of events that I can trace directly for you from
19 the Northeast Blackout to the organization of CAPCO, as it
20 exists today.

21 I think I have mentioned to you the widespread
22 concern with reliability which followed the Northeast blackout.
23 Indeed, it had commenced to quite a degree, I think, before
24 the Northeast Blackout.

25 It simply focused the attention of utility people

bw2 1 on the possibility of cascading interruptions, and on the
2 problems of system reliability.

3 BY MR. LESSY:

4 Q So the answer is: it wouldn't have been
5 approximately caused; is that correct?

6 A I don't want to get into a semantic debate with
7 you, Mr. Lessy. All I can say to you is that the
8 Northeast Blackout focused our attention on these problems and
9 focused the attention of utility people on all of these
10 problems.

11 Q Is it your testimony that the 1968, the second
12 Federal Power Commission National Power Survey had a causal
13 relationship between that survey and the formation of the
14 entity and the entity we know today as CIPCO?

15 MR. STEVEN BERGER: You said the second
16 National Power Survey?

17 MR. LESSY: There was a '66 survey and the date
18 the second one is either '68 or '69.

19 MR. ZAMLER: It is 1970.

20 MR. LESSY: 1970 Federal Power Survey.

21 MR. STEVEN BERGER: Your question is, did the
22 Second National Power Survey have a causal relationship
23 to the formation of CIPCO?

24 MR. LESSY: Yes.

25 MR. STEVEN BERGER: 1970 Survey.

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BY MR. LESSY:

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Q The 1964 National Power Survey, the survey.

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A The 1964 National Power Survey, in fact, in

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the same manner, though I think, had indirectly, tended

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to focus or helped to focus the attention of utility

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people on these problems.

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And that is true, and it had some direct effect

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upon people at Ohio Edison Company.

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1 Q You say it helped define, but not create, is that
2 a correct interpretation of your statement?

3 A I think -- I didn't say it created anything.
4 I did say it focused our attention on what we did and what
5 we didn't do on these matters.

6 I guess the problem with having Mr. Schaffer do
7 that I don't quite see how I can say to you that an
8 event in the Northeast and/or a publication by the Federal
9 Power Commission bore a direct causal relationship in the
10 strict legal sense to some of the things that we did or
11 didn't do.

12 And maybe my problem is only temporary, but I
13 have a problem.

14 Q Would it surprise you to learn that Mr.
15 Schaffer testified in answer to the question of the
16 Northeast power blackout that it didn't really, the
17 answer was not really, when asked if there was a causal
18 relationship between the formation of EPSC and the
19 Northeast power blackout of '67?

20 A My testimony has been directed, Mr. Schaffer, to
21 what happened at Ohio Edison Company. I'm not surprised
22 that Mr. Schaffer testified as he did, if he did. I don't know
23 whether he would have had the same problem that I have
24 with direct causal relationships, but as I have told you, I
25 would have trouble trying to get up a specific chain of

1 events from the Northeast blackout and the formation of
2 CAPCO.

3 Q With respect to the limitations or conditions
4 that Ohio Edison felt necessary that pertain to the WCOE
5 Beck study, pursuant to the correspondence with Mr. Dunsen
6 and the memoranda, et cetera, I think in its entirety that
7 that those limitations included, one, that there would be no
8 third party wheeling; two, that Ohio Edison would not serve
9 as a banker; and three, that WCOE was not to pick
10 and choose participation in particular matters. Is that
11 correct?

12 A No.

13 Q The answer was no?

14 A The answer was no.

15 Q Let's take them one by one.

16 You did tell WCOE and Beck what you were not
17 going to go forward or not interested or didn't feel that
18 it was included within the understanding to go forward
19 by included third party wheeling in the power supply
20 study; isn't that correct?

21 A We said to WCOE ---

22 MR. STEVEN BERGER: When you said in the power
23 supply study, what were you talking about?

24 MR. LESSY: I think the witness knows.

25 CHAIRMAN NICKER: You can tell Mr. Berger.

1 MR. LESBY: The Beck power supply study done
2 for the Wholesale Consumers of Ohio Edison, July 1975, which
3 had been received in evidence.

4 THE WITNESS: Oh.

5 We told neither WOOD nor Beck anything about
6 that power supply study. We didn't know that it was
7 under preparation, Mr. Lesby, until it had been completed
8 and we were handed a copy of it.

9 They were perfectly free to include in that study
10 any subject matters that they chose to consider. We
11 to include in the study.

12 BY MR. LESBY:

13 Q Would you relate to us the circumstances in
14 which item 3(f) of Mr. Duncanson's June 19, 1974 letter, which
15 you testified with respect to yesterday, was in fact
16 deleted which was transmitted heretofore?

17 A I testified yesterday, Mr. Lesby, that at the
18 meeting between ourselves and WOOD, I said that I thought
19 that third party wheeling, since that is the term we have
20 come to use, was not included within the memorandum of
21 agreement which we had previously entered into with WOOD.

22 Q Now you also told them, using your words,
23 that the concept of Ohio Edison financing or serving as a
24 banker was not included within the memorandum of agreement
25 that you had concluded with WOOD?

1 A Yes, sir.

2 Q In the same context you indicated to your committee
3 yesterday that WCOE would not be free to grant the success
4 units; wasn't that also true?

5 A Mr. Lessey, I testified that I had two several
6 considerations, one of them being that we would not want
7 to see WCOE take all of its entitlement or all of its
8 amount in a single unit. I said that we would have some
9 hesitation about their participation by way of ownership
10 in every unit. Because of the magnitude involved in this
11 kind of thing.

12 I said that we would be expanding in a negotiating
13 context, since that was the context in which we were talking
14 at the time, that it would not be their privilege and right
15 to pick and choose as among the units.

16 And I probably said several other things of that
17 kind. That being the first meeting we have had with them
18 at which we were going to get down to the nitty gritty
19 of what we hoped and I'm sure they did, would be an
20 orderly and practical program of some kind to be worked
21 out between us, to be negotiated between us.

22 Q I'm going to show you a letter dated
23 February 28, 1975, which is included in that exhibit. It
24 is signed by Mr. Firestone and is directed to Messrs.
25 Duncan and Cheeseman.

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I am going to direct your attention to page 4 of that letter, the paragraph I mention in the letter. WCOE would be entitled to...

A Yes, sir.

Q How does that paragraph compare with the position vis-a-vis WCOE which was set forth in the CAPCO units?

A He.

Q I wonder if you would call back to the...

A Mr. Lacey, this letter represented a proposal for a program which was -- which has been set forth in the letter set forth by Mr. Pirastone at a meeting. In fact, the position of the negotiations between ourselves and WCOE.

It was not accepted. I should say that for purposes of the proposal, paragraph I would have represented the position of Ohio Edison because the position of Ohio Edison Company at that point is set forth in the letter.

In any event, that proposal has not been accepted by WCOE.

As a matter of fact, there was another proposal later set forth by Mr. Pirastone and that was not accepted either.

The position of Ohio Edison Company with respect to WCOE is that we are prepared to be bound on the

1 basis of the program recommended by Buck in his report
2 to WCOE and which it has been recommended that it be
3 program which WCOE wishes to follow.

4 Q Well, I'm talking about the position of your
5 position regarding access to large scale power units.

6 Now you testified yesterday, as I understand,
7 that you couldn't pick and choose, WCOE couldn't pick and
8 choose.

9 I would like you to state, because I'm unclear
10 now, as to what that position was in terms of the
11 formation before the power supply study as to its
12 place in the 10-74, 3-75 meetings.

13 MR. STEVEN BERGER: Your Honor, the question
14 has been asked and answered, and I think there is confusion
15 in the question as to the use of the term "pick and choose."

16 CHAIRMAN KISLER: If there is confusion, we
17 can clear that up.

18 The objection is to be asked and answered and
19 overruled.

20 MR. STEVEN BERGER: Can I have the question rephrased,
21 please?

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BY MR. LESSY:

Q During the foregoing meetings, I have mentioned, for example, 14-70 and 14-71, did you discuss with WCOB, and Beck, this pick-up of those contracts?

A Yes, sir.

Q Could you please tell me when you said at that time, to your recollection?

MR. STEVEN ENGLISH: I think you indicated, your Honor.

CHAIRMAN RICHMAN: Overruled.

THE WITNESS: As I said, I am not sure of it, Mr. Lessy, at the first meeting following the receipt of Mr. Duncanson's letter to which you have referred, we discussed with WCOB a number of subject matters, including considerations which we thought ought to be kept in mind in determining in which units and to what extent per unit WCOB would participate. Among other things I said that their participation by way of ownership in every Ohio Edison unit was something that we would prefer to avoid, because of the paper work and similar considerations that would involve.

I believe I testified also that at that point Mr. Mayben of Beck said he could understand what I was talking about, because he was then engaged in a similar transaction with others.

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1 I said that we could discuss different units
 2 from our point of view, if all of the units were
 3 that was ultimately determined to be, which are to
 4 taken in a single unit.

5 I said that we would have difficulty, if we
 6 were suggested by anyone that we should really be
 7 enabled to pick and choose among the various state utility
 8 units.

9 I said that notwithstanding those major, major
 10 components that I have just made, all of the state utility
 11 units and each of them would be an appropriate subject for
 12 discussion and might well become a unit in which we could
 13 participate with our agreement and, as a matter of fact,
 14 we, at that meeting, gave them a listing of all of the
 15 units and, more particularly, of all of the units that were
 16 scheduled for the future, together with the approximate dates
 17 of commercial operation, and the types and locations, and
 18 so on.

19 Q In addition to the no third party wheeling, the
 20 no banking and the picking and choosing concept, as you have
 21 just described, didn't they also discuss at the 1971 meeting
 22 or request that wheeling in or that wheeling out -- that
 23 wheeling out be permitted, such that if one municipal
 24 had self-generation, and that municipal had excess
 25 capacity at a given time whether or not Ohio Edison would

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1 he willing to deliver that excess for public or other
 2 purposes to another -- to a charitable center of this
 3 Edison, who was also a member of the group?

4 MR. STEVEN BERGER: Mr. Bagler, Mr. Lessy is
 5 asking a question about -- a question of fact as to what
 6 was stated at a particular meeting, and he has asked with it
 7 a hypothetical as to whether or not it was the understanding
 8 of the party, who was asking it, in fact, the question was
 9 asked, was it in the mind of this Edison that he should

10 I think I have a problem with Mr. Bagler's
 11 question.

12 MR. CHARNIC: I have the objection back.

13 MR. LESSY: Let me restate the question.

14 It was not a well-phrased question.

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BY MR. LASSY:

Q At the 10-74 meeting, did not Ohio Edison reject, along with third party wheeling as a proper subject within the scope of the agreement, the possibility of Ohio Edison transmitting to a municipal that had generation and also had excess capacity, that excess capacity for peaking or standby purposes being transmitted to another wholesale customer?

A Mr. Lassy, I don't recall conversations on this subject matter.

In fact, I'm not entirely sure I understand what that proposal would have been if it had been made to us as a practical matter.

Q Well, Ohio Edison has at least one wholesale customer who is not a full requirements wholesale customer which also has self-generation, doesn't it?

A Yes, that is the case with the City of Columbus.

Q Right.

Now if Oberlin had excess generation capacity from its own system, the question is would Ohio Edison be willing to deliver that excess capacity to, say, Wadsworth?

A As a matter of fact, Mr. Lassy, Oberlin does not have excess capacity, and that is why Oberlin is taking part of its supply to us.

1 Q The question was of Charlie's self-generation.

2 CHAIRMAN RANKIN: Am you asking a question which
3 as to what the company position would be, or are you
4 asking if that subject came up at the meeting in December of
5 1974?

6 MR. LESBY: In your recollection, did that
7 subject come up, Mr. White, at the meeting in December 1974?

8 MR. CHARNO: Can I ask for clarification
9 whether Mr. Lesby is referring to the subject of Charlie's
10 generating capacity or the subject of that type of contracting
11 and Mr. Lesby is just inserting the City of Charlton as
12 an example?

13 MR. LESBY: I mentioned Charlton because that
14 witness did. That was an example of the type of thing
15 right, Mr. Charno.

16 THE WITNESS: I don't recall that that subject
17 was discussed, Mr. Lesby. I would be very much surprised if
18 anybody would put forth such a suggestion for the reason
19 I have already stated, that in the case of Charlton, that
20 a municipality which had self-generation and which had
21 excess capacity, would surely not have entered into a
22 contract with us for wholesale supply from us.

23 BY MR. LESBY:

24 Q You can't imagine in the context of a power
25 supply study whether or not the transmission of power

1 between different wholesale customers and the willingness
2 of Ohio Edison to do that with the various municipalities?

3 A No, Mr. Loopy, I think very likely. I think
4 that I can't imagine why anybody would have said I
5 with Ohio Edison the question when you get to be qualified
6 for the very simple practical fact that a self-generating
7 municipality which has excess capacity certainly would be
8 be interested in purchasing more capacity at the rate
9 from us.

10 The question just doesn't make sense.

11 Q Suppose your average system costs are higher
12 wholesale rate delivered to that municipal was cheaper
13 than its cost of self-generation?

14 A Then I presume that in that instance why
15 hypothetical other municipal you are talking about would
16 prefer to buy from us rather than to buy from a
17 self-generating municipal whose costs are higher than ours.

25 Q That answer would be true whether or not
18 we are talking about off-peak or peak time. I don't
19 mentioned the question in the context of peaking or seasonal
20 capacity that was to be delivered.

21 A I don't believe you did mention it in that
22 context. It might conceivably be that there would be short
23 periods of time in which the economics might flip-flop, and
24 somebody would propose the kind of transaction which
25

1 you hypothesized.

2 I understood your position to be in favor of
3 of firm power.

4 Q That is my fault. It is the context of peaking
5 or stand-by. Is your answer any different with
6 your recollection as to the 10-74 meeting?

7 A No, that doesn't change my recollection of the
8 meeting. I was responding to you earlier simply that I
9 couldn't imagine why anybody would put forth such a
10 proposition as I thought you were putting forth.

11 Q If it were peaking or stand-by, you could imagine
12 such a proposition, couldn't you?

13 A I think that is conceivable.

14 As I say, for a specific day-to-day short
15 term, very short term transaction, it is possible that such
16 a thing might be considered.

17 Q Now also with respect to the -- both the
18 10-74 and the August '76 meeting, do you recall making
19 statement -- let's limit it. Scratch that.

20 With respect to the 10-74 meeting, in the
21 context of what was and what was not included in the
22 memoranda or agreement, do you recall making a statement
23 that if a study were to be made, Ohio Edison would only
24 consider an arrangement whereby its wholesale customers
25 purchased all of their power requirements from Ohio Edison and

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not any requirement from other outside sources in the
the control area of Ohio Edison?

A No, I don't recall saying that.

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1 9 All right. Now your view, when, if it was
2 properly included within the memorandum of agreement, I think
3 I think we better take a look first at the memorandum
4 agreement and the memorandum agreement.

5 I believe it was put in front of you yesterday
6 as Applicants Exhibit 7.

7 Now, let's examine certain provisions one at
8 a time.

9 Looking at paragraph number 3, on page 3, the
10 language itself, further agreed by the parties that
11 they will undertake a joint effort to realign, and I
12 emphasize that, their long term power supply relationships
13 as further evidenced, and we will get into that in a second,
14 by Exhibit C.

15 Is it your understanding that that language
16 "realigning long term power supply relationships" necessarily
17 excludes such things as third party trading, trading
18 and picking and choosing units?

19 A I think all that language does is say that we have
20 agreed to a realignment of our relationships as evidenced
21 in the memorandum of agreement.

22 CHAIRMAN RIGLER: Mr. Leasy, the word banking
23 has been used in two different concepts recently. First,
24 with respect to providing financial assistance and,
25 second, the concept of having a surplus or liability between

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two CAPCO members with respect to the delivery of power.

Which way did you mean it?

MR. LESSY: I meant it in the historical manner, which was your first example.

I apologize, if there was any ambiguity. Would you read back the witness' answer. (Whereupon, the reporter read from the record, as requested.)

BY MR. LESSY:

Q Doesn't the use of the specific word "realignment" imply something more than a minor change to your

A I don't know that it implies anything as significant in that respect.

Inasmuch as the sentence refers specifically to the memorandum of agreement which is attached, and it seems reasonable to me, at least, upon reading that language, to think that if I want any information or thoughts as to the detail of what the agreement is, I will have to go read the memorandum of agreement.

BY MR. LESSY:

Q We will get there in a second.

Your answer is, as I understand it, that the use of the phrase "realigning power supply relationships" would not include more than a minor change?

MR. ZAHLER: Could I ask Mr. Lessy --

THE WITNESS: I didn't say that at all.

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MR. BAYLOR: Could I ask them Mr. Bayl

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means by minor change?

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CHAIRMAN WIEBER: Since we did not have
disagreed, I think the objection is over.

B: MR. LESSY:

Q Would you agree, sir, that the use of the
phrase such as realigning power supply relationships
is inherently nonexclusive in eliminating such things as
third party wheeling?

A Mr. Lessy, if the only agreement between the utility
and WCOE were an agreement to realign our long term
power supply relationships, and if there were just that
period and nothing else, a period, anywhere, that I would
suppose that almost any suggestion for realignment or
any suggestion for changes might appropriately be
introduced into the negotiation.

But when I see that the period I have just
hypothesized is not there, and I see a memorandum of
memorandum of agreement, all my instincts tell me that
I want to find out with respect to what is included and
what is not included will have to be found in the memorandum
of agreement.

Q Let's go to the memorandum of agreement
which is Exhibit C, and in the context of that admittedly
general language by you --

MR. STEVEN BERGER: Do you have a page reference?

MR. LESSY: Actually there isn't a page reference.

1 Just an exhibit number to that. It is a red page that there
2 we are. There is no page on the exhibit.

3 MR. SWEENEY BARBER: I would make a very
4 reference to what was allegedly considered to be genuine
5 in nature by Mr. White as you were inquiring in your
6 question.

7 MR. LESSY: I would just rely on his last
8 answer.

9 BY MR. LESSY:

10 Q Let's look at Exhibit D, the memorandum of
11 agreement where it says in the first sentence, "The
12 parties will conduct studies," and I will leave some words
13 out, "of an arrangement or arrangements under which the
14 municipalities would buy ownership in whole or in part
15 whereby special contractual agreement be in a position to
16 participate directly in the output of specific generating
17 capacity."

18 Nowhere, sir, do I see the language in the
19 output of specific generating capacity of Ohio Edison.

20 Now, if the municipals would be in a position
21 to participate in the output of specific generating capacity
22 other than Ohio Edison, then third party wheeling would be
23 properly includable within this memorandum, wouldn't it?

24 A Mr. Lessy, the letter from Mr. Stone, which
25 precipitated the negotiations between ourselves and WCOE and

1 us whether we would be prepared to discuss with them their
2 participation in Ohio Edison Company's generating assets.

3 It was to that that we responded affirmatively.
4 There was never any suggestion by any representative of
5 WCOE at any time that they thought they needed our agreement
6 to participate in specific generating capacity of some other
7 utility.

8 We did not understand, and I am confident that
9 they did not intend at least by the time we had reached
10 this memorandum of agreement that they were talking about
11 any generating capacity or that we were talking about
12 any generating capacity other than that of Ohio Edison
13 Company.

28 14 Q Well, the only way that WCOE could participate
15 in the output of specific generating capacity of a
16 system other than Ohio Edison would be if Ohio Edison
17 agreed to deliver that capacity to WCOE by its transmission,
18 would it not?

19 A That isn't so.

20 Q Other than the construction, perhaps, of their
21 own independent transmission system?

22 A Mr. Lessy, if WCOE desires to receive power
23 and energy from a generating unit located other than on
24 the system of one of the WCOE members, obviously there
25 must be transmission of that power and capacity over somebody's

1 lines.

2 All I'm saying to you is that transmission
3 over Ohio Edison's lines is not the only way that can be
4 accomplished.

5 Q But you excluded at that within the purview
6 of agreement such transmission by Ohio Edison if it
7 were necessary, didn't you?

8 A Mr. Leszy, as I have tried to say to you
9 before, neither the WCOB representatives, certainly not
10 Mr. Duncan, with whom I participated in the drafting of this
11 memorandum of agreement, neither Mr. Duncan nor I had it
12 in mind at all --

13 Q What do you mean by "it"?

14 A If you will let me finish my sentence, it will
15 perhaps become clear.

16 Q I apologize.

17 A Neither of us had it in mind at all when we
18 were preparing a memorandum of agreement which related to
19 any generating capacity other than the generating capacity
20 of Ohio Edison Company.

21 Q There is nothing in the memorandum of agreement
22 which on its face limits what generating capacity to generating
23 capacity of Ohio Edison, is there?

24 A No, sir.

25 Q Now as to what Mr. Duncan had in mind, you

1 testified yesterday, and I'm reading from transcript
2 9597, lines 12 through 15. "Other than that the specific
3 generating capacity that I had in mind and that Mr. Duncan
4 had in mind, I'm sure, was generating capacity that
5 owned, or to be owned in the future by Ohio Edison Company."

6 Now, in light of that testimony, I would like
7 to ask you why in Mr. Duncan's June 18, 1974 letter to you
8 in which he said he was setting forth an "outline"
9 on the first paragraph, looking forward to the implementation
10 of the general objectives of the memorandum of agreement,
11 he included, specifically included on page 3(?) transac-
12 tion.

13 If he didn't have that in mind, why did he
14 include it in his general outline?

15 MR. STEVEN BARBER: May I give Mr. White
16 copy of the transcript that is referred to in the question?

17 (Recess.)

18 MR. LESSEY: I believe there was a general
19 question at the break. Would the witness like to repeat it?

20 (Whereupon, the reporter read the
21 pending question, as requested.)

22 THE WITNESS: I don't know why Mr. Duncan included
23 that in his general outline, Mr. Lessey.

24 I do know that when I raised the question at
25 the meeting and suggested that I did not consider that to

1 have been included within the ambit of the understanding of
2 agreement that Mr. Duncan didn't disagree with me, although
3 there was some urging, if you will, on the part of some
4 of the WCOE representatives that they would like to have
5 that subject included.

6 I said, as I have testified here, that I thought
7 the problems we faced in attempting to work out an arrange-
8 ment for participation by WCOE in Ohio Edison generating
9 capacity were sufficiently complex that we didn't want to
10 add to the complexity in the form of third party meddling
11 and WCOE, through Mr. Duncan and his representatives,
12 at least acquiesced in that suggestion.

13 BY MR. LESSY:

14 Q Then your basis for saying they acquiesced in
15 that suggestion was that Mr. Duncan did not protest when
16 you said 3(f) has to be deleted?

17 A I didn't say that.

18 Q What is your basis?

19 Let me ask you another question.

20 Did Mr. Chessman protest at that meeting, to
21 your recollection?

22 A He may have, although I don't recall it. There
23 was, as I have testified, later in the meeting some
24 discussion which may have been initiated by WCOE or may
25 have been initiated by us. I'm not sure, with respect to the

1 transmission or wheeling, if you will, from whatever
2 Ohio Edison units might be agreed upon, to the delivery
3 points of the WCOE customers, and at that point I said
4 that we had always assumed from the beginning of these
5 conversations, from the beginning of this negotiation,
6 that that kind of wheeling would be a necessary part of
7 whatever arrangement was worked out, and whatever
8 arrangements or understanding or agreements with respect
9 to reserves would be a necessary part of the first arrangement
10 at which point Mr. Mayban said that gives us all we need.

11 Q Is your testimony that Mr. Mayban did not present
12 your position that third party wheeling was beyond the scope
13 of the memorandum agreement and the understanding of the
14 parties?

15 A My testimony, Mr. Lessey, is that when I was in that
16 position, there was some discussion of it as between
17 Edison on one side and WCOE on the other, and that it
18 ultimately concluded in the way that I have just described.

19 CHAIRMAN REISLER: That is not directly
20 responsive to Mr. Lessey's question. He is asking if the
21 representatives of WCOE expressed any protest.

22 THE WITNESS: I see.

23 Whether protest is a little too strong a word,
24 I won't quibble with you, Mr. Lessey.

25 They did object to what I said in the first

1 instance, and the conversation was closed, the subject
 2 was changed, we came back to it, and eventually it appeared
 3 to us that they were satisfied that the kind of recording
 4 I described in my last answer would not meet their requirements.

5 MR. LESSY: Would you read into the record, please, if

6 (MacKrupon, the reporter took down the

7 record, as requested.)

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BY MR. LASSY:

Q Is it your testimony that Mr. Lyren did not protest the exclusion of third party liability as beyond the scope of the understanding of the parties and the substance of agreement at that meeting?

A Mr. Lassy, some of the WOOD people voiced that kind of objection. I don't recall specifically whether Mr. Lyren was one of them.

Q Did the Beck Study review any alternatives that had been -- alternatives in terms of power supply alternatives, that use of the phrase alternatives, that had been covered by you as beyond the scope of the understanding of the settlement agreement and the understanding of the parties?

A I think not.

Q Isn't the reason for that in the way that -- One paragraph 3 of the June 13, 1974 letter from Mr. Lyren to you says, "We both would agree, I'm quite certain, that we do not wish to explore either independently or together, courses which we can assure would be unproductive."

Isn't the reason that WOOD couldn't afford to have studied alternatives that were inherently unproductive to Ohio Edison?

A I don't know. As I stated earlier, Mr. Lassy, the Beck Study was prepared independently by WOOD and WOOD.

We learned of its existence only after it was

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1 completed.

2 They were entirely free, I'm sure, to do
3 anything they cared to study, and I have no doubt that
4 they did so.

5 But I don't know what, even.

6 Q Do you agree with the statement of Mr. A over
7 in the third paragraph of his June 16, 1974 letter to you,
8 "We both would agree, I'm quite certain, that we do not wish to
9 explore, independently or together, courses which we can
10 assume would be unproductive."?

11 A I think that is a very sensible statement.

12 Q Do you agree with it?

13 A Of course, I agree with it.

14 Q Having recognized or acknowledged that the A. E.
15 Beck people were in attendance at all of the meetings
16 which you have mentioned and everything recognized that
17 in part, some of them may have disagreed with some of the items
18 which you felt were beyond the scope of the
19 memorandum and having recognized that the Beck Study did not
20 review any alternatives that had been excluded by Edison
21 Edison as beyond the scope of the understanding of the parties,
22 are you of the view that the Beck Study was prepared
23 independently by Beck, and that they were free to discuss
24 any alternatives that they wished?

25 A I am of that view.

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1 Q You do not feel that your limitation of certain
2 matters as beyond the scope of the memorandum of agreement
3 and the understanding of the parties, as reflected in the
4 Beck Study as to force a result that was only favorable
5 to you?

6 A Mr. Leszy, our first acquaintance with WCOE
7 was in 1964 or '65, when they approached us and asked
8 us for a reduction in their rates, and they subsequently
9 negotiated then.

10 In 1972, they approached us and asked us to
11 consider with them several subjects, including participation
12 in our generating capacity and third party wheeling.

13 We agreed with them on participation in
14 generating capacity and did not with respect to third
15 party wheeling.

16 In my view, at least, they reintroduced the
17 subject of third party wheeling in Mr. Duncan's letter
18 to me.

19 I didn't agree with Mr. Duncan
20 that it was appropriately a matter for consideration in
21 the memorandum of agreement. That is beside the point
22 which I am attempting to make, and that is since the
23 WCOE people have not hesitated to approach us with
24 suggestions or with requests when they felt that they should

25 Furthermore, coming to the Beck Study, your

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question suggests that what we said essentially forced the Back Study into a framework in which it could not have provided an answer acceptable to us.

The Back Study considers seven, I believe, alternatives. And recommends one of them.

We have agreed that the one which is recommended and which has been recommended to us to be acceptable to WCOE, is also acceptable to us.

We have not focused on any of the other six alternatives and I can't tell you today whether we would consider those acceptable to us or not. We had not looked at them and had WCOE indicated a desire to proceed with them.

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arl 1 Q You would just view it as a determination
2 then that the alternatives which Beck reviewed did not
3 include any alternatives which had been available by
4 you as beyond the scope of the parties and that Beck was
5 acting independently of your conclusion?

6 A I don't know how Beck was acting, Mr. Lessy.
7 Beck is a consulting engineering firm, hired by WCOB,
8 retained by WCOB, to act in WCOB's behalf in the negotiations
9 with us.

10 These, as I have testified, are three-month
11 negotiations. I assure that Beck does whatever is so
12 requested to do by WCOB and whatever it considers to be
13 in the interest of WCOB.

14 Q Now in the case of Newton Falls, Ohio Edison
15 insisted for a long time on both a pre-payment of the cost
16 of the facilities for the interconnection by Newton Falls
17 coupled with the requirement that Ohio Edison is effectively
18 had to own the line. Isn't that correct?

19 A I think "insisted" is not wrong a word, perhaps.
20 That subject, like the subject we have just been discussing,
21 Mr. Lessy, was a subject of negotiation between
22 and Newton Falls.

23 We did for a time desire that it be done in that
24 way. Subject, I believe, to a refund from Ohio Edison
25 to Newton Falls over a period of time of the cost of the

1 interconnecting line.

2 Q Instead of the word "interconnect," how about the
3 substitution of the word "admission," that for which
4 Ohio Edison was adamant with respect to Newton Falls, that
5 they pre-pay subject to a refusal of the grant of such
6 facilities for an interconnection and that Ohio Edison
7 must own the line?

8 A I won't get into a semantic debate with you on
9 this point, either, Mr. Lessy. It was a position assumed
10 by Ohio Edison. It was maintained by Ohio Edison for a
11 period of time. The negotiations didn't, as it worked
12 out, produce that result.

13 Q There was an FPC investigation of the Newton
14 Falls-Ohio Edison association, wasn't there?

15 A No, sir.

16 Q There was an FPC report of the Ohio Edison-
17 Newton Falls status of negotiations in the volume of 1975
18 wasn't there?

19 A I'm not sure that is so, Mr. Lessy.

20 There was a meeting which I have always
21 understood to have been an informal meeting between Ohio
22 Edison and Newton Falls and some members of the FPC
23 staff, in which the matter was finally resolved.

24 MR. LESSY: I am handing you a copy of EAD Exhibit
25 79, which is dated August 5, 1975 from Martin J. Harty,

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1 engineer in charge, to the files.

2 It has been received as an exhibit in this
3 proceeding entitled "United States v. ..."
4 I will give you an opportunity to look it over, sir.

5 BY MR. LESSY:

6 Q Having had a chance to review this report, would
7 you say it is a fair statement that based on the reports
8 of the statements of Mr. McGovern, that Ohio Edison was
9 adamant with respect to the Newton Falls interconnection
10 at one point in time, that, one, it be financed by a pre-
11 payment by Newton Falls, and that Ohio Edison own
12 the line?

13 A Mr. Lessy, this is the first time I have seen this
14 memorandum to the files. I have already testified that
15 Ohio Edison advanced the position and did not, during the
16 period of time; that we would prefer, that we desire, that
17 Newton Falls put up the money for the construction of the
18 line subject to a refund from Ohio Edison over a period
19 of time and that Ohio Edison own the line.

20 Q Are you familiar with the Squire, Sanders &
21 Dempsey opinion?

22 A No, sir. I'm aware --

23 Q Let me finish my question.

24 Are you familiar with a Squire, Sanders &
25 Dempsey opinion to the effect that such an arrangement as

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required by Ohio Edison was unconstitutionally

A I'm not aware of any opinion to that effect. I have not seen an opinion of Squire, Sanders and Dempsey, but I understand that Squire, Sanders and Dempsey were of the opinion that Newton Falls could not be permitted under the Constitution to adopt laws for the purpose of constructing a line to be owned by Ohio Edison Company, even though the amount of the cost of the construction of the line was to be refunded.

Q Now, it wasn't just Newton Falls in that opinion. It was any municipal corporation in Ohio, wasn't it?

A That may be so, Mr. Lacey. As I say, I don't know the opinion of Squire, Sanders and Dempsey.

My awareness of it was related only to what was said in that way with respect to Newton Falls.

I dare say as conscientious and competent counsel that their opinion may well have said a municipal corporation may not do this and so, rather than that Newton Falls may not do this and so; but I don't know that.

Q When did you become aware that was the opinion of Squire, Sanders and Dempsey, or what your understanding of the opinion was?

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A I don't know.

Q I expect it was some time in the early part of last year, but I don't remember.

Q When you say the early part of last year, could you be a little more specific?

A I say that only with reference, Mr. Miller, to the date August 5, on the memorandum which was shown me a few minutes ago.

Q What do you mean by the early part of last year? A range of months?

A Some time before August 5.

Q Do you know who Mr. Miller is?

A Yes, sir.

Q Would you tell us who he is and what his position is?

A Mr. Harold Miller is division manager of the Akron Division of Ohio Edison Company.

Q Now, with respect to Cuyahoga Falls, there has been a discussion of upgrading the delivery of facilities for the delivery of full requirement wholesale power from Edison to Cuyahoga Falls from 23 KV to 138 KV; are you aware of that?

A Yes, sir, there have been conversations on that subject for at least ten years and perhaps more.

Q With respect to the latest conversations, was, to your knowledge requested the upgrading?

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Mr. Lesby, it has been apparent to our engineers and to the Cuyahoga Falls engineer, Mr. Scott, for a good many years, that the size would come when the line to Cuyahoga Falls would exceed the capacity of the circuits at which they are now served.

It has been the mutual desire of both Mr. Scott and our engineers; desire may not be the appropriate word, both of them have considered that 132 KV would be an appropriate voltage for service to Cuyahoga Falls, to replace the present 13 KV service when the load growth had reached a point at which a change was desirable.

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BY MR. LESSY:

Q Your testimony is nobody here said Mr. Stout got together and said it is about time to do it?

A I guess I hadn't finished my answer, Mr. Lessey.

I don't know who first suggested it. I believe that the suggestion is based on sound engineering considerations which are recognized as sound, both by our engineers and by Mr. Stout.

Q Can you testify that Ohio Edison did not go to Cuyahoga Falls within the last month or two and say it has to be upgraded, distribution or transmission must be upgraded from 33 to 138 KV?

A No, sir, I cannot testify to that.

As a matter of fact, the loads have reached the point or will have very soon at which a change ought to be made. And we have suggested to Cuyahoga Falls. I think rather firmly in fact, that something needs to be done soon or service to Cuyahoga Falls will be impaired.

Q Do you have any idea of the figure that Ohio Edison gave Cuyahoga Falls as the cost of the change to use change to mean the upgrading of the facilities from 33 kV to 138 and all attendant electrical equipment?

A Mr. Lessey, it has been agreed between Mr. Stout and our engineers for some years that when the time came

1 to change the service to 138 KV the appropriate way
2 in which to do that was not to upgrade the 88 KV
3 facilities, but rather to establish a completely new and
4 different interconnection.

5 We had had in our planning a route for
6 some time a new 138 KV line which would pass to the west
7 and the north of Cuyahoga Falls. We intended to establish
8 as part of the construction of that line a new 138 KV
9 substation, stepdown substation from which to would serve
10 loads of ours in the area.

11 The understanding that I have had and I'm sure
12 our engineers have had for several years has been that
13 Cuyahoga Falls proposed to acquire a site next to our
14 substation or very close by it at any rate, and to build
15 substation on that site and build a line for some short
16 distance, and I'm not sure how far it would be, but not very
17 far to tap into the new 138 KV line that we had planned.

18 Consistent with that understanding, we now
19 have some preliminary construction of that line underway, and
20 we have acquired most, if not all, of the right of way for it.

21 Q That line, you mean Ohio Edison's part of the
22 line?

23 A Yes, sir.

24 MR. STEVEN BERGER: If I can interrupt at this
25 point.

1 I have never understood that any part of the
2 direct case by the NRC Staff involved the question of
3 the cost of the upgrading of facilities from 20 KV to 138
4 KV in Cuyahoga Falls.

5 I understand that nothing has been presented
6 by the Staff in their direct case with regard to that
7 question. The question of 138 KV and the Falls has only
8 to do with the question, as I understood it, of filing a
9 rate in this case. This is the first time I have heard
10 that the Staff is questioning the costs involved in
11 the upgrading of those facilities alleged, and the position
12 that the company has taken in regard to that.

13 If I am wrong, I would like Mr. Lessey to tell me.

14 MR. LESSEY: I think the line will become very
15 clear very shortly. I can be finished within 15 minutes.
16 I would like to go on subject to a motion.

17 In addition, the witness testified a number of
18 times about Cuyahoga Falls in his direct testimony.

19 MR. STEVEN BENDER: The mere fact he mentions a
20 city doesn't in and of itself give Mr. Lessey a right to go
21 into every area involving that city.

22 I'm entitled to an explanation as to where
23 Mr. Lessey is going with this line of questioning.

24 MR. LESSEY: I would like the witness allowed
25 for a moment. I would like to request we be able to

1 complete. We are at the end here, or getting close to it.

2 (Witness temporarily absent.)

3 MR. LESSY: Staff has alleged that along
4 other things, the financing restrictions in proposed
5 contracts of Ohio Edison are inconsistent with the
6 antitrust laws, being anticompetitive in effect.

7 Clearly I think it will be brought out that almost
8 a year later, after the witness was aware and Ohio Edison
9 was aware that the requirement that a municipality pay
10 all at the beginning the entire cost of an interconnection,
11 and then not be able to open the line is contrary to the Ohio
12 constitution.

13 With that knowledge, that is exactly what
14 Ohio Edison is insisting I will demonstrate occur in
15 Cuyahoga Falls, in the amount of \$4 million.

16 In addition to that, I think it constitutes a
17 sham offer inconsistent with the antitrust laws when
18 it becomes necessary that the upgrading is required.

19 CHAIRMAN RICLER: This relates to one of your
20 allegations?

21 MR. LESSY: Yes, that the financing restrictions --
22 I can get the exact allegation -- yes, it does, to answer
23 your question.

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MR. STEVEN BERGER: Has Mr. Lessy produced any evidence in his direct case relating to this matter?

MR. LESSY: Newton Falls.

MR. STEVEN BERGER: With regard to Cuyahoga Falls.

MR. LESSY: That is an example of an extension of the same anti-competitive practice.

MR. CHANO: Was the specification of the practice confined to any one city on the HIC document?

MR. LESSY: No. A policy of massive financing restrictions and contract restrictions on proposed contracts. This was argued at the prehearing conference.

This edition was argued at the prehearing conference in the Tax Court after the September 4 filing.

MR. STEVEN BERGER: I don't question the fact that it is within the breadth of the statement that was made by Mr. Lessy.

What I do think is that we are dealing here with a similar situation that we were involved with before, when we had the Oxrville problem and the question whether or not transmission service to Oxrville was something that the Witness, Mr. Lewis, was presented on that day, whether we were on notice of that fact beforehand. If this isn't a question of notice, the Staff's case has been

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1 completed. Everything they wanted to put in with regard
2 to financial restriction I assume they put in.

3 What they put in-- alleged financial restrictions,
4 what they put in related to Western Falls. Now, he is trying
5 to bolster that charge by cross-examining the witness in an
6 entirely different area with respect to that charge and
7 I don't think it is permissible. I have never heard about it
8 before.

9 MR. CHARNO: I'm troubled by Counselor's statements.
10 In effect, he is saying if there is a general
11 allegation, and the cross-examination of a witness provides
12 evidence in substantiation of that general allegation, that
13 that evidence is inadmissible.

14 I have never heard anything so outrageous
15 in my life.

16 MR. STEVEN BERGER: Mr. Rigler, you have said this
17 and again, and I don't want to prolong this, Mr. Chief, let
18 a plane to catch. I don't want to unreasonably withhold
19 anybody from doing whatever they want to do on
20 cross-examination. You have said this and again, let's
21 not try the case by surprise. We are dealing in this case with
22 a lot of situations involving the relationships between
23 Ohio Edison, in this instance, and the systems in the
24 area.

25 You have said if you have a problem with regard

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1 to a situation, tell them about it. I'm hearing about it for
2 the first time, questioning Mr. Valva in regard to this
3 situation.

4 MR. CHARNO: I submit that there is notice by
5 virtue of the allegations, and it is their witness. The
6 fact they were surprised is not the Staff's fault.

7 MR. STEVEN BERGER: I will not argue any further,
8 and I defer to the Board's ruling.

9 I would like to ask, though, if Mr. Larry Kras
10 about the situation before he finished his direct exam.

11 MR. LESSY: The incident happened last week. If
12 if it hadn't come in here, it would have come in as
13 rebuttal.

14 It is clear we are supporting a general allegation
15 that has been made known.

16 You are the one -- Ohio Edison knows what their
17 policies and practices are better than we do.

18 CHAIRMAN RIGLER: I am inclined to agree with them.
19 In light of the representation that the incident happened
20 last week, surely we are not going to exclude hearing about
21 it, merely because they didn't inform you. It would have been
22 impossible for them to do so.

23 The objection is overruled.

24 [Whereupon, the reporter read from the
25 record, as requested.]

1 BY MR. LESBY:

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2 Q I believe you were in the midst of your answer.
3 The question was, do you know the amount of the cost
4 of the interconnection facilities?

5 A No, I do not.

6 I believe our engineers may have given to Mr. Scott
7 a rough estimate of the cost to Cayahoga Valley Co
8 construct its 133 kV substation, and its piece of line
9 from that substation to the point at which it would tap
10 the Chic Edison 133 kV line. But I don't know the amount.

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ari 1 Q Would \$4 million for Ohio Edison's 138 kV
2 substation and its piece of the line appear to you to be a
3 ball park figure as the amount your engineers gave Cuyahoga
4 Falls as the cost --

5 MR. STEVEN BARNER: Did you speak, when you said
6 Ohio Edison's substation --

7 MR. LESSY: Yes, sir. Thank you. Cuyahoga
8 Falls' substation.

9 THE WITNESS: Mr. Lessy, I'm not an engineer.
10 That number sounds a little high to me. But it may
11 well be depending upon just how large and how complete the
12 substation Cuyahoga Falls intends to erect. I'm sure
13 Cuyahoga Falls would, when it does proceed with the
14 erection of such a substation, would retain consulting
15 engineers and contractors and would get for itself its own
16 estimate of what that cost would be.

17 Q Would the fact that at the point of interconnec-
18 tion would run, the line would run two miles, but would have to
19 go partially underground for 138 kV because of the site
20 selected for the interconnection by Ohio Edison lend
21 more credence to the \$4 million figure for the two miles of
22 line?

23 A If some underground was necessary, I would
24 expect the cost to be somewhat higher because underground
25 construction normally does cost more.

1 I would not be at all sure, Mr. Lessy, that Ohio
2 Edison selected the site. Rather, my understanding has
3 been that Cuyahoga Falls would replace its own site.

4 Q Are you aware that last week, Mr. Harold Miller, on
5 behalf of the Ohio Edison Company, told Ohio -- told
6 Cuyahoga Falls that the amount was in the area of \$4
7 million and that the only way Ohio Edison would accept
8 payment for that would be, one, if Cuyahoga Falls prepaid
9 the amount at the beginning; and two, that Ohio Edison
10 own the line?

11 MR. STEVEN BERGER: Excuse me, Mr. White,
12 before you answer, sometimes Mr. Lessy says pre-pay the
13 amount and sometimes he says pre-pay the amount with a
14 refund.

15 Sometimes he states prepayment. How do you mean
16 it now?

17 MR. LESSY: Prepayment.

18 MR. STEVEN BERGER: Without refund?

19 MR. LESSY: Right.

20 THE WITNESS: I was not aware that Mr. Miller
21 wrote such a letter. If he did, I'm not at all surprised.
22 If it is desired by Cuyahoga Falls that Ohio Edison
23 provide the short piece of line from the tap into our 138 KV
24 line to the Cuyahoga Falls substation, I would expect
25 that Mr. Miller would have proposed that Cuyahoga Falls pay for

1 that cost.

2 BY MR. LESSY:

3 Q You are not surprised?

4 A No, sir.

5 Q That Mr. Miller would propose both that Cuyahoga
6 Falls pay the amount up front and that Ohio Edison be
7 required to own the line in light of your knowledge
8 of the Squire, Sanders opinion as the inability of municipal
9 corporations to raise funds other than through mortgage?

10 A Mr. Lessy, the problem in connection with the
11 Newton Falls situation which we discussed earlier and
12 which prompted the opinion from Squire, Sanders of which
13 I am aware, related only to the issuance of bonds of a
14 proposed issuance of bonds by Newton Falls for the
15 erection of a line which would be owned by Ohio Edison.

16 Whether Cuyahoga Falls would expect or rely
17 on that same source of funds, I have no knowledge.

18 Q Do you know of any municipal corporation that has
19 \$4 million sitting around other than through debt financing?

20 A Mr. Lessy, I'm not acquainted with the finances
21 of municipal corporations. I don't know how much money any
22 of them may or may not have sitting around.

23 Q Does Ohio Edison have \$4 million sitting
24 around for purchases other than through mortgage and revenue
25 financing?

1 At times we have had more than that and at
2 times we have not.

3 CHAIRMAN RIGLER: If Cayahoga Falls pays the
4 entire cost of the interconnection from the OE substation
5 to the Cayahoga Falls substation --

6 ONE WITNESS: Actually, Mr. Rigler, it is
7 intended to be from our line to our substation rather
8 than between the two substations.

9 CHAIRMAN RIGLER: If Cayahoga Falls pays the cost,
10 why would OE insist on owning that line?

11 ONE WITNESS: We have a long-standing bias,
12 Mr. Rigler, in favor of owning all of the facilities up to
13 the point at which service is delivered to the customer.
14 Normally that would be a substation in a case like this.
15 The delivery point could be established at the point at
16 which this short extension actually taps the 13- KV line.

17 In that case, we would not -- that bias
18 would not operate and we would be less concerned whether
19 we owned the line or didn't.

20 My understanding has been that it had been
21 proposed or it has been assumed or taken for granted, if
22 you will, that the point of delivery would in
23 this instance be at the substation. I was not aware of the
24 letter to which Mr. Leszy refers. I haven't seen it.

25 CHAIRMAN RIGLER: Did he refer to a letter or did

1 his question say Mr. Miller told something?

2 THE WITNESS: I thought he was referring to a
3 letter.

4 MR. LEBBY: No, the question I think the
5 record will show refers to other than a letter.

6 THE WITNESS: I'm sorry.

7 CHAIRMAN RICLER: Does that change any of your
8 previous answers now that you know no letter was involved?

9 THE WITNESS: No. Whether Mr. Miller conveyed
10 those thoughts in a letter or in some other fashion my
11 answer would be the same.

12 MR. SMITH: Mr. White, can you give us any
13 examples of prior occasions when Ohio Edison has made
14 offers of that nature involving a prepayment, but accepted
15 by Ohio Edison, which offers have been accepted?

16 THE WITNESS: No, I cannot, Mr. Smith. It
17 has been only in this very recent period of financial
18 difficulty that we would have made such a proposition.

19 MR. SMITH: Refresh my memory? that is since the
20 strike that.

21 Is the first offer of that nature been the one
22 with Newton Falls?

23 THE WITNESS: I think so, yes.

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1 MR. SMITH: Now any references to that are you aware
2 of that have been made, of that nature?

3 THE WITNESS: I'm not aware of any other, except
4 insofar as Mr. Hiller may have made what happened to
5 Cuyahoga Falls.

6 I don't know when that was. I assume it was in the
7 last few days, Mr. Lessy.

8 MR. LESSY: Last week, as I understand it.

9 THE WITNESS: Last week.

10 BY MR. LESSY:

11 Q In response to Mr. Smith's question, you may
12 want to look at the first paragraph on page 1 of the 290
13 memo which I handed up, because I believe that may
14 help you in answering it.

15 A This refers to -- this indicates that Mr. Wilcox
16 said to whoever wrote this memorandum on the telephone
17 that a similar proposition was then being made to Miles.
18 So that would be another instance, Mr. Smith, that I
19 didn't have that in mind.

20 MR. SMITH: If this paragraph is correct, there
21 would be at least one other, in addition to Miles.

22 There would be Newton Falls, Miles, Cuyahoga
23 Falls and at least one other.

24 THE WITNESS: I didn't --

25 MR. SMITH: I take it from the express "a.g."

1 for example, Niles. Niles being an example.

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2 THE WITNESS: I'm not aware of any other
3 municipality with which anything of this kind has been
4 under discussion in the last two or three years,
5 Mr. Smith.

6 So I would be surprised if Mr. Siler said this
7 is an entirely accurate quotation of what Mr. Siler
8 said.

9 BY MR. LASSY:

10 Q You deleted from the Beck Study, Item 5 of
11 Mr. Duncan's answer outlines which was developing a plan of
12 financing a municipal's obligation. The proposed way
13 Ohio Edison was not to become a banker. Isn't that what
14 you are requiring in those instances of interconnections
15 with Newton Falls, Cuyahoga Falls and Niles that they
16 be a banker and put the money up front for Ohio Edison?

17 A Mr. Lassy, we deleted nothing from the Beck
18 Study. That was prepared, as I have testified before, by
19 Beck for WCOE and was handed to us in its completed
20 form.

21 We did say in our conversations with WCOE
22 and, most particularly, at our first meeting following
23 Mr. Duncan's answer letter, that we did not propose that
24 Ohio Edison's money be used to finance the participation
25 of the municipals in whatever arrangement might be wanted

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BY MR. HJELMFELT.

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Q Mr. White, did Ohio Edison or Passavant
3 conduct any engineering economic studies with respect to
4 the City of Cleveland request to join CRPCC?

5

A No, sir.

6

Q How long did it take Ohio Edison to formulate
7 a response to Pitcairn's request to join CRPCC?

8

A Mr. Hjelmfelt, I would have to look back at
9 the dates of the letters. But I think they will indicate
10 pretty well whatever the time interval was. It was, as
11 I recall, a matter of two or three weeks or something like
12 that, between the letters and that correspondence.

13

Q And do I understand that a letter was sent in
14 response to that request by Pitcairn as soon as OE and PF
15 had formulated their position?

16

A I believe there was a letter sent very shortly
17 acknowledging the letter from Pitcairn. Whether it would
18 be entirely accurate to say we made up our mind and
19 immediately dictated the letter, Mr. Hjelmfelt, I don't
20 know.

21

I don't suppose to think that it happened with
22 quite that promptness. But I don't recall.

23

Q When you used the term "general wheeling,"
24 could you tell me precisely what you mean and I'm not
25 asking you to define wheeling again. You used the

1 term "general wheeling."

2 A I wouldn't have revealed what I said to it, Mr.
3 Hjelmfelt, and I didn't mean to, by saying it, to give it
4 any particular significance at the time.

5 Q You talked about not wanting to agree to
6 something that would make Ohio Edison's transmission system
7 a common carrier.

8 A Yes, sir.

9 Q What exactly did you have in mind that you
10 would be agreeing to in that -- or would not want to be
11 agreeing to?

12 A I guess precisely that, Mr. Hjelmfelt. I would
13 not want to agree that the Ohio Edison transmission system
14 be available to any and all, nor any and all transactions
15 that they might desire which I understand to be the kind of
16 obligations a common carrier undertakes.

17 Q Suppose Ohio Edison were asked to agree to a
18 transmission schedule providing that Ohio Edison would
19 provide transmission services upon request with a reasonable
20 notice for specific times, from and to specific points, if
21 Ohio Edison had transfer capacity available and that
22 in planning future transmission additions, Ohio Edison would
23 include capacity for any specifically identified transactions.

24 Would Ohio Edison have the same problem with
25 that?

1 A I would have some problem still with that,
2 Mr. Hjelmfelt. Although that would impose a degree of
3 obligation less obviously than a common carrier kind of
4 obligation.

5 Essentially I would prefer that Ohio Edison
6 be in a position to look upon specific transactions on
7 their merits as they are proposed and be in a position
8 without compulsion, if you will, to decide upon such
9 requests on their merits as we see them. Or as we might
10 see them at the time.

11 As to the last part of what you have read, I would
12 have some difficulty in this respect, that it would seem to
13 me to require additions to the Ohio Edison transmission
14 system other than for the purpose of serving Ohio Edison's
15 loads at the expense of Ohio Edison and without any
16 necessary assurance, that the transactions for which we
17 would be required to plan and construct facilities would in
18 fact take place.

19 Q Between 1972 and 1974, did Ohio Edison ever
20 advise the other members of CRPCO that it had agreed to enter
21 into some sort of "partnership" arrangement with WCCO
22 regarding the ownership of generating facilities?

23 A I don't know that we -- in fact, I'm reasonably
24 sure, Mr. Hjelmfelt, that we did not send out a formal
25 notice, so to speak, to the other members of CRPCO. On

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1 the other hand, we made no secret of the fact that we
2 were entering into the negotiations with CAPCO -- with GORE,
3 and it was a subject of lunch table type of conversations
4 from time to time.

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5 Q Under Administrative Order No. 10 of the Ohio
6 Public Utilities Commission, does the order provide any formula
7 for ascertaining when the cost of extension of facilities
8 is unreasonably high in relation to revenues?

9 A I believe it does, Mr. Hjelmfelt. As I testified
10 earlier, it is so long since I have looked at that order, I'm
11 not at all sure I can tell you what it is.

12 Q When Ohio Edison relaxed its policy with regard
13 to requiring some of the --

14 A By the by, if you will pardon my interrupting
15 you, it is Administration Order 118. If anybody cares to
16 check it, he won't find it at No. 10.

17 Q When Ohio Edison relaxed its policy under that
18 order, did it obtain Public Utility Commission approval?

19 A No, that wasn't necessary, Mr. Hjelmfelt. As
20 I remember it, and as I testified earlier in response to a
21 question, it is a permissive kind of order and it would
22 not require us to seek such a minimum guarantee in any case.

23 Q Does Ohio Edison have a public service obligation
24 to make wholesale sales to REA distribution cooperatives?

25 A For a long time, Mr. Hjelmfelt, I thought we had

1 not. Of course, under the Federal Power Act, such an
2 interconnection can be ordered by FPC if it finds it
3 to be in the public interest.

4 Q Are there any limits on the ability of the FPC
5 to order such interconnection and sale transactions?

6 A The only limit I know of is that the act provides that
7 we may not be ordered to enlarge our generating capacity
8 for the purpose.

9 Q And does the act also provide that such a
10 transaction can't be ordered if it would impair the ability
11 of Ohio Edison or such other utility to serve its
12 existing customers?

13 A Yes, I believe that's right. I had overlooked
14 that.

15 Q Do you believe that the parties in this case are
16 seeking to restructure the industry?

17 A Yes, sir. Some of the parties, that is to say,

18 Q Would such a restructuring have serious
19 consequences for Ohio Edison investors?

20 A Yes, sir.

21 Q In your most recent financing statement
22 filed with the SEC, has Ohio Edison stated that fact?

23 A We have referred to the existence of this
24 proceeding, I believe. I don't know whether we have said
25 in so many words that we think somebody is trying to

1 restructure the industry, no, sir.

2 MR. HUELMEBT: I have no further questions.

3 MR. SMITH: Mr. White, wasn't the formation of
4 the CAPCO pool an important change in the structure of your
5 industry?

6 THE WITNESS: I don't think I would say that,
7 Mr. Smith.

8 As I said earlier, in the CAPCO pool, we had
9 simply agreed to a series of tenancies in common in specific
10 generating capacity, specific units, plus ancillary or
11 related matters.

12 There is nothing in CAPCO that goes really to
13 anything other than reliability of service and certain
14 economies.

15 I don't really see any structural change. But
16 arguably, and I think that quite a strong argument can be
17 made in this behalf, it would have been better to have
18 constituted CAPCO through some form of affiliation under
19 the Holding Company Act. That I would regard as a structural
20 change.

21 MR. SMITH: Had Ohio Edison not joined in
22 the CAPCO pool, would it have been required to participate
23 in some other type of pool, other pool?

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1 THE WITNESS: I think that the political
2 and economic facts of life had that a pretty significant
3 thing. But I don't know of a way in which it would be
4 forced upon us, if you will, if that is the sense in which
5 you used the word "required."

6 MR. SMITH: I mean economically.

7 THE WITNESS: Economically, that would be
8 close to the case, I believe, yes, sir.

9 MR. SMITH: For your time we have advanced
10 the latest and the best generating and transmission
11 technology, you would have had to have done that.

12 THE WITNESS: We could not have
13 done it on our own. Transmission I'm not so sure about
14 that, but generating, yes.

15 MR. SMITH: Except that the transmission
16 technology has made the generating technology possible.
17 So that is an essential part of it.

18 THE WITNESS: I'm not quite sure I agree
19 with that.

20 MR. SMITH: All right.

21 THE WITNESS: I think, Mr. Smith, just to
22 continue on the point for a second that it really works
23 the other way. The changes in generating technology
24 have forced the changes in transmission technology.

25 There is a certain element of chicken and

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1 egg there.

2 MR. SMITH: If you had not -- I'm repeating, I
3 think, what you have already stated.

4 If you had not participated in some type of
5 pool, you could not have embraced the best in generating
6 technology.

7 THE WITNESS: That is true.

8 MR. SMITH: If you had not embraced the best in
9 generating technology, your company would perish.

10 THE WITNESS: I guess that is a possible outcome.
11 I think we would not have been doing the best job that
12 we could do for our customers or our investors.

13 MR. SMITH: Is nuclear power today the best
14 available generating technology?

15 THE WITNESS: That is somewhat debatable,
16 Mr. Smith.

17 The relative costs have not always led to the
18 same conclusion. I believe today that the best choice is
19 nuclear. I'm not quite sure that that will always be
20 so.

21 And there was a time in the past when perhaps it
22 was not.

23 MR. SMITH: Thank you.

24 CHAIRMAN RIGLER: Mr. White, you spoke of dis-
25 cussions among CAPCO members of the Pittsburg request for

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1 membership which occurred at a meeting of the CAPCO drafting
2 committee which consisted of general counsel and
3 engineers.

4 THE WITNESS: Not general counsel in every case
5 but counsel.

6 CHAIRMAN RIGLEY: You indicated Duquesne reported
7 to others with respect to the status of the Titusville
8 system at one of these meetings.

9 THE WITNESS: I didn't want to convey that thought.
10 None of the rest of us had ever heard of Titusville.

11 We asked questions of the Duquesne people
12 what it was and how big it was.

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1 You indicated that you agreed that the various
2 CAPCO members would respond to Mr. Molise.

3 THE WITNESS: No. I didn't quite say that, witness.
4 I said that I advocated without any serious objection from
5 anybody that there should not be a single response on
6 behalf of CAPCO, but that each of us should do whatever
7 he thought he ought to do separately.

8 CHAIRMAN RIGLER: And that proposal was accepted?

9 THE WITNESS: I think everybody was of the same
10 mind before I even said it.

11 CHAIRMAN RIGLER: Did you know in advance of
12 the attitude or response of the other CAPCO member
13 companies?

14 THE WITNESS: No.

15 CHAIRMAN RIGLER: You did not, as a result of
16 attending these meetings, have any idea what the response of
17 Duquesne was going to be?

18 THE WITNESS: Mr. Rigler, the facts were such
19 that I think I could have made a good guess. But I did not
20 have an indication from Duquesne saying we intended to
21 answer in such a way.

22 CHAIRMAN RIGLER: Now about any of the others?

23 THE WITNESS: Or any of the others.

24 CHAIRMAN RIGLER: You spoke of a meeting
25 at which you were present, at which Ohio Edison's municipal

1 customers -- "disavowed," was your word -- an intent to
2 join CAPCO. When did this meeting take place?

3 THE WITNESS: I'm not sure. As I said, we had a
4 number of meetings with them. The -- there was never
5 any serious discussion of membership in CAPCO by the WOOD
6 people.

7 That remark was thrown out at one of them, but I
8 can't tell you which one.

9 CHAIRMAN RIGLER: Has Ohio Edison ever ceased
10 soliciting new customers or abandoned interest in acquiring
11 large industrial customers?

12 THE WITNESS: No, sir.

13 CHAIRMAN RIGLER: Do you maintain a department
14 or a part of your organization which is devoted to finding
15 new large customers for the Ohio Edison system?

16 THE WITNESS: We have such an activity within our
17 organization. That, like all of our promotion or
18 marketing activity, has been cut back substantially in the
19 last couple of years, but it does exist and the people in it
20 continue that kind of effort.

21 CHAIRMAN RIGLER: There was never a period
22 when this department was inactive or told not to solicit
23 new business?

24 THE WITNESS: No.

25 CHAIRMAN RIGLER: Is there redirect?

REDIRECT EXAMINATION

BY MR. STEVEN BERGER:

Q Mr. White, what is the present status of the Newton Falls-Ohio Edison proposed interconnection?

A An agreement has been reached on all aspects of that, as I understand it, Mr. Berger. A contract between Ohio Edison and Newton Falls has been signed. It is pending at the moment before FPC. I presume it will be accepted for filing by FPC at some point.

Q Pursuant to that agreement, who is to pay for the line?

A Newton Falls will build and own the line and pay for it.

Q In response to Mr. Leszy's questions, did you understand that when Mr. Leszy was talking about prepayment, either in connection with Newton Falls or Cuyahoga Falls, that prepayment was to be made with or without a refundable deposit?

A I understand prepayment to mean, and did when Mr. Leszy used the term, that Newton Falls or Cuyahoga Falls or whoever it might be, would put up the money in the first instance and that it would then be refunded over some period of time.

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1 Q Do you know how long of a period of time that would
2 be?

3 A No, I don't.

4 Q Are you aware of any instance in which Ohio Edison
5 has asked that money be prepaid by a municipality with no
6 refund contemplated, and that that money would be used
7 to pay for a line to be owned by Ohio Edison?

8 A One of Mr. Lesby's questions to me suggested
9 that Mr. Miller may have done that in connection with Cuyahoga
10 Falls.

11 Q Since I don't know what Mr. Miller said or to whom
12 he said it in Cuyahoga Falls, I don't quite know how to
13 respond to your question.

14 A With that exception, my answer would have to be
15 no.

16 Q Would, as a matter of policy, Ohio Edison ever
17 insist on such terms?

18 A I don't think so, Mr. Berger. Although, we
19 might in a negotiating context take a position and side with
20 it for awhile to see what the results were and what agreement
21 might be.

22 Q You might take the form of a proposal?

23 A It might.

24 Q Is there any reason why Cuyahoga Falls could not
25 build the line themselves?

1 A Not that I'm aware of.

bw2 2 Q Mr. White, yesterday, I believe, in the
3 discussion you had with Mr. Charno with regard to the
4 certification responsibilities of the Public Utilities
5 Commission of Pennsylvania, the question of whether or not
6 the Pennsylvania Commission has jurisdiction over
7 certifying territories at wholesale, do you recall that
8 discussion?

9 A I do.

10 Q If a present wholesale customer of a utility
11 in Pennsylvania were to seek to change its power supply
12 to another power supplier in Pennsylvania, and if such a
13 changeover required the building of a line, would the building
14 of that line be subject to Pennsylvania Commission
15 jurisdiction?

16 A It would, in the sense, Mr. Berger, that it is
17 not permitted that a utility appropriate land or condemn
18 land for the purposes of a right-of-way, unless it has
19 first secured an authorizing certificate from the Pennsylvania
20 Commission.

21 MR. BERGER: I have no further questions,
22 your Honor.

23 MR. CHARNO: No recross for the Department.

24 MR. LESSY: No recross by Staff.

25 MR. HJELMPFELT: Nor the City.