

Capital Reporting Company
Formal Case No. 1119 04-08-2015

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PUBLIC SERVICE COMMISSION OF THE
DISTRICT OF COLUMBIA

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IN THE MATTER OF THE JOINT :
APPLICATION OF EXELON CORPORATION, :
PEPCO HOLDINGS, INC., POTOMAC :
ELECTRIC POWER COMPANY, EXELON : Formal Case
ENERGY DELIVERY COMPANY, LLC AND : 1119
NEW SPECIAL PURPOSE ENTITY, LLC :
FOR AUTHORIZATION AND APPROVAL OF :
PROPOSED MERGER TRANSACTION. : VOLUME VIII
-----:

Washington, D.C.

Wednesday, April 8, 2015

The evidentiary hearing in the
above-captioned matter began at 10:16 a.m., at the
Public Service Commission of the District of
Columbia, 1333 H Street, Northwest, Washington,
D.C., 20005.

BEFORE: BETTY ANN KANE, Chairman

JOANNE DODDY FORT, Commissioner

WILLIE L. PHILLIPS, Commissioner

Reported by: Denise M. Brunet, RPR

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22 (Appearances continued on the next page.)

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22 (Appearances continued on the next page.)

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1	C O N T E N T S				
2	WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
3	RICHARD MORGAN				
4	BY MS. SITARAMAN 2157				
5	BY MR. KULAK		2159		
6	BY MS. SITARAMAN			2190	
7	SUSAN TIERNEY				
8	BY MR. KULAK	2196			
9	BY MR. GRAY		2197		
10	BY MS. FRANCIS		2294		
11	BY MR. COYLE		2352		
12	BY MS. SPENCER		2424		
13	BY MS. ELEFANT		2442		
14	BY MS. WEIN		2460		
15	BY MR. KULAK			2465	
16					
17	EXHIBIT NO.		MARKED	RECEIVED	
18	Commission 1			2122	
19	Commission 2			2140	
20					
21					
22	(Exhibits continued on the next page.)				

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1	EXHIBIT NO.	MARKED	RECEIVED
2	Joint Applicants (F),		
3	(F)-1 through (F)-3,		
4	(3F), (3F)-1 through		
5	(3F)-3, (4F) and (4F)-1		2152
6	OPC Cross 95	2153	2154
7	OPC Cross 96	2153	2154
8	OPC Cross 97	2153	2154
9	OPC Cross 98	2154	2154
10	OPC Cross 99	2154	2154
11	OPC Cross 85 through 94		2154
12	AOBA Cross 60 through 90		21755
13	DCG Cross 80 through 94,		
14	96 and 98 through 103		2156
15	Joint Applicants Cross 2 2166		2194
16	Joint Applicants Cross 3 2168		2194
17	Joint Applicants Cross 4 2170		2194
18	Joint Applicants Cross 5 2172		2194
19	Joint Applicants Cross 6 2175		2194
20	Joint Applicants Cross 7 2179		2194
21	Joint Applicants Cross 8 2181		2194
22	(Exhibits continued on the next page.)		

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1	EXHIBIT NO.	MARKED	RECEIVED
2	Joint Applicants Cross 1	2189	2194
3	OPC (E), (E)-1 through		
4	(E)-3, (2E), and (2E)-1		
5	through (2E)-5		2195
6	OPC Cross 100	2207	2468
7	AOBA Cross 91	2295	2469
8	AOBA Cross 92 and 93	2295	2469
9	AOBA Cross 94	2296	2469
10	AOBA Cross 95	2296	2469
11	AOBA Cross 96	2297	2469
12	AOBA Cross 98	2339	
13	AOBA Cross 97		2469
14	Joint Applicants (G),		
15	(G)-1 through (G)-5,		
16	(3G), (3G)-1 through		
17	(3G)-17, and (4G)		2467
18	DCG Cross 65 through 74		2470
19			
20			
21			
22			

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1 P R O C E E D I N G S

2 CHAIRMAN KANE: All right. We are
3 reconvening the evidentiary hearing in formal
4 case 1119. For the record, it is Wednesday,
5 April 8th, and it is 10:15 a.m.

6 Mr. Khouzami, you're still on the stand.

7 WHEREUPON,

8 CARIM KHOUZAMI,

9 called as a witness, and after having been
10 previously sworn by the secretary, was examined
11 and testified as follows:

12 CHAIRMAN KANE: Commissioner Fort,
13 questions for Mr. Khouzami.

14 COMMISSIONER FORT: Good morning.

15 THE WITNESS: Good morning.

16 COMMISSIONER FORT: When Mr. Alden
17 testified, he mentioned that there was a success
18 and cost to achieve team -- that's the name he
19 used -- and he said it was different from his
20 integration team that he led, and he said I should
21 talk to you about that. Is that the same as the
22 business asset team that you referenced yesterday?

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1 THE WITNESS: So yesterday the BAT was
2 the business area team. I think that was the
3 reference. So -- I believe it is. That is the
4 teams that are in place during this period as we
5 put together the integration plans. Post-close,
6 there will be an integration or a post-integration
7 team that will be under Mr. Velazquez at PHI that
8 helped for that 18 to 24-month period that
9 Mr. Alden referred to. Those costs would also be
10 CTA and would be distinguishable in the future.

11 COMMISSIONER FORT: So the team that you
12 discussed, the business area team, reports to
13 Mr. von Hoene, I think.

14 THE WITNESS: They report to me.

15 COMMISSIONER FORT: To you, and you
16 report to Mr. von Hoene.

17 THE WITNESS: That's correct.

18 COMMISSIONER FORT: And the integration
19 team that Mr. Alden discussed -- Mr. Alden reports
20 to Mr. O'Brien?

21 THE WITNESS: He does. I think what he
22 was talking about is, in his previous role -- he

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1 currently reports to Mr. O'Brien. Post-merger,
2 this integration team will be within PHI and will
3 report directly to Mr. Velazquez.

4 COMMISSIONER FORT: So the integration
5 team would have no reporting up to -- up and
6 through Exelon Utilities; is that what you're
7 saying?

8 THE WITNESS: They would report to
9 Mr. Velazquez who reports to Mr. O'Brien. So
10 through that chain.

11 COMMISSIONER FORT: Who at Exelon is
12 responsible for administering the cost allocation
13 process?

14 THE WITNESS: So we have a process that's
15 reviewed and regulated by FERC that's at the EBSC,
16 so for those costs, there are EBSC accounts that
17 review and ensure that the allocation is correct.
18 And we file on an annual basis a form 60 report
19 that details those costs that is reviewed by FERC.

20 COMMISSIONER FORT: And would you also
21 agree that if you have a local distribution
22 company, you may have allocation costs that are

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1 reviewed by the local public service commissions?

2 THE WITNESS: Absolutely. So the local
3 commissions currently in Illinois, Maryland and
4 Pennsylvania do do reviews. They have conducted
5 audits. They have asked plenty of questions
6 during rate case proceedings. And so that is
7 obviously another source of review that we go
8 through.

9 COMMISSIONER FORT: And when you do those
10 reviews with the three distribution companies, do
11 they have any different allocation factors that
12 apply to them that are not in the FERC form 60
13 that you referenced?

14 THE WITNESS: No. The MMF formula is the
15 same for all companies.

16 COMMISSIONER FORT: Am I correct that
17 when you testified yesterday in your cross by
18 Mr. Coyle about some of the work of the business
19 area team, you said that they looked at how to --
20 I'll use the word "modify"; I don't think that's
21 what you said -- how to modify the process to
22 accommodate PHI with its three subsidiary

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1 companies?

2 THE WITNESS: I don't recall the exact
3 conversation, but what I would say is early in the
4 process we recognize that PHI -- there were really
5 two ways to integrate them into the Exelon family,
6 either with PHI as a holding company and the three
7 utility subsidiaries beneath it, which is how it's
8 currently structured, or to, for lack of a better
9 term, dismantle the holding company structure and
10 each of the utilities as a separate utility
11 directly underneath the -- in the Exelon family.

12 As we reviewed it and we discussed with
13 PHI, the decision was to maintain the current
14 structure, I think both because it makes good
15 business sense, it is more straightforward,
16 there's a lot of shared services and benefits that
17 they've already been able to take advantage of
18 from their merger between Conectiv and PEPCO that
19 we didn't see the need to break apart.

20 So that is why we decided to maintain the
21 current structure.

22 COMMISSIONER FORT: So PHI, under its

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1 current structure, has a cost allocation manual
2 that it uses?

3 THE WITNESS: That's correct.

4 COMMISSIONER FORT: And Exelon's business
5 service company has an associate transactions
6 procedure manual that it uses for cost allocation;
7 am I correct?

8 THE WITNESS: That's correct.

9 COMMISSIONER FORT: Is there a
10 relationship between those two manuals.

11 THE WITNESS: So post-close, there would
12 be the EBSC costs that get allocated per the
13 document you referenced. Then there would be the
14 PHI Service Company costs that are allocated under
15 their existing manual. That will stay in effect
16 for those costs.

17 So within the PHI family, they will be
18 continuing to use their methodology that the
19 Commission has reviewed.

20 COMMISSIONER FORT: Will be the EBSC
21 associate transaction procedure manual be amended
22 to reflect the process of the use of the PHI cost

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1 allocation manual?

2 THE WITNESS: I'm pausing only to
3 understand how it would need to be amended. So I
4 think it would be amended to include the reference
5 to the PHI Service Company, but it would not be
6 used to trump or supersede the PHI Service Company
7 manual.

8 COMMISSIONER FORT: Was that something
9 that the business area team, the BAT, looked at in
10 its review?

11 THE WITNESS: They did, as well as the
12 legal counsel. So all parties did.

13 COMMISSIONER FORT: So just tell me in
14 general, how would you see costs flow down,
15 allocated costs flow down to PEPCO?

16 THE WITNESS: So there would be two sorts
17 of allocated costs. So you have the costs if
18 they're being provided by EBSC. Currently, EBSC
19 has three methods of billing. They bill through
20 direct charging. They bill through -- and that's
21 where there's a specific service for a specific
22 entity and you charge them at cost. There's the

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1 transactional billing, which is, for example,
2 payroll. It's based on the number of employees or
3 payroll checks that you cut. So that's an
4 allocation methodology. And then there's the
5 allocated methodology, which is the MMF that we
6 discussed.

7 Currently at EBSC, only 30 percent of the
8 costs are allocated. Those would be the three
9 methodologies that PEPCO may be allocated by EBSC.

10 Under the PHI Service Company, they have
11 a similar construct, albeit I believe that the
12 allocated portion is much greater. It's about
13 70 percent of the costs that are currently
14 allocated through their version of the MMF
15 formula.

16 So PEPCO would be receiving services
17 out -- charged from EBSC as well as PHI Service
18 Company, but I do believe it's important to note
19 that it won't be duplicative services. In other
20 words, payroll -- there isn't a payroll at PHI
21 Service Company and EBSC both charging PEPCO.
22 Most of the functions that will be existing and

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1 residing in PHI Service Company will be functions
2 that are only being used by the PHI companies, so
3 for example, engineers, designers, the PHI
4 executives; these are the folks that will be
5 sitting in the PHI Service Company.

6 The more transactional focused-type
7 activities like payroll, accounts payable, those
8 would be moving to EBSC.

9 COMMISSIONER FORT: So staying with your
10 payroll example, when we have a rate case and
11 we're looking at cost of service elements, would
12 we see a direct charge from EBSC to PEPCO directly
13 for payroll-style services?

14 THE WITNESS: Yes.

15 COMMISSIONER FORT: Are all of the
16 services that are charged through the associate
17 transaction procedure manual and the general
18 services agreement listed in those agreements?

19 THE WITNESS: Yes. I would -- and I'm
20 just adding. There's more detail in what we call
21 the service-level agreements. I believe you
22 mentioned that. So that's where the detail of

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1 every service that's provided is listed in there
2 as well. Between those, they're all listed.

3 COMMISSIONER FORT: So it would be the
4 service-level agreement, the SLA, that would have
5 all of the items that the EBSC would be charging
6 to PEPCO?

7 THE WITNESS: That's correct. In my
8 former role as CFO of BGE and the PHI CFO and the
9 other CFOs of the operating companies, every year
10 we go through a very thorough evaluation review of
11 the service-level agreements with the EBSC team,
12 typically around the August/September time frame.

13 We walk through the services that will be
14 provided, the methodologies of allocating those
15 costs and then the actual costs of those services.

16 EBSC does not finalize their budget for
17 the upcoming year until each CFO signs off and
18 agrees to what their budget is. Then, as we go
19 through the year, every month we review what their
20 estimate was versus the actual cost that we
21 actually incurred to ensure that they're in
22 line -- typically they're slightly less -- but to

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1 ensure that we are on budget -- they are on budget
2 and we are receiving the services that we were
3 promised and we are satisfied with those services.

4 COMMISSIONER FORT: That's great, because
5 you anticipated my next question, which was --

6 THE WITNESS: Oh, even better.

7 COMMISSIONER FORT: -- did you have the
8 opportunity to review those costs when you were in
9 your BGE role? I asked Mr. Butler if he could
10 give me a ballpark estimate of the amount of those
11 costs that BG&E received, and he couldn't do that.
12 But you are the former CFO. Could you give me a
13 ballpark estimate of what those costs were for
14 BG&E?

15 THE WITNESS: Certainly. Let me give you
16 two costs. I'll give you pre-merger and then
17 post-merger.

18 COMMISSIONER FORT: I'm going to ask them
19 both, so --

20 THE WITNESS: There you go. I --

21 COMMISSIONER FORT: -- there you go.

22 THE WITNESS: -- thought you might.

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1 So in 2011, the costs were \$106 million
2 to BGE. The merger with Exelon was closed on
3 March 12th, 2012. So that year is a bit of a --
4 I'll use a word, but it's probably not the right
5 word -- messy year because you have two different
6 methodologies. So in 2013 those costs were
7 \$96 million. So roughly a little bit more than
8 10 percent reduction.

9 COMMISSIONER FORT: So looking at your
10 messy year, since any transaction that closed in
11 the middle of the year would produce a messy year,
12 what were the problems in the messy year?

13 THE WITNESS: The only thing is -- it was
14 more messy because you have the first --
15 January 1st through March 12th under the
16 Constellation Services structure, which was
17 previously 106 million total. From March 13th
18 till the end of the year, you had EBSC structure
19 which ws a lower cost, which was 96 million the
20 year before. So we were in between the two.

21 This is one of the reasons we suggested
22 the side-by-side being the first full year

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1 post-close to get a true, here is what the world
2 looks like for PEPCO D.C. going forward.

3 The year of the acquisition, when it's
4 closed, so 2015, that would be a year where you
5 have both methodologies, both levels of
6 allocations included. So it may not give a clear
7 picture.

8 COMMISSIONER FORT: The costs that you
9 cite for BSC costs, would those be inclusive of
10 the integration team costs from Mr. Alden when it
11 was at BGE or are the integration team costs
12 treated differently because they were cost to
13 achieve costs?

14 THE WITNESS: So there's two answers to
15 that. The first is they are not EBSC employees.
16 So in this case, they will be PHI employees
17 directly reporting to Mr. Velazquez.

18 They are CTA costs, so they will be
19 distinguishable from other PHI costs, or I guess
20 they'll sit officially in the PHI Service Company,
21 because they would be giving services to all the
22 PHI utilities. But they will be CTA as well. So

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1 you'll be able to easily distinguish them when
2 PEPCO comes back for a rate case.

3 COMMISSIONER FORT: Now, I asked
4 Mr. Alden about his team. He said he had three
5 direct reports -- I'm sorry, four direct reports,
6 one of which was sitting in ComEd. Is that person
7 paid by ComEd as a ComEd employee?

8 THE WITNESS: Sorry, it's been a bit of a
9 long week. Was that a discussion of when he was
10 at BGE or when he was -- or currently?

11 COMMISSIONER FORT: I asked him
12 currently --

13 THE WITNESS: Okay.

14 COMMISSIONER FORT: -- to get an idea of
15 how large his team was and where they are and how
16 charges for that team were allocated.

17 Interestingly, he didn't mention anybody at BG&E
18 currently. He mentioned two individuals who were
19 at PECO and ComEd.

20 THE WITNESS: So Mark Alden runs the --
21 the functional area expert team at EU. All of --
22 him and all of his employees are located in the EU

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1 structure. It is a position that -- or the folks
2 underneath him are positions that rotate on a
3 fairly regular basis. So every 18 to 24 months
4 folks will rotate in and out of those positions.

5 The reason being, their function is to
6 coordinate. There's folks that are in charge of
7 different areas. So operate and restore, customer
8 operations, their function is to look across the
9 three utilities and find the opportunity for
10 sharing of best practices, opportunities for
11 improvement, really be the subject matter expert
12 that is effectively the same role as an internal
13 consultant for us.

14 Currently, if they are located at ComEd
15 and PECO, that's just the folks that have the
16 rotation. Directly after close, for example, I do
17 know one of his direct reports was our former head
18 of customer operations and she was located in
19 Baltimore. So it just -- I don't know if there's
20 more to it than that. It's not to insinuate that
21 BGE doesn't have representation on that. It's
22 more just who is in that rotation at the time.

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1 COMMISSIONER FORT: But what I understood
2 you to just say is that during that 18-month to
3 24-month period during the transition or
4 integration process, those members of the
5 integration team will be employees of PHI.

6 THE WITNESS: So let me start over. I
7 think there's two teams, and I might be talking
8 about the wrong team, so I want to make sure I'm
9 clear here.

10 The team I was just talking about is Mark
11 Alden's current role within EU, helping ensure the
12 sharing of best practices. Directly after the
13 last close, and the team that I think you were
14 just referring to, which will be at PHI, is the
15 post-close integration team. And that's when Mark
16 Alden was physically located at BGE with his team
17 of individuals.

18 Post-close in this transaction, it will
19 be an individual reporting directly to
20 Mr. Velazquez who will be located in the District.
21 He will have -- he or she will have a team of, I
22 believe it's six folks. So the total number will

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1 be seven. That, again, will be here for the
2 duration of the post-close activities which we say
3 is one to two years.

4 All of their costs, all seven, will be
5 CTA costs that can be reviewed in the first rate
6 case or anytime.

7 COMMISSIONER FORT: So none of those
8 costs are allocated to any of the other existing
9 Exelon utilities?

10 THE WITNESS: No. The work that they are
11 doing is to really implement the integration plans
12 for the PHI companies. Now, if they were doing
13 work for other utilities, we do have service-level
14 agreements between the utilities and they would
15 follow those procedures, just like if anyone at
16 BGE performed some work on behalf of ComEd or for
17 ComEd, we have service-level agreements that are
18 in place to ensure that those costs are properly
19 billed to the right entity. But the expectation
20 is these seven folks would be working entirely on
21 PHI activities.

22 COMMISSIONER FORT: Well, that's a good

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1 transition into my next group of questions.

2 THE WITNESS: I'm here to help this
3 morning.

4 COMMISSIONER FORT: You're doing a good
5 job with helping, to make this flow easier.

6 When we're talking about the business
7 area team, you described 70 people from Exelon and
8 70 people from PHI as being part of that team.
9 Are their costs included in the pre-closing merger
10 CTA cost?

11 THE WITNESS: Only those individuals that
12 are 100 percent -- or more than 50 percent
13 dedicated to the integration efforts. So it's a
14 small number. Yesterday, I believe, Mr. Coyle
15 asked me that same question. And I apologize, I
16 didn't get the exact number. But it's about 10 to
17 15 people that make up that group. The rest bill
18 their time as they would in a normal sense.

19 COMMISSIONER FORT: And that's my next
20 question. How do they bill their time and to whom
21 do they bill their time?

22 THE WITNESS: So the integration

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1 activities, again, for -- excluding that 10 to
2 15-folk group, the integration activities is not
3 meant to be a full-time responsibility. They
4 still all maintain their same existing -- call it
5 day jobs, if you will. They are still performing
6 the same functions they had.

7 So if I think about one of the
8 individuals, for example, who is helping on the
9 accounting business area team, he is the
10 controller of ComEd. This is on the Exelon side,
11 obviously. He is still performing all the duties
12 of the controller of ComEd. This is just another
13 activity that he's performing. And so he would be
14 billing his time the same as if the merger was the
15 not happening.

16 COMMISSIONER FORT: So he's billing ComEd
17 for all the time that he is performing on the
18 business area team?

19 THE WITNESS: That is correct.

20 COMMISSIONER FORT: And would you know
21 how the PHI employees or the PHI members of the
22 team are billing their time?

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1 THE WITNESS: Same methodology.

2 COMMISSIONER FORT: Same methodology,
3 meaning they are billing their time for what they
4 normally do in their day jobs?

5 THE WITNESS: That's correct.

6 COMMISSIONER FORT: If the merger is
7 approved and Exelon decides to acquire another
8 PHI, would the same structure be in place so that
9 PHI's -- the current PHI would be required to put
10 members on a business area team?

11 THE WITNESS: I would imagine so. This
12 is the -- the structure we used during the
13 Constellation/Exelon merger. It's a very
14 effective structure in terms of ensuring that
15 subject matter experts help inform the
16 decision-making upfront as well as the integration
17 plans.

18 You know, I would say this merger -- the
19 efforts being performed by these individuals is
20 very similar to many of the other initiatives that
21 are ongoing in any company at any one time. A lot
22 of folks have other work they do outside of their

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1 day job to help push forward initiatives, and this
2 is another one that's being done right now.

3 COMMISSIONER FORT: Since you anticipated
4 another one of my questions, which was, was there
5 such a team in place before the BGE/Constellation
6 merger -- and you've already answered that as
7 yes -- were those costs for that team included in
8 the cost to achieve in a subsequent BG&E rate
9 case?

10 THE WITNESS: I believe so, yes.

11 COMMISSIONER FORT: Do you know whether
12 or not those costs were recovered through a
13 subsequent BG&E rate case?

14 THE WITNESS: So in BGE, the CTA costs
15 are being amortized over five years, or were
16 amortized over five years post-close. So we're in
17 the midst.

18 COMMISSIONER FORT: What happens to the
19 employees -- you tell me they're PHI employees who
20 are on the integration team for the 18 to 24
21 months -- after that period of time?

22 THE WITNESS: They would, I think similar

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1 to hopefully me, find another position post their
2 temporary role. At Exelon it's not uncommon for
3 folks to take on these temporary roles or
4 temporary assignments. You know, as I think back
5 since I've been part of Exelon, and even
6 Constellation would do the same, and I would
7 assume PHI does the same -- and I think they do --
8 a good example is probably their Solution One
9 project. So there were a number of folks
10 dedicated to that project, and I would imagine
11 they're starting to roll off now that that project
12 has successfully deployed.

13 Once they're completed their assignment,
14 there are typically other opportunities for them
15 elsewhere in the corporation. You know, natural
16 turnover. Obviously the project teams are
17 typically aware of them. I would imagine, similar
18 as last time, as you get close to the end of the
19 integration, you're starting to look for positions
20 opening up, and if that's a good fit for the
21 individual, you know, either they keep it open a
22 little longer, you see if that person can be

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1 released a little early -- so it typically works
2 out.

3 COMMISSIONER FORT: You mentioned
4 Solution One, so I'll go to my questions that I
5 had on Solution One.

6 THE WITNESS: I'm going a great job, this
7 morning, I think.

8 COMMISSIONER FORT: I think the
9 transcript ought to flow --

10 THE WITNESS: All right.

11 COMMISSIONER FORT: -- when we go back to
12 read it.

13 So on the issue of Solution One, you
14 stated in your supplemental direct testimony that
15 the SAP billing system billing platform -- and
16 this is on page 6 to 7 if you need the
17 reference -- the SAP billing system platform,
18 which PHI is currently implementing, is expected
19 to be deployed as planned in January 2015,
20 which -- you didn't say this, but we know it
21 was --

22 THE WITNESS: Yes.

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1 COMMISSIONER FORT: -- and will be in use
2 for its expected useful life.

3 What is the expected useful life of an
4 SAP billing system platform like Solution One?

5 THE WITNESS: So it's a new day, so I
6 need to punt one more question to Mr. McGowan. He
7 could probably give you the exact number. But
8 typical IT systems I would imagine is 10 to 20
9 years. So call it somewhere in the 15-year range
10 is what I would estimate.

11 COMMISSIONER FORT: And then do you know
12 whether it includes Solution One in the phrase
13 "PHI enterprise systems"?

14 THE WITNESS: Which page are you on? I'm
15 sorry.

16 COMMISSIONER FORT: I'm sorry. Go to
17 page 6 and 7.

18 THE WITNESS: Oh, 6 and 7. I heard 67.
19 I didn't think it was that long.

20 COMMISSIONER FORT: No, we would really
21 have a problem if you had given us 67 pages in
22 your supplemental direct testimony. No, 6 through

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1 7.

2 THE WITNESS: This is of my direct?

3 COMMISSIONER FORT: No. In your (4F) --

4 THE WITNESS: Oh, I'm sorry.

5 COMMISSIONER FORT: -- supplement.

6 That's why we would have had a problem if you had
7 given us 67 --

8 THE WITNESS: Yeah, if my appendix were
9 67.

10 So I'm on page 6 and 7. And the
11 reference you were talking about?

12 COMMISSIONER FORT: So I'm reading off
13 of --

14 COMMISSIONER PHILLIPS: I think it's the
15 rebuttal testimony.

16 COMMISSIONER FORT: (4F). So they
17 brought me two green books. They didn't bring me
18 your green books.

19 THE WITNESS: I have eight books here, so
20 maybe I'm winning. Or losing. I'm not sure.

21 COMMISSIONER FORT: I'll let you win that
22 battle. So this is the bottom of (4F) on

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1 lines 20 -- page 6 at the bottom.

2 THE WITNESS: Starts with, As a result of
3 the IT core team?

4 COMMISSIONER FORT: Yes. The joint
5 applicants have determined that fully
6 consolidating the Exelon and PHI enterprise
7 systems and migrating PHI to Exelon's Oracle
8 platform is the preferred alternative.

9 That language.

10 THE WITNESS: That's correct. That
11 excludes the SAP billing system.

12 COMMISSIONER FORT: Is there anything
13 else that is excluded from that migration?

14 THE WITNESS: No.

15 COMMISSIONER FORT: And are the costs
16 associated with the migration to Oracle included
17 in the cost to achieve?

18 THE WITNESS: Yes, ma'am.

19 COMMISSIONER FORT: When would the
20 migration occur?

21 THE WITNESS: It is planned to occur by
22 the end of 2016. So it's -- it takes time to

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1 migrate systems, so -- and the change management
2 involved. All those costs, all the teams
3 involved, are included in CTA costs.

4 COMMISSIONER FORT: When we were talking
5 about CTA cost earlier, you said -- and we were
6 talking about pre-merger closing costs -- you said
7 only the cost of ten of the people on that
8 business asset team were in the pre-merger closing
9 cost. What other elements make up that
10 \$1k2 million cost?

11 THE WITNESS: So we have consultants,
12 attorneys. We have other outside support. So
13 when you think of the consultants, there are
14 consultants that are helping on the integration
15 processes, there are outside experts -- PwC -- and
16 other fees that we have to incur to help ensure
17 that we can close the accounting books correctly.
18 From a tax perspective, we have counsel helping us
19 with that, or tax consultants helping us with
20 that.

21 So it's a lot of outside help that have
22 expertise to ensure that once we get to close, we

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1 are ready for day one. So that would include all
2 those costs as well.

3 COMMISSIONER FORT: And those are the
4 costs that would be presented in a rate case, and
5 we would determine which one of those are
6 appropriate?

7 THE WITNESS: Yes, ma'am.

8 COMMISSIONER FORT: What software
9 currently in PEPCO's rate base will be phased out
10 prior to the end of its useful life because of the
11 migration to Oracle?

12 THE WITNESS: So as we migrate to Oracle,
13 there is a concerted efforts to -- many of the
14 PEPCO PHI systems are at the end of their useful
15 life. So in other words, the books -- on the book
16 value, they have been depreciated to zero.

17 So what we are doing is being mindful of
18 that. So as we time the conversion or the
19 transition to Oracle, that we effectively wait
20 until they are depreciated to zero -- most are
21 either there or will be there very shortly -- so
22 that we don't incur a write-off, and that would be

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1 reflected on the statements. It's effectively to
2 ensure that customers aren't paying for two
3 systems at once.

4 COMMISSIONER FORT: And that's why we're
5 talking about it right now.

6 Would any of those costs be considered
7 transition costs?

8 THE WITNESS: Sorry. Any of which costs?

9 COMMISSIONER FORT: Any -- if -- well,
10 you said that there's not going to be any --
11 everything -- I'm sorry. You said it's only going
12 to happen at the end of a useful life.

13 THE WITNESS: That is the plan.

14 COMMISSIONER FORT: And if that is the
15 plan, then there would be no costs related to that
16 process?

17 THE WITNESS: That's correct. And I
18 think, for surety's sake, if for some reason that
19 I can't think of it did happen prior to the end of
20 the useful life, that would result in a write-off,
21 which again, would be very clearly delineated, and
22 I'm sure subject to discussion with the Commission

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1 during a rate case of whether or not it should be
2 recovered.

3 COMMISSIONER FORT: What sort of billing
4 platform does PECO, BG&E and ComEd currently use?

5 THE WITNESS: They're all Oracle-based.
6 PECO and ComEd use Solution One. BGE migrated,
7 right around the time of the merger with Exelon in
8 2012, to a new platform called CC&B. I think it
9 stands for customer care and billing. I know it
10 stands for that.

11 COMMISSIONER FORT: So would there be
12 some recognition in the allocation process for IT
13 that recognizes the fact that PHI is on a
14 different platform -- well, you just said PECO and
15 ComEd are on Solution One as well.

16 THE WITNESS: That's correct. So the --
17 there should be no allocations related to the
18 customer billing systems because they are all
19 inherently within each of the separate utilities.
20 So there isn't a unified or consolidated customer
21 billing platform at Exelon.

22 COMMISSIONER FORT: Okay. The IT cost to

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1 service those platforms, is that a consolidated
2 expense?

3 THE WITNESS: Those would be local IT
4 teams in each of the companies.

5 COMMISSIONER FORT: Does Exelon use any
6 outsourcing services?

7 THE WITNESS: They do. Not for -- I
8 mean, they do. If we're staying with IT,
9 obviously for some IT projects they'll get
10 Accenture or other type help from consultants.

11 From a cost perspective, it makes more
12 sense, if you have a project that you -- isn't
13 going to take a long period of time, to source
14 that work from contractors. It helps because
15 you're not paying them for the full year if you
16 don't have the work for them.

17 That said, all of the individual
18 utilities do have IT groups. So they do have
19 people that do the base work.

20 There is some outsourcing related to some
21 of the HR and other activities at EBSC. Sitting
22 here, I probably can't tell you exactly which ones

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1 those are, but there is some.

2 COMMISSIONER FORT: That was really what
3 my question was. Were some of the EBSC costs, you
4 know, going to be reflective of outsourced
5 services?

6 THE WITNESS: There is some, yes.

7 COMMISSIONER FORT: I'm done. Thank you.

8 THE WITNESS: Thank you.

9 CHAIRMAN KANE: Thank you, Commissioner
10 Fort.

11 I have a number of follow-up questions on
12 the allocation issue and the role of PHI.

13 THE WITNESS: Sure.

14 CHAIRMAN KANE: I'm still trying to get a
15 clear picture of what PHI is going to be in a
16 legal sense, what it's going to be in an
17 operational sense, and what it's going to do and
18 what it's not going to do, how it's going to
19 change.

20 You recall there was a chart that was
21 provided to us, a legal organization chart, which
22 showed that PHI was an oval and that it was a

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1 legal entity. As I recall, it was then described
2 as not an operating entity, and it would not have
3 employees.

4 Now we have an organizational chart that
5 has been provided by the joint applicants which
6 does show that PHI, for example, has Mr. Velazquez
7 as president and CEO of PHI. I'm assuming he's
8 getting paid. He's an employee. And you've just
9 described a lot of things that PHI will -- the
10 determination was that PHI would continue to do at
11 the PHI level rather than moving it all up to the
12 Exelon service -- business services. So can you
13 help me better understand what is the PHI going to
14 be?

15 THE WITNESS: Certainly. So from an
16 operating standpoint, PHI does not have employees.
17 Mr. Velazquez, the CFO, the general counsel, all
18 of those executives, for example, will sit in PHI
19 Service Company. That is the entity that will be
20 underneath PHI that effectively has services
21 provided -- or provides services to multiple PHI
22 utilities.

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1 The decision to put the executives in PHI
2 Service Company, which is where they reside today,
3 is done because you couldn't put, you know,
4 staying with Mr. Velazquez, for example,
5 Mr. Velazquez in PEPCO or ACE or Delmarva because
6 truly his services are used by all of the
7 utilities. Same with the CFO. Same with the
8 general counsel.

9 Other folks that are included in the
10 service company, for example, are some -- and I
11 keep citing the engineers and design -- some of
12 the call centers folks, and this is more probably
13 on the ACE and Delmarva side where they share more
14 resources between the two. Call center folks, for
15 example, at PEPCO are PEPCO employees. Those are
16 the individuals who sit at the service company.

17 What you see on this chart here that was
18 filed is really more of an operational or -- said
19 differently, how things work. So when we think of
20 PHI, the PHI legal entity doesn't have anyone in
21 it. It's a legal entity. It's a holding company
22 structure, similar to EEDC, which is the holding

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1 company for all of the Exelon Utilities on a legal
2 company structure.

3 From an operating perspective, if you ask
4 Mr. Velazquez or you ask someone else, who are you
5 an employee of, he will, pretending I'm
6 Mr. Velazquez, he would say PHI because, again,
7 he's not going to say PHI Service Company, because
8 he runs PHI.

9 So it's a little bit of -- and I guess --
10 and I apologize for the confusion. It's a little
11 bit of getting crossed between how things function
12 operationally and how the legal structures are
13 structured for legal and tax reasons.

14 CHAIRMAN KANE: I'll get to tax in a
15 minute.

16 THE WITNESS: Okay.

17 CHAIRMAN KANE: So where would -- on this
18 chart, where would what we refer to as PHISCO, the
19 PHI Service Company -- I don't see it on the
20 chart.

21 THE WITNESS: So it would be underneath
22 Mr. Velazquez or underneath the PHI.

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1 So this was more designed to show the
2 chain of command, if you will, from the regional
3 presidents up through Mr. Velazquez, through
4 Mr. O'Brien to Mr. Crane.

5 If you looked at an operational or even a
6 legal chart, you would see PHI with the three
7 operating utilities underneath and PHI Service
8 Company underneath PHI.

9 CHAIRMAN KANE: And just for the record,
10 the chart that I'm referring to --

11 THE WITNESS: Sorry.

12 CHAIRMAN KANE: -- which you also have,
13 is the chart that was filed, by the cover letter
14 from Mr. Lorenzo, on April 7th, and it was
15 responded -- a response to bench data request 2, 3
16 and 4. And this is bench data request number 2,
17 attachment A, page 1 of 1 --

18 THE WITNESS: Yes, ma'am.

19 CHAIRMAN KANE: -- that I'm referring to.
20 And the other chart, as has already been
21 mentioned, is the record, the legal chart.

22 MR. LORENZO: Madam chairman --

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1 CHAIRMAN KANE: Yes.

2 MR. LORENZO: -- to make sure the record
3 is clear, do you want to introduce this as a staff
4 exhibit or -- into the record? Just because I'm
5 not sure it's --

6 CHAIRMAN KANE: We're not sure it's
7 already in the record.

8 MR. LORENZO: Yeah, I'm not sure it's
9 already in the record, and it may be --

10 CHAIRMAN KANE: I will then introduce
11 this, since I have asked questions about it. In
12 response to the bench question -- request
13 number 2, introduce as Commission Exhibit 1 -- I
14 guess it will be our first one -- BR-2,
15 attachment A, page 1 of 1, which was filed on
16 April 7th.

17 (Commission Exhibit Number 1 was received
18 into evidence.)

19 CHAIRMAN KANE: Thank you, Mr. Lorenzo.

20 Now, in your -- it is Joint Applicants'
21 Number -- Document (F3) --

22 THE WITNESS: Yes, ma'am.

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1 CHAIRMAN KANE: -- which is the associate
2 transactions procedures manual -- I want to see if
3 I can get a little more clarity about what PHI is
4 going to be doing and what it's not going to be
5 doing.

6 In that manual, which is entire (F3) is
7 that manual -- and I want to turn to page --
8 schedule 2-22, and that is page 22 of 26 in this
9 Exhibit A.

10 THE WITNESS: Yes, ma'am.

11 CHAIRMAN KANE: And starting on that
12 page, you'll see it says at the top, Service
13 agreement, schedule 2. And it explains, Direct
14 charges shall be made insofar as costs can be
15 identified and related to the particular
16 transactions involved without excessive effort or
17 expense.

18 And then this starts a list that goes on
19 for one, two, three, four pages, pages 22 through
20 25. A list of services. Is this a list of all
21 the kinds of services that the business services
22 unit can provide to -- or could provide to an

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1 operating company?

2 THE WITNESS: That is correct, if the
3 operating company so desired.

4 CHAIRMAN KANE: If the operating company
5 so desired. Well, let's stop at that. Does an
6 operating company within the Exelon family have
7 the ability to pick and choose which services it
8 wants to receive from the business services group
9 or which services it might feel it could more
10 efficiently or more appropriately acquire on its
11 own?

12 THE WITNESS: The answer is yes but for
13 corporate governance costs. So there are certain
14 costs that -- you know, for example the
15 CEO-allocated costs, you don't have a choice.

16 CHAIRMAN KANE: Okay. So if,
17 theoretically, PEPCO felt it could acquire one of
18 these services by -- on its own or already had one
19 and wanted to keep it, there would be no
20 prohibition or approval or disapproval needed for
21 them to go out and do that?

22 THE WITNESS: That is part of the

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1 day-long SLA review that the CFOs go through to
2 ensure they're getting the services that they want
3 at the price that they want and that the costs are
4 being charged in a manner that is consistent with
5 what the CFO is expecting.

6 CHAIRMAN KANE: So that decision to use a
7 service -- a particular service from the service
8 company versus going out to the market and
9 acquiring that service is made by -- at the
10 company level by the CFO?

11 THE WITNESS: Yes. I think the CFO would
12 be informed by other folks in their organization,
13 but ultimately it's the CFO that signs off.

14 CHAIRMAN KANE: That signs off on it,
15 okay.

16 But you've described certain services
17 that you already have determined -- or the
18 company -- a person at the company has determined
19 would stay with PHI, with PHISCO, and other
20 services that would move to the EBSC. And I want
21 to look at this list. You've got administrative
22 and management services, accounting, bookkeeping.

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1 I see, after accounting, audit, claims,
2 communications, customer operations.

3 Now, where will the customer operation --
4 what does customer operation include and where
5 will that reside under the current plan
6 post-merger for PEPCO? And I'm talking PEPCO D.C.
7 particularly; that's our concern.

8 THE WITNESS: Yes, ma'am. So those are
9 the list of services that can be provided. I can
10 tell you, for customer operations for example, at
11 BGE, we did not take any of those services. This
12 is more for the non -- I'm speaking a little bit
13 out of school here, but the non-regulated group,
14 they have customer operations that are housed in
15 EBSC that they share across their entities.

16 BGE had full -- or had full -- I don't
17 want to use the word "ownership," but the customer
18 operation individuals were BGE employees is
19 probably the best way to put it.

20 CHAIRMAN KANE: So I won't go through
21 this whole list, but that was one that caught my
22 eye in terms of the choice -- you would confirm

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1 that the company would have the choice as to how
2 it handled the customer?

3 THE WITNESS: That's correct.

4 CHAIRMAN KANE: On procurement,
5 purchasing services, turning to page 2-23, or
6 page 23 of 26, purchasing services, you have a
7 list of things there: Analysis, product
8 specifications, request for proposals, inventory
9 management, other purchasing services.

10 Are you aware of the memorandum of
11 understanding that this Commission has asked each
12 of our operating utilities, not only the
13 distribution company, but the gas distribution
14 company and legacy telephone company, to enter
15 into to procure percentages of their -- or make
16 their best effort to procure percentages of their
17 goods and services from minority-owned companies
18 and from local area companies?

19 THE WITNESS: Yes, ma'am, I am. And I
20 would say at the other three utilities currently
21 in the Exelon family, they have similar type
22 programs. I'll speak specifically to BGE just

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1 because I'm most familiar with BGE. They have a
2 concerted effort to -- or the Commission had an
3 initiative underway to get to 25 percent diverse
4 supplier by 2025.

5 BGE structured a program called Focus 25,
6 which is basically an in-house program where they
7 work with diverse suppliers to help give them
8 training and the expertise to be able to bid and
9 win contracts successfully. It's not a means to
10 game the system; it's more a means of, these are
11 the type of requirements that companies are
12 interested in; these are the types of things that
13 you have to show to be able to win the business or
14 show that you can do the business. And it's been
15 a very successful program.

16 You know, one of the things that I would
17 say may help PEPCO D.C., even -- we talk a lot
18 about sharing of best practices on the operational
19 side. There's also sharing of best practices on
20 the programmatic side, so things like Focus 25 is
21 something that would also be discussed between the
22 utilities and help try to promote those programs

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1 in other utilities if they're seen as helpful.

2 CHAIRMAN KANE: On this same page above
3 it is personnel services listed, recruiting,
4 training and evaluation services -- and those are
5 the two particular I want to ask about. I believe
6 you said yesterday, and I believe when Mr. Coyle
7 was questioning you about the number of D.C.
8 employees -- D.C. residents who were employees of
9 PHI -- I can look back at the transcript, but I
10 believe you said that PEPCO and Exelon do not put,
11 of course, any kind of residency requirement on
12 where they recruit from, correct?

13 THE WITNESS: Not that I'm aware of. I
14 think -- just to ensure that you can get to work
15 every day.

16 CHAIRMAN KANE: Are you aware of the
17 commitments that were made in terms of the
18 undergrounding project, the D.C. PLUG project -- I
19 thought D.C. government was going to ask this
20 question, but I will ask it now -- where there's a
21 commitment to a training program and -- in law for
22 the city-funded portion of it and a commitment on

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1 the record by PEPCO to hire, I guess, 100 percent
2 D.C. residents?

3 THE WITNESS: So I am familiar with some
4 of the provisions. I can't say -- I've possibly
5 reviewed it. One of the things I would cite --
6 again, I think training is another good example
7 here. This is, again, a service offered. All the
8 utility training that BGE does is not done through
9 EBSC. We have our own utility trainers at BGE
10 that do this. This is more of the training on the
11 corporate service-type functions, so maybe the
12 finance, the accounting, that type of function.

13 CHAIRMAN KANE: So the costs for
14 recruiting, training, training programs, hiring,
15 et cetera, would remain either at the PHI level or
16 with the operational company?

17 THE WITNESS: For the utility training,
18 that's correct --

19 CHAIRMAN KANE: For the utility
20 classes --

21 THE WITNESS: -- yes, ma'am.

22 CHAIRMAN KANE: Okay. Now, you said --

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1 let me go back again to what is PHI. It's a legal
2 entity. According to your application, PHI, which
3 is now a corporation -- correct? And do you
4 know -- I had asked earlier -- in what state it
5 was incorporated?

6 THE WITNESS: I believe it's joint
7 incorporated in Maryland and D.C.

8 CHAIRMAN KANE: PHI is?

9 THE WITNESS: I believe so. Oh, I'm
10 sorry. I'm sorry. PHI --

11 CHAIRMAN KANE: PHI.

12 THE WITNESS: -- sorry -- is Delaware.

13 CHAIRMAN KANE: Is Delaware?

14 THE WITNESS: Yes, ma'am.

15 CHAIRMAN KANE: It's a Delaware
16 corporation.

17 And you anticipated my next question.
18 PEPCO is a corporation in D.C.?

19 THE WITNESS: That's correct. And
20 Maryland, I believe.

21 CHAIRMAN KANE: And Maryland also. Okay.

22 Now, under the proposed merger, PHI will

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1 cease to be a corporation, and it will be become
2 an LLC, a limited liability company; is that
3 correct?

4 THE WITNESS: Yes, ma'am.

5 CHAIRMAN KANE: As a corporation, PHI
6 pays corporate income tax; is that correct?

7 THE WITNESS: That's correct.

8 CHAIRMAN KANE: As an LLC, what taxes
9 will PHI pay?

10 THE WITNESS: They will continue to pay
11 corporate taxes. The conversion from a
12 corporation to an LLC and the decision to do so is
13 really structured more around federal and some
14 state tax report filing. So for federal purposes,
15 for example, the LLC doesn't have to file
16 separately. In some states, that's also true.

17 Here in D.C. you have the unitary tax
18 filing methodology where everyone files together
19 if you're in the same corporation or in the same
20 entity. So effectively the income from PHI will
21 be included with Exelon, which will continue to
22 file a consolidated return.

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1 In terms of taxable revenue in the
2 District, we have estimated that the current year
3 taxable income will actually increase post-merger
4 rather than either stay flat or decrease.

5 Mr. McGowan and his team have looked into
6 this in more detail. When he gets up, he could
7 probably provide you the calculations and the
8 quantification even. I can just tell you it's
9 positive -- it's -- well, I guess it depends on
10 which side you're looking on. It's positive for
11 the District. And also ensure that -- or state
12 that it will not be included in customer rates in
13 D.C. These are taxes paid at the PHI company;
14 they would not be down at the PEPCO D.C. level.

15 CHAIRMAN KANE: As is the current
16 situation? Or what is the difference between --

17 THE WITNESS: I would believe it's
18 probably the same as if current situation, but
19 Mr. McGowan can probably answer with certainty.

20 CHAIRMAN KANE: Mr. McGowan may be the
21 one to answer my next question, but -- about
22 liabilities that PHI now has and that PEPCO now

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1 has, and how would they in any way be changed by
2 this change in form of PHI to an LLC?

3 My understanding with LLC is that it's a
4 pass-through entity and that, therefore, it
5 doesn't pay tax and it doesn't -- it doesn't have
6 liabilities, or liability of the members of the
7 LLC is limited.

8 THE WITNESS: So I believe that is
9 correct. But in terms of doesn't pay taxes, I
10 think it's doesn't file a separate tax return.
11 Their income gets included with their parent
12 company. So the entity will still pay taxes.

13 In terms of the tax -- I believe you're
14 talking about tax liabilities. The tax
15 liabilities will remain the same at the PEPCO D.C.
16 level, or all of the PHI utilities. We are not --
17 we are not electing a 338 election. We are not
18 doing a -- we are not pushing down purchase
19 accounting below the PHI level. Those are two
20 things that could change the value of assets on
21 the books and impact depreciation and, therefore,
22 AVIT (phonetic) or any of the deferred tax

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1 liability.

2 Because we're not doing any of those
3 things, those will remain unchanged.

4 To alleviate any concerns, even though we
5 are confident it won't change, we've also provided
6 a tax indemnification as part of our commitments
7 that ensure that the PEPCO tax liability
8 post-close would be the same or equal to their
9 stand-alone liabilities.

10 CHAIRMAN KANE: Let me ask you the other
11 side of liability and tax liability, and that's
12 tax refunds. And again, Mr. McGowan may the
13 better one to give me detail, but let me ask you
14 your awareness of this.

15 In 2000, when PEPCO divested itself of
16 its generating assets, there was a settlement
17 agreement that covered divestiture. One of the
18 provisions of that settlement was that any
19 liabilities, as well as any profits, if you will,
20 a gain, would be shared between the company and
21 the ratepayers. And there's a schedule depending
22 on the amount of the dollars at issue, how much

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1 goes to ratepayers and how much goes to the -- to
2 the company.

3 And although that was in 2000, there were
4 a number of complex, shall we say, or novel
5 Internal Revenue Service issues related to that,
6 one of which just got settled by the IRS in 2011,
7 I believe. And as a result of that IRS final
8 determination, the company received a -- was able
9 to refile earlier taxes and received a refund.
10 And that -- proceeds of that refund were shared
11 with the ratepayers.

12 The company believes that it has a
13 similar situation in regard to District of
14 Columbia income taxes, now that it has received
15 the IRS determination that it is able to -- is
16 able to refile its D.C. corporate income taxes
17 from that time period. There was a statute of
18 limitations issue. Legislation was passed last
19 year, became effective last year, that will allow
20 the company, or any taxpayer who is in that
21 situation where they received an IRS determination
22 even if the statute of limitation has run, would

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1 still allow them to refile those taxes. And the
2 amount that the company, at least in its public
3 presentation to the D.C. council on it, estimated
4 it was about \$16 million of a refund that would be
5 due to the company.

6 The legislation for city budget reasons
7 does not allow that filing to happen until 2018
8 and over a four-year period. So my question is,
9 with the restructuring, if you will, if the
10 liabilities are moving and being tax-indemnified
11 up to the Exelon level, what happens to something
12 like that refund? Will the customers still be
13 able to get their proper share?

14 THE WITNESS: I believe the answer is
15 yes. Obviously, Mr. McGowan is more familiar with
16 all of this than I am, so I'd probably defer that
17 to him.

18 CHAIRMAN KANE: Let me see if there's any
19 other...

20 One -- just a minor issue. It really is
21 minor. Ms. Francis pointed you to the chart --
22 not the chart -- the table that showed the number

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1 of customer meters that were in the District --

2 THE WITNESS: Yes, ma'am.

3 CHAIRMAN KANE: -- in terms of how the

4 customer investment fund, the overall customer

5 investment fund was being proposed to be divided

6 up among the jurisdictions, the four

7 jurisdictions. And I believe Mr. Coyle asked the

8 same question about that. And you pointed to the

9 source of that number showing, I believe it was,

10 264,000 -- let me get the right number -- it was

11 264,300-some-odd meters, customer meters, in the

12 District, correct?

13 THE WITNESS: That number sounds --

14 CHAIRMAN KANE: Subject to --

15 THE WITNESS: -- 264-something.

16 CHAIRMAN KANE: 264. It was 264 and some

17 change. And you said that that -- source of that

18 number was the 10-K filed, and it was as of

19 December 31st, 2013. Is that a correct

20 recollection on that?

21 THE WITNESS: That's correct.

22 CHAIRMAN KANE: I wanted to -- I guess I

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1 have to introduce this as an exhibit too. You are
2 aware that PEPCO has been -- or has almost
3 completed an installation of smart meters in the
4 District under formal case 1056.

5 THE WITNESS: I am.

6 CHAIRMAN KANE: And part of the
7 Commission's order approving that program was that
8 a progress report was to be filed with the
9 Commission monthly as the meters were being
10 installed. That was subsequently changed to
11 quarterly after they were almost all done. But we
12 do have the monthly.

13 I want to introduce this as an exhibit.
14 This is Commission Exhibit 2. If I could have the
15 secretary pass that out, a copy. This is, for the
16 record, the monthly report filed by PEPCO in
17 formal case 1056. The document, for the record,
18 is FC 1056, 2014E593. This is the report that was
19 filed on January 13th, 2014 showing the progress
20 and the status as of December -- the end of
21 December 2014. But --

22 THE WITNESS: Could I get one, please?

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1 CHAIRMAN KANE: Would you give the
2 witness one? Thank you.

3 It's signed by Mr. Meier, a monthly
4 report. And the document, for the record, is a
5 six-page document.

6 (Commission Exhibit Number 2 was received
7 into evidence.)

8 CHAIRMAN KANE: And I want to turn your
9 attention to the third page. It is -- the
10 document itself shows, starting in September 2010,
11 each month the number of meters that were
12 installed, both communication devices, the network
13 and the number of meters. And page 3 of the
14 document is the monthly smart electric meter
15 installation progress.

16 If you would look at the very bottom
17 line, which says December '13 -- that's
18 December 2013. And at the next to last column,
19 actual cumulative smart electric meters installed.
20 And would you read what the number there is at the
21 bottom.

22 THE WITNESS: It says 277,222.

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1 CHAIRMAN KANE: Correct. And then if you
2 will turn over on to page 4, there is a chart
3 called remaining non-AMI meters, which says -- and
4 it's headlined, The remaining residential meter
5 exchanges are awaiting the customer appointment to
6 be scheduled.

7 And could you tell me what the number is
8 at the far right bottom line?

9 THE WITNESS: 4,318.

10 CHAIRMAN KANE: Okay. And would you
11 agree, subject to check, that if you add those two
12 numbers together, the number of meters installed
13 and the number of meters remaining to be
14 installed, that you get a number that is 281,540?

15 THE WITNESS: That's correct.

16 CHAIRMAN KANE: And that the difference
17 between the 264,000-some-odd and 281,540 is a
18 little over 17,000?

19 THE WITNESS: That math sounds correct.

20 CHAIRMAN KANE: Can you account for the
21 difference? If the customer meters is what was
22 used for allocating what the District's share,

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1 proportional share, would be, how do we get a 17
2 to 18,000 difference in the number when we're
3 using the same time period?

4 THE WITNESS: So what was used was the
5 metered customer account data, which is what we
6 had. So it's the metered customers that have an
7 account.

8 The differential between the two
9 numbers -- and I'm, again, just assuming -- and
10 I'll let Mr. McGowan who probably is closer to the
11 numbers than I am for this type of information --
12 it probably has to do with the number of accounts
13 that might have more than one meter tied to them.
14 But I'm, again, speculating. I'd rather have
15 Mr. McGowan confirm for the court.

16 CHAIRMAN KANE: Okay. Those are my
17 questions. Thank you.

18 THE WITNESS: Thank you.

19 CHAIRMAN KANE: Oh, taxes.

20 Getting back to taxes...

21 COMMISSIONER FORT: Are you familiar with
22 the Commission's order in the last D.C. rate case,

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1 our order 1103, where there was an issue with
2 respect to how net operating loss carry-over was
3 being treated for our rate base purposes?

4 THE WITNESS: I'm not certain I know the
5 specifics of what was discussed there. With
6 respect to net operating losses in general, the
7 tax indemnification provided, I think, should
8 alleviate concerns about limitations of NOLs that
9 could be used going forward due to the 382
10 limitation. In other words, if that was
11 triggered, which we don't think it will be, but if
12 it is triggered, then Exelon would reimburse or
13 make sure that PEPCO D.C. and its customers were
14 whole.

15 I'm sorry. I probably skipped three
16 questions ahead again. I'm sorry about that.

17 COMMISSIONER FORT: So in our last rate
18 case, and actually also in the Maryland last rate
19 case, there were -- there was a question that was
20 raised by the company in terms of carry-over
21 losses and how they were going to be treated.

22 It's a fairly lengthy discussion that

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1 took place with IRS tax letters, you know, coming
2 through, and our rate base is higher as a result.
3 So I think it's a two-part question we were
4 interested in. You know, one, the impact on the
5 discussions that have currently taken place; that
6 may be a reference to the indemnification, that
7 we're being assured that there's nothing different
8 now, or there will be nothing different from what
9 took place for 1103. That's one part of the
10 question.

11 I guess this second part of the question
12 is, with the new structure and with Exelon coming
13 in, are we going to have some of the same issues
14 that we faced in this prior case, but on a larger
15 level because of how Exelon carried -- Exelon
16 treats their net operating loss and how they
17 interact with their utilities in that regard?

18 THE WITNESS: So with the first part of
19 the question, I think the simple answer is the tax
20 indemnification was designed and was used in the
21 last transaction, the exact wording but for adding
22 the provision for state taxes as well, to ensure

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1 that something like that doesn't cause a change.

2 So we do thinking that we'll be in the same
3 position pre-merger versus post-merger.

4 With respect to how Exelon -- any impact
5 that may have going forward -- and again, I'll
6 speak to my experience at BGE -- the Exelon
7 utilities are very mindful of previous commission
8 orders. And obviously any order they'll comply
9 with, but also, as they structure their rate
10 cases, they look at previous decisions, previous
11 discussions, and that goes into how they set up
12 their rate case, if you will.

13 I think that's one of the main reasons
14 that mindfulness of what the Commission has
15 already ordered, what the Commission has already
16 stated in previous cases -- I think that's one of
17 the main reasons why we've seen the relationships
18 between our commissions and our utilities improve
19 over the last few years, because we are trying to
20 adhere to what has been -- basically become
21 precedent.

22 I'm not sure if I answered your question

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1 there or not, but I think -- I tried.

2 COMMISSIONER FORT: Well, that tells me
3 that you're going to be mindful of bringing the
4 issues when -- if they come up. It doesn't tell
5 me whether or not the issue is going to -- whether
6 or not there is actually an issue. And I guess
7 that's my real question: Is there an issue at
8 Exelon with large numbers of net operating losses?

9 THE WITNESS: So I'm not aware of any
10 issues. Part of my response is a bit -- it's hard
11 for me to respond because I don't fully understand
12 the issues that were discussed in the last rate
13 case. Again, I'll kick it to Mr. McGowan. We can
14 ensure that we talk -- talking with our tax teams,
15 though, I have not heard of any issues being
16 raised by either the PHI or the Exelon tax folks
17 that have been working on this integration that
18 would suggest it would be, but we can confirm that
19 and make sure we give you a better answer.

20 COMMISSIONER FORT: Can you confirm for
21 me -- when you do that, can you confirm that the
22 business area team actually looked at that issue?

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1 I would think that they would because it was an
2 issue both here and in Maryland in the most recent
3 PEPCO cases. And then if you would also confirm
4 whether or not the current Exelon utilities are
5 being required -- or are seeking adjustments to
6 their rate bases as well to reflect those losses?

7 THE WITNESS: I can.

8 COMMISSIONER FORT: As a specific
9 question, how much NOLC does Exelon have at this
10 time, as it is the taxpaying entity above PEPCO?
11 When will PHI and PEPCO's NOLC be fully utilized
12 if the merger is not consummated? And I guess
13 that may be one you want to kick to Mr. McGowan,
14 because it is a PHI question. So I'll let you off
15 the hook on that one. But I would like you to
16 answer the Exelon question.

17 THE WITNESS: We can provide that to you,
18 yes, ma'am.

19 MR. LORENZO: Your Honor, we'll consider
20 that a bench data request and get you the
21 information as soon as possible.

22 COMMISSIONER FORT: I'm going to continue

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1 down with the list. I thought the Chair was going
2 to do that. It took me a minute to find the list
3 of questions that we had.

4 With -- what impact will the pending
5 merger have on PEPCO's ability to utilize its NOLC
6 in a timely manner; that is, you know, can they do
7 it within the 2017 tax year? How soon can you
8 tell what the IRC 382 limitation impact to PEPCO
9 would be as a result of the merger? Would be
10 another question. Does the tax indemnification
11 provision -- you think you answered that one --
12 protect PEPCO in the event that the IRC 382
13 limitation applies?

14 And then the final one was, since PHI
15 will no longer exist as a separate consolidated
16 group, will PEPCO's net operating losses be
17 utilized by the Exelon group of companies? Maybe
18 you can answer that one.

19 THE WITNESS: I can answer that one.
20 So -- well, I can answer, I think, a few of those.

21 COMMISSIONER FORT: Please answer
22 whichever ones you can.

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1 THE WITNESS: So in terms of in NOLs and
2 can PEPCO use their NOLs in the stated time, the
3 answer is we believe they can.

4 To the extent that NOLs are used, as
5 Exelon files consolidated returns by a different
6 entity, Exelon will ensure that PEPCO and its
7 customers are kept whole by providing funds that
8 would equate to, had they used it themselves.
9 Again, this goes back to the indemnification and
10 what Exelon has done in previous years with its
11 other operating utilities.

12 In terms of -- I believe there was one in
13 the middle there about the 382 limitation. I
14 think that one I'd have to defer and we can get
15 back to you on. I don't know the answer to that
16 one in terms of how fast that gets calculated.

17 COMMISSIONER FORT: And just so the
18 record is clear, the concern, of course, that the
19 Commission has is if it's not timely used, the
20 rate base would be higher than it needs to be, and
21 if it's a higher rate base, it is higher cost to
22 D.C. ratepayers.

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1 THE WITNESS: Understood.

2 COMMISSIONER FORT: That was for anyone
3 else listening. We all know that these tax issues
4 are rather complicated, but I think -- I want to
5 be clear why the Commission has an interest in
6 answering those questions -- or having those
7 questions answered. Now I'm through the list.

8 CHAIRMAN KANE: Just a couple more. Are
9 you aware that this Commission has, in recent rate
10 cases, treated PEPCO as a stand-alone entity such
11 that PEPCO's stand-alone tax liabilities are used
12 for rate-making purposes?

13 THE WITNESS: I think I understand.
14 So -- I think that was my assumption.

15 CHAIRMAN KANE: And in the joint
16 applicants' commitment number 91, which I believe
17 is the tax indemnification --

18 THE WITNESS: Yes.

19 CHAIRMAN KANE: -- is one of the purposes
20 of this commitment to preserve the stand-alone tax
21 treatment of PEPCO?

22 THE WITNESS: It's to ensure that the

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1 liability for PEPCO would be the same as a
2 stand-alone entity as it would be post-merger.

3 CHAIRMAN KANE: And then, finally,
4 Commissioner Fort asked you about when software
5 and other systems would be transferred to an
6 Oracle platform. You said you're working hard to
7 see that it happened at the end of their useful
8 life. What time period does Exelon use for the
9 useful life of software?

10 THE WITNESS: It is typically about ten
11 years. I mean, it could vary depending on the
12 software, but it's typically ten years.

13 CHAIRMAN KANE: Thank you.

14 THE WITNESS: Thank you.

15 CHAIRMAN KANE: That does now conclude
16 the questions from the commissioners. Is there
17 any redirect?

18 MR. GADSDEN: There is none.

19 CHAIRMAN KANE: Exhibits?

20 MR. GADSDEN: Joint applicants would
21 request the admission of Exhibits (F), (F)-1
22 through (F)-3, (3F), (3F)-1 through (3F)-3, (4F)

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1 and (4F)-1.

2 CHAIRMAN KANE: They are admitted.

3 (Joint Applicants Exhibit Numbers (F),
4 (F)-1 through (F)-3, (3F), (3F)-1 through (3F)-3,
5 (4F) and (4F)-1 were received into evidence.)

6 MR. GADSDEN: Thank you, Your Honor.

7 CHAIRMAN KANE: People's Counsel?

8 Ms. Karas?

9 MS. KARAS: Your Honor, I have an
10 additional five exhibits to mark for
11 identification. I've spoken to joint applicants'
12 counsel, and Mr. Lorenzo has agreed to stipulate
13 them into the record.

14 MR. LORENZO: Yes, Your Honor, we've
15 agreed.

16 MS. KARAS: The first has been pre-marked
17 as OPC Cross-Examination Exhibit Number 101. It's
18 a two-page response to commission staff request
19 number 5-2. And I ask that this document be
20 marked for identification as OPC Cross-Examination
21 Exhibit Number 95.

22 CHAIRMAN KANE: It is so marked.

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1 (OPC Cross Exhibit Number 95 was marked
2 for identification.)

3 MS. KARAS: The second has been
4 pre-marked as OPC Cross-Examination Exhibit
5 Number 102, and is a one-page response to D.C.
6 Water and Sewer Authority 1-5. And I ask that
7 this document be marked for identification as OPC
8 Cross-Examination Exhibit Number 96.

9 CHAIRMAN KANE: So marked.

10 (OPC Cross Exhibit Number 96 was marked
11 for identification.)

12 MS. KARAS: The third has been pre-marked
13 as OPC Cross-Examination Exhibit Number 106. It's
14 a two-page response to OPC 18-88, and I ask that
15 this document be marked for identification as OPC
16 Cross-Examination Exhibit Number 97.

17 CHAIRMAN KANE: So marked.

18 (OPC Cross Exhibit Number 97 was marked
19 for identification.)

20 MS. KARAS: The fourth has been
21 pre-marked as OPC Cross-Examination Exhibit
22 Number 111. It's a one-page response to OPC 8-23,

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1 and I ask that this document be marked for
2 identification as OPC Cross-Examination Exhibit
3 Number 98.

4 CHAIRMAN KANE: So marked.

5 (OPC Cross Exhibit Number 98 was marked
6 for identification.)

7 MS. KARAS: The fifth has been pre-marked
8 as OPC Cross-Examination Exhibit Number 113. It's
9 a one-page response to OPC 6-150, and I ask that
10 this document be marked for identification as OPC
11 Cross-Examination Exhibit Number 99.

12 CHAIRMAN KANE: So marked.

13 (OPC Cross Exhibit Number 99 was marked
14 for identification.)

15 MS. KARAS: At this time, I'd request the
16 admission of OPC Cross-Examination Exhibits 85
17 through 99 into evidence.

18 CHAIRMAN KANE: They are admitted.

19 (OPC Cross Exhibit Numbers 85 through 99
20 were received into evidence.)

21 MS. FRANCIS: Your Honor, AOBA moves the
22 exhibits numbered 60 through 90, inclusive, into

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1 evidence.

2 CHAIRMAN KANE: They are moved into
3 evidence.

4 (AOBA Cross Exhibit Numbers 60 through 90
5 were received into evidence.)

6 MR. COYLE: Your Honor, could I request a
7 brief moment to confer with counsel for the joint
8 applicants?

9 CHAIRMAN KANE: Certainly. We'll go off
10 the record. Let me excuse the witness while we're
11 doing these administrative matters.

12 Thank you very much, Mr. Khouzami.

13 THE WITNESS: Thank you.

14 (Witness excused.)

15 (Discussion held off the record.)

16 CHAIRMAN KANE: We are back on the
17 record.

18 MR. COYLE: I appreciate the Commission's
19 indulgence. At this time, the District government
20 would move the admission of what has been marked
21 for identification as Exhibits DCG 80 through
22 DCG 94, inclusive. And I would note that DCG 80,

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1 DCG 81 and DCG 94 were not used in Mr. Khouzami's
2 cross-examination, but are being moved by
3 stipulation with the joint applicants. And then
4 Exhibits DCG 96 and DCG 98 through DCG 103.

5 CHAIRMAN KANE: Mr. Lorenzo, do you agree
6 to that stipulation?

7 MR. LORENZO: Yes, Your Honor.

8 CHAIRMAN KANE: Thank you. They are
9 moved into the record.

10 (DCG Cross Exhibit Numbers 80 through 94,
11 96 and 98 through 103 were received into
12 evidence.)

13 CHAIRMAN KANE: DC SUN didn't have any
14 exhibits. Nobody else. All right. Thank you.

15 Now we are going to switch gears from
16 company witnesses, before we get to Ms. Tierney,
17 and we are going to go to the next witness, which
18 is an OPC witness. And OPC, you may call your
19 witness.

20 MS. SITARAMAN: Good morning, Your
21 Honors.
22 WHEREUPON,

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1 RICHARD MORGAN,
2 called as a witness, and after having been first
3 sworn by the secretary, was examined and testified
4 as follows:

5 DIRECT EXAMINATION

6 BY MS. SITARAMAN:

7 Q Good morning -- still morning,
8 Mr. Morgan. Would you please state your full name
9 and business address for the record?

10 A My name is Richard E. Morgan. My
11 business address is 5902 32nd Street, Northwest,
12 Washington, D.C., 20015.

13 Q And do you have before you your --

14 CHAIRMAN KANE: Would you identify
15 yourself again for the record?

16 MS. SITARAMAN: Absolutely.

17 CHAIRMAN KANE: Thank you.

18 MS. SITARAMAN: My name is Nicole
19 Sitaraman from the D.C. Office of the People's
20 Counsel.

21 BY MS. SITARAMAN:

22 Q Do you have before you today your

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1 prefilled direct testimony dated November 3rd, 2014
2 marked OPC Exhibit (E) with attachments (E)-1
3 through (E)-3?

4 A I do.

5 Q And do you also have before you your
6 prefilled supplemental direct testimony marked OPC
7 Exhibit (2E) with attachments (2E)-1 through
8 (2E)-6?

9 A I do.

10 Q And was this testimony prepared by you or
11 under your supervision?

12 A It was.

13 Q Do you have any additions or corrections
14 to make to your prefilled testimony?

15 A No, I do not.

16 Q And if I were to ask you the same
17 questions that are contained in your testimony,
18 would you answer the same today?

19 A Yes, I would.

20 Q Do you adopt Exhibits -- OPC
21 Exhibits (E), attachments (E)-1 through (E)-3?

22 Do you adopt OPC Exhibit (E) with

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1 attachments (E)-1 through (E)-3, as well as OPC
2 Exhibits (2E) and attachments (2E)-1 through
3 (2E)-6 as your sworn testimony in this proceeding?

4 A Yes, I do.

5 Q Thank you.

6 MS. SITARAMAN: I believe the witness is
7 available for cross-examination.

8 CHAIRMAN KANE: Thank you.

9 CROSS-EXAMINATION

10 BY MR. KULAK:

11 Q Good morning, Mr. Morgan.

12 A Good morning.

13 Q My name is Ken Kulak. I'm a lawyer with
14 the law firm of Morgan Lewis representing the
15 joint applicants here today.

16 Mr. Morgan, you participated in a panel
17 at the Brookings Institution on October 31st, 2011
18 on the role of distributed power systems in the
19 U.S. electricity center, correct?

20 A That's correct.

21 Q I'd like to introduce transcript
22 exhibit -- Joint Applicants' Cross Exhibit

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1 Number 1. Do you have that there, Mr. Morgan?

2 A I do.

3 Q I'd like to direct your attention to
4 page 18 -- actually, 17, going on 18, of this
5 document, which is a transcript of the event
6 retrieved from the Brookings Institution website.
7 There's a question from Mr. Ebinger on the panel
8 on page 17 with respect to how much a customer
9 should be paid for power sold back to the grid.

10 And you respond to that question,
11 continuing on to page 18. Would you please review
12 that?

13 A I'm not sure I have the -- that I'm
14 looking in the correct binder, but I have the
15 binder of cross-exam exhibits that was given me
16 this morning by my counsel, and I am looking at
17 that page. So if that's sufficient...

18 Q I want to be sure we're all on the same
19 page, Mr. Morgan. It should say at the top on the
20 right, Joint Applicants' Cross-Examination Exhibit
21 Number 1. Do you have that?

22 A Oh, this must be it. I'm sorry. I'm not

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1 used to doing this from this end.

2 CHAIRMAN KANE: We welcome you back in a
3 different role.

4 THE WITNESS: I have found it.

5 BY MR. KULAK:

6 Q Great. It's 17 on to 18. Take a moment
7 to review that, please.

8 CHAIRMAN KANE: Perhaps commissioners
9 should always take turns as witnesses just to see
10 what the experience is like.

11 THE WITNESS: Yes, I have it.

12 BY MR. KULAK:

13 Q All right. Mr. Morgan, as you explained
14 to the Brookings audience, under D.C.'s net
15 metering rules, residential and small commercial
16 customers can get the full retail rate for their
17 excess generation -- that's generation and
18 transmission distribution -- if they're under 100
19 kilowatts of load, right?

20 A That was certainly true at the time that
21 I made that statement, and I assume that it's
22 still true.

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1 Q You don't know of any changes?

2 A I'm not aware of any changes, no.

3 Q And D.C. has been, in your words,
4 quote -- this on the bottom of the page 18 --
5 upfront about the fact that, for the small
6 customers, there is a subsidy, right?

7 A That's right.

8 Q And by that you mean a subsidy for net
9 metered customer from other customers, correct?

10 A That's correct.

11 Q Limiting payments on the full retail rate
12 to customers with load less than 100 KW acts as a
13 limit on the subsidy that will be paid to
14 individual net metered customers because it
15 effectively limits the size of their systems,
16 right?

17 THE REPORTER: I'm sorry. Could you slow
18 down, please?

19 CHAIRMAN KANE: You need to speak much
20 more slowly.

21 MR. KULAK: I will, Your Honor. Thank
22 you.

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1 CHAIRMAN KANE: Thank you.

2 BY MR. KULAK:

3 Q Let me try again. Mr. Morgan, by
4 limiting the payments of the full retail rate to
5 customers with load less than 100 KW, that acts as
6 a limit on the subsidy that will be paid to
7 individual net metered customers because it
8 effectively limits the size of their system,
9 right?

10 A It would if you're right near that
11 threshold level. I think most residential
12 customers are quite a bit smaller than that, so it
13 wouldn't affect the residential customers. But
14 for some customers it could have that effect.

15 Q And for larger customers, those who are
16 bigger than the commercial customers, they only
17 get an offset to the energy portion of their bill
18 because, in your words, that -- because -- I'm
19 sorry -- in your words, that, in an economic
20 sense, is really what they are saving the system,
21 right?

22 A That's right.

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1 Q And that's because, as I believe you put
2 earlier in your answer to Mr. Ebinger, quote, they
3 shouldn't necessarily get credit for the
4 transmission and distributions that the company is
5 supplying, right?

6 A That's right.

7 Q If those large customers did receive full
8 transmission and distribution credits for the
9 generation they delivered to the grid, they would
10 be effectively avoiding paying their fair share
11 for the transmission and distribution system cost,
12 right?

13 A I believe that's true, all else being
14 equal.

15 Q Mr. Morgan, you have stated in response
16 to a data request that you have, quote, limited
17 knowledge of Exelon or its -- excuse me. I have
18 one other question just to close that other area.

19 A Sure.

20 Q If there were higher limits for net
21 metered customers that would allow them to obtain
22 the payments for transmission and distribution

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1 rates, that would effectively increase the
2 subsidy, correct?

3 A It would increase the overall subsidy by
4 allowing more customers to avail themselves of
5 that subsidy.

6 Q I'll move on to the next.

7 Now, you have stated that you have
8 limited -- quote, limited knowledge of Exelon or
9 its subsidiaries' specific actions regarding
10 renewable and distributed generation policy,
11 right?

12 A That's true.

13 Q Now, Mr. Morgan, if I could direct your
14 attention to page 12 of your original direct
15 testimony, you state that ComEd opposes a meter
16 aggregation provision in Illinois, correct?

17 A You say the original direct testimony?

18 Q Yes. Page 12, please.

19 A Okay.

20 Q Towards the bottom of the page, lines 17
21 through 19.

22 A I got some help here. What was the line

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1 again? I'm sorry.

2 Q Lines 17 through 19.

3 A That's correct.

4 Q What is your understanding of whether
5 utilities are required to provide meter
6 aggregation under Illinois law?

7 A I don't believe it's required. I believe
8 there has been a proposal to allow it.

9 Q Do you know the nature of the concerns
10 expressed by ComEd in the proceeding you cited
11 here?

12 A Not precisely, no.

13 Q If I could direct your attention to Joint
14 Applicants' Exhibit Number 11. This is a document
15 entitled, Comments of Commonwealth Edison Company
16 on proposed net metering rule.

17 A Yes.

18 MR. KULAK: Your Honors, if I could have
19 this marked for the record as Joint Applicants'
20 Exhibit Number 2.

21 CHAIRMAN KANE: So marked.

22 (Joint Applicants Cross Exhibit Number 2

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1 was marked for identification.)

2 BY MR. KULAK:

3 Q Mr. Morgan, I'd like to direct your
4 attention just to the first page of this comment
5 which nicely summarizes the comments that follow.

6 A You're talking about page 1?

7 Q Yes.

8 A I see it.

9 Q Take a moment to review it.

10 A I have reviewed that page.

11 Q And that, in fact, states that ComEd does
12 not oppose most of the staff's proposal with
13 respect to net metering, right?

14 A I see that statement.

15 Q And, in fact, it also goes on to state
16 that with respect to meter aggregation, ComEd's
17 concerns were with respect to the preparation of a
18 report provided to the sponsor of every proposed
19 project, correct?

20 A I see that language, but again, I'm not
21 really familiar with the legislation. I haven't
22 studied it.

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1 Q Have you followed developments related to
2 community meter aggregation in Illinois since you
3 filed your testimony?

4 A I have not.

5 MR. KULAK: I would like to introduce
6 Joint Applicants' Cross Exhibit Number 13, have it
7 marked as Joint Applicants' Exhibit Number 3.

8 CHAIRMAN KANE: So marked.

9 (Joint Applicants Cross Exhibit Number 3
10 was marked for identification.)

11 BY MR. KULAK:

12 Q Do you have that there, Mr. Morgan? It's
13 a press release of ComEd.

14 A I'm sorry. Tell me the number again.

15 Q Sure. It's Joint Applicants' Exhibit
16 Number 13.

17 A I see the press release.

18 Q If you want to just take a moment and
19 read the first page, and then I direct your
20 attention to the paragraph on page 2 labeled,
21 Accessible, affordable solar power for the
22 community.

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1 A Okay.

2 Q So Mr. Morgan, you were unaware that
3 ComEd has, in fact, endorsed legislation -- maybe
4 perhaps the legislation you referred to with
5 respect to the proposal now -- that will require
6 utilities to offer meter aggregation and
7 particularly to encourage low-income participation
8 in solar projects, right?

9 A I see what's written here. I hadn't been
10 aware of it before.

11 Q Mr. Morgan, you pointed to other
12 positions of Exelon on renewables-related
13 legislation in Maryland as support for your
14 opposition to the merger and your belief that
15 Exelon would have tried to undo the D.C.
16 legislation, right?

17 A That's correct.

18 Q And you rely on exhibits filed by
19 Mr. Schoolman of DC SUN for your conclusion,
20 right?

21 A That's correct.

22 Q One of those issues relates to

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1 legislation that would have increased Maryland's
2 renewable portfolio standard from 20 percent to
3 40 percent by 2025, right?

4 A I believe that's right.

5 MR. KULAK: I'd like to now introduce
6 Joint Applicants' Exhibit Number 8, have it marked
7 as Joint Applicants' Exhibit Number 4.

8 CHAIRMAN KANE: So marked.

9 (Joint Applicants Cross Exhibit Number 4
10 was marked for identification.)

11 BY MR. KULAK:

12 Q Mr. Morgan, in preparing your testimony,
13 did you review the document that's been marked as
14 Joint Applicants' Exhibit Number 4?

15 A I want to make sure I'm looking at the
16 correct document.

17 Q Sure.

18 A I'm looking at tab number 8. Is that
19 where I should be looking?

20 Q That's correct, yes.

21 A And this is a document of the State of
22 Maryland Office of the People's Counsel?

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1 Q That's correct.

2 A Yes, I see that.

3 Q It's a short document. It's just two
4 pages. Could you please take a look at it?

5 A I see it.

6 Q Were you aware of this document before
7 you filed your testimony?

8 A I was not.

9 Q And, in fact, this document states the
10 Maryland Office of People's Counsel's opposition
11 to the same legislation with respect to an RPS
12 increase, right?

13 A Give me just a moment.

14 Q Of course.

15 A Yes, I see that.

16 Q You don't believe the Maryland Office of
17 People's Counsel is opposed to renewable energy,
18 do you?

19 A No, I don't.

20 Q Another issue you also rely upon for your
21 view is Exelon's position on Maryland's community
22 energy generating facilities pilot program, right?

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1 A That sounds familiar, but I'm not
2 certain.

3 Q Well, let me provide you with the exhibit
4 from the DC SUN testimony with respect to that.

5 MR. KULAK: This is Joint Applicants --
6 this has been pre-marked as Joint Applicants'
7 Exhibit -- just a moment, Your Honor -- 6. I
8 would like to now introduce that have it marked as
9 Joint Applicants' Exhibit Number 5.

10 CHAIRMAN KANE: So marked.

11 (Joint Applicants Cross Exhibit Number 5
12 was marked for identification.)

13 BY MR. KULAK:

14 Q You're familiar with this exhibit, right,
15 Mr. Morgan?

16 A It looks familiar, but I can't be
17 certain.

18 Q Well, this is one of the exhibits to
19 Ms. Schoolman's testimony, right?

20 A It looks like it probably is.

21 Q Do you want to take a moment to review it
22 to understand Exelon's concerns with respect to

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1 this legislation?

2 A Yes, I've read it.

3 Q So you'll see that the first concern that
4 Exelon articulated was a concern with respect to
5 the subsidies associated with paying subscribers
6 to such facilities for energy capacity
7 transmission and 75 percent of the distribution
8 charges they would have otherwise paid, correct?

9 A I see that it says that here. Of course,
10 I haven't had a chance to analyze this, just read
11 it quickly.

12 Q I understand. But this was one of the
13 legislations that you were concerned about with
14 respect to Exelon's position, correct?

15 A Well, I cited a number of bills or other
16 initiatives that involved Exelon's lobbying or --
17 lobbying by Exelon subsidiaries on
18 renewable-related issues. I did not state whether
19 or not I was for -- whether I was in agreement or
20 opposed to the position they were taking.

21 Q But if I understand your testimony
22 correctly, it's Exelon's position on this

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1 legislation that gives rise -- this legislation
2 that gives rise to your concern about their
3 possible actions in the future with respect to
4 D.C. legislation, right?

5 A Well, I'd say it's really more about the
6 pattern of Exelon opposing so many initiatives
7 related to community energy generation, to the
8 size of rooftop solar facilities, that sort of
9 thing, that really raises that concern. And I
10 never said that I necessarily disagreed with all
11 of Exelon's positions.

12 And the reason for my concern is that if
13 we're talking about Exelon operating the electric
14 utility in the District of Columbia, we have in
15 D.C. some policies, through both legislation and
16 initiatives from the mayor, to pursue becoming one
17 of the greenest cities in the country. And if
18 we're going to have a lot of resistance not only
19 to new initiatives, but perhaps trying to undo
20 existing legislation, I think it would lead to a
21 lot of conflict.

22 Q Mr. Morgan, let's take a look at Joint

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1 Applicants' Exhibit Number -- what's been
2 previously marked as Joint Applicants' Exhibit
3 Number 19.

4 MR. KULAK: I'll have that marked as
5 Joint Applicants' Exhibit Number 6.

6 CHAIRMAN KANE: So marked.

7 (Joint Applicants Cross Exhibit Number 6
8 was marked for identification.)

9 THE WITNESS: I see it.

10 BY MR. KULAK:

11 Q Why don't you take a moment to review
12 that.

13 A Okay. I've seen that.

14 Q In fact, in this document, Mr. Morgan,
15 PHI takes -- expresses the same concern that
16 Exelon had, as its first concern with respect to
17 the community facility legislation in Maryland,
18 right?

19 A That appears to be the case in this
20 circumstance. I am aware, though, that PHI has
21 taken positions different from Exelon in some
22 cases as well in -- in the State of Maryland.

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1 Q And there's certainly differences between
2 this Maryland legislation -- now D.C. has
3 implemented community energy facilities, right?

4 A That I'm not certain of. I would have to
5 spend some time comparing the two. I couldn't
6 answer that.

7 Q Thank you. Mr. Morgan, you acknowledge
8 that Exelon is one of the leading wind developers
9 in the country, right?

10 A I have.

11 Q And despite Exelon's own development of
12 wind generation, you maintain that Exelon's
13 opposition to the wind production tax credit for
14 the PTC means that Exelon, quote, is likely to
15 come into direct conflict with the District's
16 ambitious policies towards renewable energy.

17 That's from page 19 of your direct
18 testimony, right?

19 A That's correct.

20 Q Mr. Morgan, the PTC is a tax credit
21 available to investors that's equal to 2.2 cents
22 per kilowatt hour of generated wind energy after

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1 tax, right?

2 A That's right.

3 Q And it's now expired, correct?

4 A It has. Actually, the number of cents --
5 I can't tell you from my own memory that that's
6 the right number, but I'll accept that, subject to
7 check.

8 Q Thank you, Mr. Morgan.

9 And you're aware the PTC with that
10 subsidy, 2.2 cents, or the correct number, allowed
11 wind producers to negatively price their
12 generation and to sell into electricity markets at
13 a price below zero because they could recover that
14 loss through the tax credit, right?

15 A I have heard that that is the case during
16 certain hours. It's not something that happens
17 all of the time, but there are certain hours when
18 that's the case.

19 Q Do you think the PTC should go on
20 forever?

21 A Should go on forever, did you say?

22 Q Yes.

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1 A Probably not.

2 Q When do you think it should be allowed to
3 expire? Or not renew --

4 A Actually, I don't have a specific
5 position on the extension of the PTC. I mean,
6 it's, I guess, academic at this point. But I do
7 find some merits in arguments that I've seen for
8 ending the PTC, and I think that's an issue that
9 is deserving of consideration by regulators.

10 Let me just add the point I make in my
11 testimony is that the elimination of the PTC, as
12 it's advocated by Exelon, regardless of what my
13 views might be, is contrary to the interests of
14 the District since it would undermine the ability
15 of electric suppliers to achieve the District's
16 policy goals, especially with regard to the
17 renewables portfolio standard.

18 Q If you could turn to Joint Applicants'
19 Cross Exhibit Number 16.

20 MR. KULAK: I'll have that marked as
21 Joint Applicants' Exhibit Number 7.

22 CHAIRMAN KANE: So marked.

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1 (Joint Applicants Cross Exhibit Number 7
2 was marked for identification.)

3 THE WITNESS: Yes, I see it.

4 BY MR. KULAK:

5 Q Mr. Morgan, this is a letter on the
6 stationery of the American Wind Energy Association
7 to several members of Congress with respect to the
8 views in December of 2012 of the association with
9 respect to the PTC. Have you seen this document
10 before?

11 A I have not.

12 Q Do you want to take a moment to review
13 it?

14 A Yes.

15 Okay. I've had a chance to read through
16 it briefly.

17 Q So Mr. Morgan, in fact, AWEA at one time
18 took a position supporting the phase-out of the
19 PTC, right?

20 A Oh, yes, I'm aware of that.

21 Q Mr. Morgan, in your direct testimony on
22 page 18 you quote David Crane, CEO of NRG Energy,

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1 criticizing Exelon's position on the PTC, right?

2 A Yes.

3 Q In preparing your testimony, did you look
4 for any energy executives who agreed with Exelon's
5 position on the PTC?

6 A I believe I came across somewhere a
7 reference to other companies that had joined
8 Exelon in opposing the PTC. I can't recall who
9 any of them were.

10 Q You didn't include any of them in your
11 testimony, though, right?

12 A No. No, I didn't. The article by David
13 Crane -- not by him, but where he was quoted was
14 just something I ran across in the process of
15 researching issues in preparation for my
16 testimony, and I thought it was relevant to the
17 points that I had to make.

18 Q Mr. Morgan, are you familiar with PSEG,
19 the utility and holding company based in New
20 Jersey?

21 A Yes, I am.

22 Q They're certainly supportive of

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1 distributed solar energy, right?

2 A I believe they are, generally.

3 Q I'd like to direct your attention to
4 Joint Applicants' Cross Exhibit Number 18 --

5 MR. KULAK: -- which we'll have marked as
6 Joint Applicants' Number 8.

7 CHAIRMAN KANE: So marked.

8 (Joint Applicants Cross Exhibit Number 8
9 was marked for identification.)

10 THE WITNESS: I see it.

11 BY MR. KULAK:

12 Q Mr. Morgan, this is a transcript of an
13 interview with Mr. Izzo, the CEO of PSEG. It's a
14 three-page document. I would like to direct your
15 attention to the bottom of page 2 on to page 3.

16 CHAIRMAN KANE: Sir, I do need you to
17 slow down.

18 MR. KULAK: I apologize.

19 CHAIRMAN KANE: The court reporter is
20 having a very hard time keeping up with you, and
21 we're having a hard time listening to you.

22 MR. KULAK: That is absolutely not in my

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1 interest in having --

2 CHAIRMAN KANE: Yes. Speak very slowly.

3 MR. KULAK: Let me slow down again.

4 CHAIRMAN KANE: Thank you.

5 BY MR. KULAK:

6 Q Mr. Morgan, if I could direct your
7 attention to the bottom of page 2, on to page 3 of
8 this transcript, particularly page 3.

9 A Yes, I've had a chance to review it.

10 Q In responding to a question about
11 distributed generation, Mr. Izzo emphasizes that
12 renewable technologies will become more
13 cost-competitive over time, and he then states,
14 quote, but to subsidize them to the extent that we
15 have production tax credits encouraging wind to
16 produce at negative prices that we then shut off
17 carbon-free nuclear power and replace it with
18 carbon-intensive gas and coal -- so we just have
19 to be careful that the economic signals we send
20 are not so disruptive as to have unintended
21 consequences.

22 Right?

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1 A That sounds correct.

2 Q Okay. You didn't include Mr. Izzo's
3 statements in your testimony, right?

4 A Well, I hadn't seen this. I wasn't aware
5 of it. But let me point out, just to put all this
6 in context, that wind and renewables are not alone
7 in terms of receiving energy subsidies. Nuclear
8 power has been receiving subsidies from the
9 government for some 60 years, and continues to do
10 so today. So I think we need to look at these
11 things in context.

12 I've heard your company argue for a
13 subsidy-free energy policy, which is something
14 that I would like to see as well, and my response
15 is, if we're going to do that, let's get rid of
16 all the subsidies, but also take into account the
17 embedded subsidies in the technologies that are
18 already out there, including the subsidies that
19 your company has received.

20 Q I think there was some other testimony
21 about that earlier in the proceeding, but we'll
22 move on here.

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1 Mr. Morgan, you also attached Exelon's
2 current strategic plan to your supplemental direct
3 testimony, right?

4 A I did.

5 Q You read the entire plan in preparing
6 your testimony, correct?

7 A I don't believe I had a complete copy.
8 The document that was introduced I don't believe
9 had all the pages in it. I did review the entire
10 document, although parts of it I probably didn't
11 read as carefully as others.

12 Q Well, you did review all of the exhibit
13 attached to your testimony as OPC (2E)-5, right?

14 A Yes, but there were parts of it that I
15 paid more attention to than others.

16 Q And in this -- of this 36-page document,
17 though, you only quote one sentence, right?

18 A I couldn't tell you how many sentences I
19 quoted. I'll take your word for it.

20 Q Well, we'll direct your attention to
21 page 7 of your supplemental direct testimony where
22 you discuss the strategic plan.

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1 CHAIRMAN KANE: Counsel, is this a
2 confidential document?

3 MR. KULAK: Your Honor, it is a
4 confidential document, but as we've been doing
5 with several confidential documents, I'm only
6 going to ask him about non-confidential portions.

7 CHAIRMAN KANE: I just want to have it on
8 the record. Thank you.

9 MR. KULAK: Thank you very much.

10 THE WITNESS: Is this lines 7 through 10?

11 BY MR. KULAK:

12 Q Yes, Mr. Morgan.

13 A Yes, I see that. And I believe I did
14 also quote from the draft, or make a reference
15 anyway, to the draft of that document which is a
16 separate document.

17 Q The sentence you quote from the final
18 plan reads as follows: Quote, cannibalization of
19 our core business is the most obvious risk, as DG
20 and microgrids both degrade load growth and
21 provide energy that could be served by our
22 centralized generation, quote.

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1 That's the sentence you quoted, right?

2 A That's right.

3 Q Okay. I believe that appears on page 34
4 of the strategic plan attached to your testimony.
5 Take a look at that.

6 A I'm having trouble finding the right
7 folder. Sorry. This seems to be just the
8 testimony.

9 Q Just your supplemental direct testimony.
10 That's what we need.

11 A Right.

12 CHAIRMAN KANE: Could you identify the
13 exhibit you're speaking of?

14 MR. KULAK: Yes. It's OPC (2E)-5. And
15 I'll actually be asking a couple of questions
16 about page 32 through 34.

17 CHAIRMAN KANE: Again, this is a
18 confidential exhibit, but --

19 MR. KULAK: It is.

20 CHAIRMAN KANE: -- you will not be asking
21 any confidential material, correct?

22 MR. KULAK: Correct, Your Honor.

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1 CHAIRMAN KANE: Thank you.

2 THE WITNESS: Okay. I'm on page 32.

3 BY MR. KULAK:

4 Q Page 32 is a section entitled,
5 Section 5.21 distributed generation DG/microgrid,
6 right?

7 A That's correct.

8 Q And the sentence that you quoted in your
9 testimony appears on the end of the first
10 paragraph on page 34, and it reads as I read
11 earlier, right?

12 A I believe you that it's here, but I
13 haven't found it.

14 Q Just at the end of that paragraph.

15 A Oh. 34, did you say?

16 Q Yes.

17 A I'm sorry. At the end of?

18 Q The first paragraph.

19 A Yes, I see that.

20 Q Okay. Since you quote from this section,
21 you did read this section of the strategic plan?

22 A I believe I did.

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1 Q Doesn't this section actually begin with
2 the sentence that states, quote, as part of a
3 comprehensive energy supply strategy, distributed
4 generation (DG) can provide a great deal of value
5 for Exelon and for customers? Right?

6 A I'm -- I agree that it says that. And I
7 wouldn't even disagree with the statement.

8 Q In fact, this section of Exelon's
9 strategic plan goes on for three pages about
10 opportunities associated with distributed
11 generation and microgrids, doesn't it?

12 A That's correct.

13 Q And in fact, the very next sentence after
14 the one you quote reads, quote, finally, if we are
15 to be successful with distributed generation and
16 microgrid, net metering rules need to be carefully
17 structured such that they provide financial
18 incentives to those willing and able to
19 participate while protecting those who are not.

20 Right?

21 A I see that.

22 MR. KULAK: Your Honor, that completes my

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1 questioning. I would like just to have the first
2 exhibit I used, the transcript, which was Joint
3 Applicants' Cross Exhibit Number 1 marked as Joint
4 Applicants' Cross Exhibit Number 1 here as well.

5 CHAIRMAN KANE: Yes. Thank you.

6 MR. KULAK: Thank you, Mr. Morgan.

7 Thank you, Your Honor.

8 CHAIRMAN KANE: It will be so marked.

9 (Joint Applicants Cross Exhibit Number 1
10 was marked for identification.)

11 MS. FRANCIS: No questions, Your Honor.

12 CHAIRMAN KANE: D.C. government?

13 MR. COYLE: No questions, Your Honor.

14 Thank you.

15 CHAIRMAN KANE: DC SUN?

16 MR. SPECK: No questions, Your Honor.

17 CHAIRMAN KANE: Ms. White?

18 MS. WHITE: No questions, Your Honor.

19 CHAIRMAN KANE: NLC?

20 MS. WEIN: No questions, Your Honor.

21 CHAIRMAN KANE: Redirect?

22 MS. SITARAMAN: Yes, Your Honor. Thank

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1 you.

2 REDIRECT EXAMINATION

3 BY MS. SITARAMAN:

4 Q Mr. Morgan, do you recall being asked by
5 joint applicants' counsel just a couple of minutes
6 ago about the document that was pre-marked as
7 Joint Applicants' Exhibit Number 8?

8 A I can't remember which one that was, but
9 I'm sure I was.

10 Q Based on my --

11 A Yes, that was the Office of the People's
12 Counsel for Maryland --

13 Q Correct.

14 A -- document.

15 Q And that is my question. That was a
16 document from the Maryland Office of the People's
17 Counsel?

18 A Yes.

19 Q Okay. And you were asked whether the
20 Maryland OPC is opposed to renewables; is that
21 correct? Do you --

22 A Yes, I believe --

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1 Q -- recall being asked that?

2 A -- I was.

3 Q Do you have an opinion as to whether an
4 entity, agency, organization, company could oppose
5 legislation which addresses renewables without
6 opposing renewables?

7 A Certainly there's a lot of different
8 kinds of views about renewables and, you know, I
9 think any -- any advocate, you know, who's
10 involved in this will probably have as many
11 positions as there are people involved. And not
12 everybody is going to agree on exactly what the
13 right answer is. And for that reason, you might
14 find some differences where you wouldn't expect
15 it.

16 I personally don't agree with everything
17 in -- in the D.C. statutes on renewables myself.
18 So indeed, it is -- I think it is possible for
19 someone to generally support encouragement of
20 renewables through public policy, but not
21 necessarily support every single proposal.

22 I don't have a position on this bill in

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1 Maryland myself. I don't know where I would come
2 down on it.

3 Q So do you believe that a party's --
4 entity's motivation matters with respect to their
5 position on renewables?

6 A Absolutely. And I did say that in one of
7 my responses to a data request from the joint
8 applicants, that the motivation is really a big
9 piece of this. I think -- you know, certainly
10 different parties may have different ideas about
11 what the optimal legislative solution might be. I
12 think if the motivation is to try to get it right
13 and choose the -- you know, the optimal number for
14 the RPS or something like that, I think people --
15 you know, again, you'll have different viewpoints.

16 But if you have a party who has corporate
17 principles and a strategic plan that shows a whole
18 pattern of opposition to renewables and
19 distributed generation simply because it conflicts
20 with their business plan that involves creating a
21 favorable economic environment for nuclear
22 generation, I think, you know, that kind of

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1 motivation is going to create a problem in the
2 District of Columbia if that company were running
3 our electric system.

4 Q To your knowledge -- the RPS legislation
5 in Maryland was discussed today. To your
6 knowledge, has any such legislation, similar
7 legislation seeking to increase the RPS
8 percentage, has that been introduced in the
9 District of Columbia?

10 A I'm not aware of one right now. In the
11 past, there have been legislative changes to the
12 RPS, I think at least a couple of times.

13 Q But are you aware -- do you have any
14 knowledge of any current legislation pending
15 before the D.C. council with respect to the RPS
16 seeking to increase the percentage?

17 A I can't think of any.

18 Q And to your knowledge, have the joint
19 applicants made any concrete commitments in this
20 particular proceeding with respect to renewable
21 energy?

22 A No, they have not. And that was the

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1 major point of my supplemental testimony, is that
2 the joint applicants have come forward with
3 absolutely nothing to address public interest
4 factor number 7 which involves protection of
5 environmental quality and natural resources.

6 MS. SITARAMAN: Thank you.

7 That concludes my redirect.

8 CHAIRMAN KANE: Thank you. Thank you,
9 Mr. Morgan.

10 Do you have exhibits you want to move in?

11 MR. KULAK: Yes, Your Honor. We'd like
12 to move in Joint Applicants' Exhibits Number 1
13 through 8.

14 CHAIRMAN KANE: 1 through 8. Yes, they
15 are moved in.

16 (Joint Applicants Cross Exhibit Numbers 1
17 through 8 was received into evidence.)

18 MR. KULAK: Thank you, Your Honor.

19 CHAIRMAN KANE: Very good. Thank you,
20 Mr. Morgan.

21 THE WITNESS: Thank you. And I
22 appreciate you accommodating my schedule.

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1 (Witness excused.)

2 CHAIRMAN KANE: People's Counsel?

3 MS. SITARAMAN: Should I move in

4 Mr. Morgan's direct testimony and supplemental?

5 CHAIRMAN KANE: That would be helpful.

6 We don't want him to have been here for all this

7 time and then not have it officially there.

8 MS. SITARAMAN: OPC moves in Mr. Morgan's

9 direct testimony and supplemental direct

10 testimony.

11 CHAIRMAN KANE: Very good. They are

12 moved in.

13 (OPC Exhibit Numbers (E), (E)-1 through

14 (E)-3, (2E), and (2E)-1 through (2E)-5 were

15 received into evidence.)

16 CHAIRMAN KANE: Perfect timing. We will

17 now take a lunch break. It is 12:25. We'll come

18 back at 1:30 and you will start with your witness,

19 Ms. Tierney. Is that correct?

20 MR. LORENZO: Yes, Your Honor.

21 (Whereupon, at 12:24 p.m., a lunch recess

22 was taken.)

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1 AFTERNOON SESSION

2 (1:35 p.m.)

3 CHAIRMAN KANE: We are resuming at
4 1:35 p.m. Call your next witness.

5 MR. KULAK: Your Honors, the joint
6 applicants will call Dr. Tierney.

7 WHEREUPON,

8 SUSAN TIERNEY,
9 called as a witness, and after having been first
10 sworn by the secretary, was examined and testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. KULAK:

14 Q Good afternoon, Dr. Tierney.

15 A Good afternoon.

16 Q For the benefit of the record, would you
17 please state your full name and spell for the
18 court reporter your first and last names.

19 A Yes. My name is Susan Fallows Tierney.
20 Susan, S-U-S-A-N. Tierney, T-I-E-R-N-E-Y.

21 MR. KULAK: Your Honors --

22 THE WITNESS: Fallows is F-A-L-L-O-W-S.

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1 My parents would have been glad to know you asked.

2 MR. KULAK: Your Honors, for the benefit
3 of -- pursuant to order 17790, Dr. Tierney's
4 testimony has been stipulated for authenticity and
5 entry into the record. There are three pieces of
6 testimony and accompanying exhibits.

7 They consist of Dr. Tierney's direct
8 testimony, pre-marked as Exhibit (G), which was
9 fully conformed and filed as of March 25th, with
10 five exhibits labeled (G)-1 through 5.

11 Dr. Tierney's rebuttal testimony,
12 pre-marked as Exhibit (3G), which was also fully
13 conformed and filed as of March 25th, with six
14 exhibits -- sorry, with exhibits labeled (3G)-1
15 through 17.

16 And, finally, Dr. Tierney's supplemental
17 testimony pre-marked as Exhibit (4G).

18 With that, Dr. Tierney is available for
19 cross-examination.

20 CHAIRMAN KANE: Thank you.

21 People's Counsel?

22 CROSS-EXAMINATION

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1 BY MR. GRAY:

2 Q Good afternoon, Dr. Tierney.

3 A Good afternoon.

4 Q My name is Jason Gray. I'm from the law
5 firm of Duncan, Weinberg, Genzer & Pembroke. I
6 have some questions for you on your testimony.

7 A Terrific.

8 Q Before we start, I saw you in the hearing
9 room yesterday for Mr. Khouzami's testimony, and
10 I'm curious, the hearing days before when you were
11 not here live, were you monitoring the hearing
12 online?

13 A Episodically, not every single hour.

14 Q Did you see at least parts of the
15 testimony from Mr. Crane?

16 A Actually, no, I did not.

17 Q How about Mr. Rigby?

18 A Some of Mr. Rigby's, yes.

19 Q Do you recall any other witnesses that
20 you were able to catch online?

21 A I saw part of Mr. Alden's and part of
22 Mr. Gausman's.

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1 Q Thank you. Could you please turn now in
2 your direct testimony to page 4?

3 A I'm there.

4 Q If you would look at line 9. Beginning
5 on line 9 you state you have been asked by Exelon
6 Corporation, PEPCO Holdings, Inc. and PEPCO to
7 provide testimony on the direct and indirect
8 economic and policy benefits of the proposed
9 merger.

10 Do you see that?

11 A Yes.

12 Q When you were initially approached about
13 this engagement, who approached you?

14 A Exelon.

15 Q Do you recall who specifically from
16 Exelon?

17 A Yes, Mr. Bradford.

18 Q That's Darryl Bradford; is that right?

19 A Yes. I was also approached by
20 Mr. Bonney. And I don't remember which one
21 actually got -- I spoke to first.

22 Q Is your relation with Mr. Bradford and

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1 Mr. Bonney based on your prior analysis that you
2 did in the Constellation/Exelon merger proceeding?

3 A Yes.

4 Q Thank you. I have a few questions to try
5 and help me understand the scope of your direct
6 testimony and the analysis that you did underlying
7 that testimony. Could you please turn to page 8
8 of your direct testimony.

9 A Yes.

10 Q I call your attention to line 16. Do you
11 see where you say, I focused on two elements of
12 the regulatory commitment -- excuse me -- of the
13 package of regulatory commitments to the District
14 of Columbia that the applicants are making as part
15 of their proposed merger and that provide
16 tangible, quantifiable benefits to PEPCO
17 customers?

18 A Yes, I see that.

19 Q Am I correct that those two elements that
20 you focused on are the customer investment fund
21 and the reliability commitments?

22 A Yes.

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1 Q If you would skip ahead a few pages to
2 page 11.

3 A Yes.

4 Q Do you see on line 6, beginning on
5 line 6, you talk about two types of quantitative
6 analyses that you performed?

7 A Yes.

8 Q Do you see, with regard to the first
9 quantitative analysis, am I correct that you say
10 you focused specifically on the measurable and
11 direct benefits that will flow to the District of
12 Columbia customers as a result of the two elements
13 of regulatory commitments, i.e., the customer
14 investment fund and the enhanced reliability
15 commitments?

16 A Yes.

17 Q And that's what we just talked about,
18 right, the two elements that you focused on?

19 A Yes.

20 Q Then if you look down to line 15, I
21 believe you're referring to your second
22 quantitative analysis there. And do you see where

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1 you testified that you estimated the direct,
2 indirect and induced impacts of the relevant
3 regulatory commitments?

4 A Yes. And you'll notice that on lines 12
5 and 13 I'm describing that that portion of my
6 analysis was to focus on the economy of the
7 District.

8 Q Yes. Thank you for that clarification.
9 When you use the term on line 15 -- or,
10 excuse me, line 16, "relevant regulatory
11 commitments," are you referring to same two
12 elements on which you focused, the customer
13 investment fund and the reliability commitments?

14 A Yes, I think I defined them as such
15 earlier in this paragraph.

16 Q Continuing with just some general
17 background questions, I want to see if I have a
18 high-level understanding of what you did in
19 performing your analysis. Could you please turn
20 to page 33.

21 A Yes.

22 Q Beginning on line 14, do you see the

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1 discussion there that is basically what we have
2 just been talking about, the direct benefits
3 derived from the two elements you focused on, the
4 customer investment fund and the reliability
5 commitments?

6 A Yes.

7 Q Then if you will skip ahead to page 35,
8 am I correct that you did an analysis of those
9 direct benefits, and on line 10 specifically you
10 looked at indirect impacts that flowed out of
11 those direct benefits?

12 A Among other things, yes.

13 Q Thank you. And on then 36, page 36,
14 line 6, you testify, do you not, that for both the
15 customer investment fund and the enhanced
16 reliability commitments, there are also induced
17 effects associated with the direct and indirect
18 economic impacts?

19 A Yes. Again, with regard to the impacts
20 on the District's economy. Not for customers.

21 Q Yes. Thank you. Would you characterize
22 the analysis that you performed as an impact

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1 analysis?

2 A A type of impact analysis, yes.

3 Q Is an impact analysis or the type of
4 impact analysis that you performed necessarily the
5 same thing as a cost benefit analysis?

6 A No.

7 Q Did you perform a cost benefit analysis?

8 A No.

9 Q Is it fair to say that from the time you
10 filed direct testimony to your rebuttal testimony
11 the scope of the issues you looked at expanded
12 beyond the economic analysis to responding to some
13 of the other issues raised by OPC and intervenors?

14 A Yes.

15 Q Sticking with your direct testimony, if
16 you could turn back to page 5.

17 A I'm there.

18 Q I want to direct your attention to the
19 sentence that begins on line 10 which states,
20 Additionally, Exelon has strengthened PEPCO's
21 commitments to reliability improvements for
22 customers by pledging to be held financially

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1 accountable for the achievement of enhanced
2 reliability performance goals, enhanced
3 reliability commitments, by 2020.

4 Do you see that?

5 A Yes.

6 Q I have some questions about what exactly
7 Exelon is doing to strengthen those commitments,
8 but first, could you tell me what you mean when
9 you say PEPCO's commitments on line 10?

10 A In that sentence, I meant that Exelon is
11 moving beyond the -- whatever it was that PEPCO
12 was doing prior -- in anticipation of no merger
13 happening.

14 Q And that's really what I'm trying to get
15 at. What is your understanding of whatever it is
16 PEPCO was doing in anticipation that no merger
17 would occur?

18 A With regard to reliability --

19 Q Yes.

20 A -- issues?

21 PEPCO has made plans pursuant to
22 regulatory directives of the Commission with

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1 regard to the EQSS standards. PEPCO has
2 anticipated some budgets and PEPCO has indicated
3 that although it will attempt and has every
4 intention of meeting the performance requirements
5 for reliability, PEPCO, as I understood it as of
6 the time I wrote my direct testimony, and still
7 understand it to be the that PEPCO is concerned
8 that it may not be able to meet those reliability
9 metrics given the budgets that it has planned for
10 today.

11 Q Thank you. That's very helpful. You
12 were a witness in the Delaware component of this
13 proceeding, right, docket 14-193?

14 A Yes.

15 Q Do you recall being deposed as part of
16 that proceeding?

17 A With great fondness, yes.

18 Q How could you forget?

19 A Exactly.

20 MR. GRAY: Your Honor, at this time, I
21 would like to mark for identification a document
22 that's been pre-marked as OPC Cross-Examination

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1 Exhibit 137. It is a 32-page excerpt from
2 Dr. Tierney's deposition in Delaware. I would ask
3 that it be marked as OPC Cross-Examination
4 Exhibit 100.

5 CHAIRMAN KANE: So marked.

6 (OPC Cross Exhibit Number 100 was marked
7 for identification.)

8 MR. GRAY: And I note that this document
9 was initially confidential, and so all the pages
10 state that it is confidential, but I understand,
11 through discussions with counsel, that they have
12 undesignated this document and it is no longer
13 confidential.

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

15 BY MR. GRAY:

16 Q Do you have that document in front of
17 you?

18 A Yes.

19 Q Do you agree that the document you have
20 is, in fact, an excerpt from your deposition?

21 A Without examining every single page, when
22 you say excerpt, it looks to me as though there

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1 are pages beyond the final page in your exhibit
2 that are not -- that were originally part of the
3 deposition; is that correct? Is anything else
4 missing?

5 Q That's correct. The first 32 pages from
6 your deposition are what is provided.

7 A Thank you.

8 Q And you'll see that there are multiple
9 pages within each page of four to a page of the
10 actual deposition. So I'm going to refer you to
11 the exhibit number, and then I'll also make a
12 reference to deposition page number just so we're
13 all clear as to what part of the document I'm
14 referring to.

15 A So just because I'm not a lawyer and you
16 say exhibit number -- and there are, like, many,
17 many numbers on this page, is the exhibit up at
18 the top right?

19 Q No. The exhibit should be on the top
20 middle, and will say OPC Cross-Examination
21 exhibit.

22 A I see it, thank you.

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1 Q And there should be page X of 32.

2 A I see it.

3 Q Could you please turn to page 8 which
4 contains deposition pages 25, 26, 27 and 28.

5 A Yes.

6 Q I have a question for you about a
7 statement on deposition page 25. So I'm going to
8 read that statement to you, and then feel free to
9 look at the surrounding text to get some context.

10 You state there on page 8, which is
11 deposition page 25, that you asked whether there
12 was a similar commitment in the absence of the
13 merger -- and by that, a similar commitment with
14 regard to an actual target number to which the
15 company was saying it would meet it, and then
16 adopting a financial penalty if they did not meet
17 it, and I was told there was no such commitment.

18 Do you see that?

19 A Yes.

20 Q Now, the context of this statement,
21 you're talking about Exelon's reliability
22 commitment in Delaware, right?

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1 A Yes.

2 Q And when you say that you asked whether
3 there was a similar commitment, you meant a
4 similar commitment by Delmarva, not if the merger
5 were not to go forward?

6 A That's right.

7 Q I want to focus on Exelon's commitment in
8 Delaware, but with the understanding that we're
9 talking about the District instead of Delaware.
10 If you could make that assumption.

11 A I'll try.

12 Q Okay. With regard to Exelon's
13 reliability commitment in the District, is it your
14 understanding that there is a commitment to meet
15 specific SAIFI and SAIDI targets as measured over
16 a three-year period from 2018 to 2020 or face a
17 financial penalty for failing to meet those
18 targets?

19 A Yes. And I'm saying yes because I think
20 you said Exelon, not PEPCO -- is that right -- in
21 your question?

22 Q I believe I did. And just to clarify, my

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1 intent is the joint applicants' commitment in this
2 proceeding.

3 A Yes.

4 Q Okay. Thank you. So let's unpack that
5 commitment a little bit. With regard to the SAIFI
6 component of the commitment, is it your
7 understanding that the joint applicants'
8 reliability commitment is to meet a three-year
9 SAIFI target of 0.66 interruptions?

10 A Yes.

11 Q With respect to the SAIDI target, is it
12 your understanding that the joint applicants'
13 commitment is to meet a three-year SAIDI target of
14 90 minutes?

15 A That's my understanding, yes.

16 Q Okay. And then the financial penalty
17 that we talked about, is it your understanding
18 that that is a reduction to the authorized return
19 on equity of 50 basis points that would be applied
20 in the next rate case after 2020?

21 A Yes. If the -- if PEPCO has not
22 satisfied those metrics.

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1 Q Yes, exactly. Thank you.

2 We had talked about, in your direct
3 testimony at page 5, the reference to
4 strengthening PEPCO's commitments. Is the absence
5 of an identical commitment from PEPCO in a
6 no-merger future? And what I mean by identical is
7 the SAIFI, SAIDI and financial penalty components.

8 A I'm sorry. I did not understand the
9 question.

10 Q Sure. Let me back up.

11 Is it your understanding that PEPCO does
12 not have a similar commitment -- and by similar I
13 mean similar to what the joint applicants have
14 proposed in this proceeding for reliability?

15 A It's my understanding that there is not
16 exactly the same combination of elements that are
17 in the joint applicants' commitment.

18 Q Okay. So with that answer in mind, is
19 the absence of that identical commitment what you
20 mean by strengthening PEPCO's commitments on
21 page 5 of your direct testimony? Actually, let me
22 withdraw the question. That was a poor question.

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1 In the absence of identical commitment,
2 is the commitment to have the three-year SAIDI and
3 SAIFI targets or face a financial penalty what you
4 mean by strengthening PEPCO's commitments?

5 A Not precisely.

6 Q Okay. What do you mean?

7 A I am aware that, under the Commission's
8 current policy, it would have the authority to
9 impose a penalty if the Commission were
10 unsatisfied with PEPCO's performance on meeting
11 various targets.

12 What I understand to be the incremental
13 change coming with the merger is that the joint
14 applicants have said, we will -- we will expect
15 and not contest imposition of a penalty if the --
16 if PEPCO does not satisfy the three-year average,
17 and we will do that at the target -- at the
18 budgeted capital and operations levels that are
19 current today.

20 Q Okay. Thank you.

21 Is it your understanding that the
22 reliability commitment that we just discussed is

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1 independent and in addition to the EQSS
2 requirements?

3 A Yes.

4 Q We'll talk about the budget component in
5 a minute, but I want to continue on our discussion
6 of the SAIFI, SAIDI and financial penalty
7 components. Actually, let's change gears a bit.
8 If you could turn in your rebuttal testimony to
9 page 13.

10 A Yes.

11 Q With respect to the discussion we were
12 just having on the nature of the existing
13 commitment versus the reliability commitment in
14 the merger, would you please just refresh your
15 recollection with regard to lines 1 through 10 on
16 page 13.

17 A Yes. To line 13?

18 Q No, on page 13, lines 1 to 10.

19 A Got it.

20 Q Thank you. Now, I'm not asking you to
21 agree, but your understanding of the witnesses
22 you're addressing here is that their position is

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1 that Exelon or the joint applicants' reliability
2 commitment should be prepared to a no-merger
3 future where PEPCO meets the annual EQSS targets
4 through 2020; is that right?

5 A Yes, that is what I am interpreting their
6 position to be.

7 Q And you disagree with that position, do
8 you not, on the grounds that making that
9 assumption about PEPCO's future performance would
10 require you to speculate?

11 A It would require me to assume that PEPCO
12 does not request a change in the EQSS standard and
13 that the Commission does not either allow that or
14 continues to impose it at exactly the same budget
15 levels as are in place today.

16 And I believe that the parties assumed
17 that either none of that would happen, i.e., PEPCO
18 would not request a modification of the EQSS,
19 PEPCO would satisfy the EQSS -- there would be no
20 reason to have a -- any kind of penalty because
21 performance were there without a change in the
22 budget.

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1 Q Okay. Thank you.

2 Now, moving down on that same page to
3 line 17, you testify, The concreteness of the
4 joint applicants' reliability commitments which I
5 described in my direct testimony is the attribute
6 that allowed me to quantify their impacts on
7 customers.

8 With respect to that statement and tying
9 it to your previous answer, the unknowns that you
10 are discussing about whether PEPCO would seek
11 reconsideration of the EQSS, whether that
12 reconsideration would be granted, what PEPCO's
13 actual performance would be, is that what you're
14 contrasting when you say the concreteness of the
15 reliability commitment to the lack of concreteness
16 of the no-merger future?

17 A In essence what I'm saying is that
18 regardless of whether there is a possible world in
19 which there could be modifications to the EQSS or
20 the budget or the imposition of a penalty, what we
21 know with the merger is that the joint applicants
22 have said, we will meet these SAIDI and SAIFI

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1 targets in this time frame, i.e., three-year
2 average between 2018 to 2020, and if we don't, we
3 will seek to have a performance -- excuse me -- a
4 penalty on our return on equity in the next rate
5 case.

6 Q And you --

7 A Oh, yes, and there was the budget
8 commitment as well.

9 Q When you say that the joint applicants,
10 assuming they do not meet the targets, will seek
11 to have an ROE penalty, is it your understanding
12 that that ROE penalty would be automatically
13 triggered if the reliability commitment is not
14 met?

15 A Yes, in the next rate case.

16 Q Thank you. Getting back to the word
17 "concreteness" as you use it on page 13, line 17,
18 in order for a commitment to be concrete, does the
19 word "commitment" or commitment -- "commit" or
20 "commitment" need to be used?

21 A I don't understand that question.

22 Q Okay. Let me back up.

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1 You stated earlier, I believe, that it's
2 your understanding that PEPCO intends or will
3 strive to meet the EQSS, but has some concern as
4 to whether it can do so under the existing
5 budgets. Is a stated intention to do something a
6 concrete commitment or is something else required?

7 A In this particular case, the context for
8 my using the word "concrete" is that there is a
9 specific merger proposal here. As a commitment
10 that is part of that proposal, I would assume that
11 there would be a commission order that would
12 embrace a commitment such as the reliability
13 commitments that we're just describing.

14 So I am assuming that would be tracked
15 and verified by the Commission, and that's
16 different than a statement that I would expect any
17 utility to make in response to ongoing obligations
18 from the Commission that they will do everything
19 they can to try to meet those commitments, and
20 sometimes -- they may or may not be able to in the
21 future for a variety of good and bad reasons,
22 again, hypothetically.

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1 Q Okay. I want to test your understanding
2 of that a little bit more. On Wednesday of last
3 week -- and this is on page 586 of the transcript,
4 if you want to look there -- I asked Mr. Rigby the
5 following question: Is PEPCO committed to meeting
6 the EQSS every year?

7 And his response was, We commit to meet
8 the standards that we're held to.

9 A Could you wait a minute just so I can see
10 the rest?

11 Q Certainly. Again, it's page 586, and the
12 question begins on line 13.

13 A Yes. I see it.

14 Q Let me back up.

15 You were formerly a commissioner on the
16 Massachusetts Department of Public Utilities; is
17 that right?

18 A Yes.

19 Q If the CEO of one of the utilities that
20 you regulated stated at an evidentiary hearing
21 that he committed to do something, would that
22 commitment satisfy the concreteness criteria that

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1 we were discussing?

2 A Not as I have used the word
3 "concreteness" in the sentence and context that I
4 used it in my testimony and which I've explained
5 here today.

6 Q So with respect to the transcript page
7 that I just cited you to, 586, when Mr. Rigby
8 states, We commit to meet the standards that we're
9 held to, you do not view that, in your opinion, as
10 a concrete commitment to meet a verifiable
11 reliability standard that can be tracked?

12 A Let me be very clear about what I mean.
13 Of course I read the exact words that Mr. Rigby
14 said, and I believe he meant it when he said that
15 they will do everything they can to meet the EQSS
16 standards. That is their intention today.

17 The difference between that and what I
18 have talked about in my testimony is that the
19 joint applicants are putting forward not only
20 their intention to do these, but if they do not
21 meet them, they expect a performance penalty of
22 the sort that's been described.

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1 That's above and beyond everything that
2 the Commission has in its existing authority under
3 the EQSS standards and process. I think they are
4 just different concepts.

5 Q You were in the hearing room yesterday
6 when Mr. Khouzami testified. Do you recall him
7 saying that there is an implicit commitment by the
8 joint applicants to meet the EQSS on an annual
9 basis?

10 A I don't recall that he said implicit. I
11 recall generally the statements were the
12 expectation that the Commission has EQSS
13 standards, and until they're changed -- and
14 assuming they are not changed, whatever it is that
15 those EQSS standards are, the intention would be
16 to meet those.

17 Q Okay. So there are some differences, but
18 the primary difference is the financial penalty;
19 is that right?

20 A Yes, and the commitment to achieve those
21 metrics at the proposed budgets, because I did not
22 hear that as an element that was joined at the

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1 hip, if you will, to the intentions that have been
2 stated to satisfy the EQSS standards.

3 Q Okay. Let's talk about the commitment
4 not to exceed the budgets. When did you first
5 have an understanding that the joint applicants'
6 reliability commitment included a commitment not
7 to exceed existing budgets?

8 A I don't remember when I first learned it.
9 It was during the process of learning about the
10 whole set of standard that exist in the District
11 and what's happening. I don't recall further than
12 that.

13 Q Is it fair to say it was before you filed
14 your direct testimony in June of 2014?

15 A I think so, yes.

16 Q Okay. Could you turn back in your direct
17 testimony to page 5. Let me know when you're
18 there.

19 A Yes.

20 Q We discussed earlier the sentence from
21 line 10 to line 13. Do you recall that?

22 A Yes.

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1 Q Do you see the footnote at the end of the
2 sentence on line 13?

3 A Yes.

4 Q That footnote cites to the direct
5 testimonies of Mr. Alden and Mr. Khouzami; is that
6 right?

7 A Yes.

8 Q Am I correct that the purpose of citing
9 to Mr. Alden's and Mr. Khouzami's direct
10 testimonies is because they provide a description
11 of Exelon's proposal to back up its reliability
12 commitments with a performance guarantee, namely,
13 a financial penalty?

14 A Yes, but it was also a purpose that I
15 had -- that I relied on others for actually
16 talking about the reliability issues, and then I
17 took that information and then used that in my
18 analysis. So there was another purpose of putting
19 a footnote there.

20 Q Okay. Do you agree that in
21 Mr. Khouzami's direct testimony, if you know, that
22 he does not discuss a commitment to meet the

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1 proposed reliability metrics without increasing
2 the current capital or O&M budgets for
3 reliability?

4 A I don't remember that.

5 Q Do you know or would you agree, subject
6 to check, that in Mr. Khouzami's testimony the
7 word "budget" is only used one time, and that's in
8 his background discussion with respect to his
9 oversight role at BG&E?

10 A I honestly don't remember that. Oh. All
11 of my testimony is honest. That was not meant to
12 be a distinguishing feature of that sentence.

13 Q Would you agree that Mr. -- do you know
14 whether Mr. Alden uses the word "budget" in his
15 direct testimony?

16 A I don't recall.

17 Q Would you accept, subject to check, that
18 he does not?

19 A Okay.

20 Q Would you please turn to page 10 of your
21 direct testimony. And I'd like to call your
22 attention to footnote 9 where you state that you

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1 have reviewed the testimony of Mr. Alden and then
2 also Mr. Gausman?

3 A Yes.

4 Q I'm assuming that you're referring to
5 direct testimony there?

6 A Yes.

7 Q Would you agree, subject to check, that
8 Mr. Gausman does not use the word "budget" in his
9 direct testimony?

10 A I don't recall, but subject to check,
11 yes.

12 Q Would you accept, subject to check, that
13 you do not use the word "budget" in any of the
14 testimony you have filed in this proceeding?

15 A No, I wouldn't.

16 Q Can you show me -- and you don't have to
17 do it now, but could you show me a citation in
18 your testimony before the proceeding is over where
19 you use the term "budget"?

20 A I will follow up on that. And the
21 surprise that I have is that I am probably
22 thinking about responses to discovery requests as

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1 well.

2 Q Sure. Still in your direct testimony,
3 could you turn back a few pages to page 4. Let me
4 know when you're there.

5 A Yes.

6 Q On line beginning on line 12, you state,
7 At the request of the applicants, I have reviewed
8 the application and familiarized myself with the
9 various commitments.

10 Do you see that?

11 A Yes.

12 Q You're referring there to the June 18,
13 2014 application, right?

14 A I don't remember the exact date. So is
15 that the date it was filed in the District?

16 Q Yes, it is.

17 A Yes.

18 Q Perhaps Ms. Travers could help you locate
19 a copy of that. I believe there's one on the
20 shelf.

21 A Did we have a page number?

22 Q Not yet.

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1 A Okay.

2 Q Look at paragraph 15, which is on page 7.

3 A Yes, I see it.

4 Q Do you see the reference there to the
5 suite of 12 principal commitments in Exhibit
6 Number 5?

7 A Yes, I see that.

8 Q Could you please turn to that Exhibit
9 Number 5. It's an exhibit to the application
10 itself.

11 A These notebooks are ridiculous. Sorry.
12 Tab 5.

13 Q Yes. And there are not page numbers on
14 Exhibit Number 5, but the question I have is on
15 the first page.

16 A Okay. I'm there.

17 Q Do you see at the bottom, commitment
18 number 3, reliability and quality of service?

19 A I do see that.

20 Q Can you confirm that there is no
21 reference to meeting the identified SAIFI or SAIDI
22 targets within any budget parameters?

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1 A I don't see the word "budget" in that
2 paragraph. I do see the words "PEPCO commits to
3 continue to implement its current plan."

4 Q Do you understand that PEPCO does not
5 prepare long-term O&M budgets? And by long-term I
6 mean longer than one year out in time.

7 A That's my understanding.

8 Q Just so we're clear, you filed
9 supplemental direct testimony that revised your
10 analysis on February 17th, 2015; is that right?

11 A I didn't know I was allowed to call that
12 supplemental direct. I called that my
13 February 17th. So is it called supplemental
14 direct?

15 Q I believe that's what it's called, but if
16 it's not, I don't intend any characterization.

17 A February 17th. Okay. We're on the same
18 page.

19 Q Okay. Do you -- are you aware that the
20 application itself in Exhibit 5 has not been
21 revised or updated since June of 2014?

22 A I don't know that, and the reason I say

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1 that is I thought there was something that was
2 attached to Mr. Crane's testimony on
3 February 17th.

4 Q That's right. Exhibit (4A)-2 to
5 Mr. Crane's testimony is a revised list of merger
6 commitments. Is it your understanding that that
7 exhibit, (4A)-2, is intended to be a revision to
8 the application for Exhibit 5 or do you know?

9 A I understood that to be part of the
10 commitment package that is being offered in the
11 District of Columbia for consideration by the
12 Commission.

13 Q You can put the application away.

14 A Thank you.

15 Q I don't have any further questions on
16 that.

17 A Okay.

18 Q We've been talking about the 50 basis
19 point return on equity penalty that would apply in
20 a situation where the joint applicants failed to
21 meet the reliability commitment, right?

22 A Yes.

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1 Q Do you recall yesterday, when he was
2 questioned by counsel for OPC, that Mr. Khouzami
3 characterized that as a substantial penalty?

4 A I don't recall whether he said
5 substantial. I'll take that subject to check,
6 though.

7 Q Thank you. Now, I want to read to you a
8 statement that Mr. Alden made last week -- and if
9 you'd like to look at it, it's on page 1,140 of
10 the transcript, and specifically it's on line 2.

11 A Okay. I see that line 2.

12 Q To clean it up a bit, I believe what
13 Mr. Alden is saying is we, as in the joint
14 applicants -- we haven't explicitly laid out a
15 financial commitment for penalty associated with
16 not meeting the budget commitments.

17 Do you see where he makes that statement?

18 A I do, but I -- I don't recall actually
19 listening to this testimony and I don't know the
20 context for his answer to this. So do you want me
21 to go back and look at that? But I do see that.

22 Q Sure. Feel free to look at the question.

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1 The context is whether -- we discussed the ROE
2 penalty. I believe the context is whether there's
3 a penalty if the joint applicants do not satisfy
4 the commitment to maintain the capital or O&M
5 budgets; in other words, if they exceed those
6 budgets?

7 A I'm sorry. I do recall that testimony.
8 I didn't know that's what we were talking about
9 here. So it was the question about whether there
10 were a penalty attached to budgets as opposed to
11 meeting the metrics?

12 Q That's correct.

13 A Okay. Yes, I see this.

14 Q And that's your understanding. There's a
15 penalty attached to not meeting --

16 A I have no other understanding besides
17 what Mr. Alden said at this point.

18 Q Let me -- just for the record, I want to
19 ask the question, and then if your answer is the
20 same, it's the same.

21 Do you have an understanding that there's
22 an ROE penalty associated with not meeting the

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1 reliability commitment targets and there is no
2 penalty associated with exceeding the budgets that
3 the joint applicants have committed not to exceed?

4 A Well, just to be clear about what -- my
5 understanding of the way you phrased it right now,
6 my understanding is that there will be a bright
7 line expectation by the joint applicants that if
8 they do not satisfy the performance metrics on
9 SAIDI or SAIFI, that there will be a penalty
10 imposed above and beyond what the Commission
11 decides to do.

12 There is no equivalent triggered
13 automatic penalty necessarily for the budget
14 portion of the commitment, but I think I recall an
15 expectation that there will be a standard review
16 under the Commission's normal -- prudency-type
17 review for the -- for any amount of overbudget
18 activity that's happened for either capital or
19 O&M.

20 Q Thank you. Let's get back to our
21 discussion on concreteness. Is the expectation
22 that there may be some type of imposition of a

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1 penalty, perhaps denial of cost recovery in a
2 future rate case? Is that something you would
3 consider to satisfy the concreteness criteria?

4 A Very narrowly. The concreteness point
5 that I'm making in talking about the tripartite
6 legs of the reliability commitments -- an
7 expressed expectation to satisfy performance
8 targets on SAIDI and SAIFI during a specific time
9 period, three-year average, at the budget levels,
10 and that if the performance metrics are not
11 satisfied, that will trigger an automatic penalty
12 and the Commission may, will and undoubtedly
13 surely will look at whether or not there is a good
14 reason for any overages on the budgets.

15 Q Were you consulted or did you play a role
16 in the development of the reliability commitment
17 that the joint applicants have proposed?

18 A Not at all.

19 Q So I believe you will be able to confirm,
20 but my question is, can you confirm that you don't
21 know why there would be a firm financial penalty
22 associated with not meeting the reliability

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1 targets, that there would not be a firm financial
2 penalty associated with exceeding the budgets?

3 A You guessed right. I don't know the
4 answer to that.

5 Q If you know, assuming the merger is
6 approved and PEPCO is facing a situation where it
7 determines it cannot meet the reliability
8 commitment -- the metrics without increasing
9 spending, would you think it's more likely that
10 PEPCO would increase spending, meet the commitment
11 and face no firm penalty or would they maintain
12 spending, not meet the commitment and face what
13 Mr. Khouzami characterized as a substantial
14 penalty?

15 A Could you rephrase the question? Because
16 I can't tell whether or not you're asking me to
17 think about what PEPCO would do in the absence of
18 the merger versus what the joint applicants will
19 do with this combination of -- I don't understand
20 the question.

21 Q Sure. The assumption is that the merger
22 is approved.

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1 A Okay.

2 Q So PEPCO, the distribution company here
3 in the District, is owned by Exelon. And PEPCO
4 determines that it cannot meet the SAIFI and SAIDI
5 metrics and the reliability commitment within the
6 confines of the budgets that it has committed not
7 to exceed. Okay?

8 A Okay.

9 Q Just based on your experience in the
10 industry, do you know whether it would be -- or do
11 you have an opinion, actually, whether it would be
12 more likely that PEPCO would increase spending
13 above the budget levels, meet the SAIDI and SAIFI
14 commitments and face no firm penalty associated
15 with exceeding the budgets, or would it be more
16 likely that PEPCO would maintain spending at the
17 current budget levels, not meet the SAIFI and
18 SAIDI commitments, and face what Mr. Khouzami
19 characterized as a substantial penalty?

20 A The tricky part of your question for me
21 is "more likely." That is -- that suggests that
22 one needs to do an analysis of that. I haven't

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1 done that analysis. Do I think the incentives are
2 strong with the brightness of the concreteness of
3 the reliability commitments? I believe that
4 the -- that PEPCO will do all that it can to meet
5 the performance targets, avoid the penalty, and I
6 don't know what they will do on the budgets.

7 Q Fair enough. Thank you. Do you still
8 have your direct testimony in front of you?

9 A I do.

10 Q Could you please turn to page 25.

11 A I'm there.

12 Q Do you see at the bottom of that page on
13 line 13, you testify, I understand that Exelon
14 proposes to use the following metrics to enable
15 the Commission to measure PEPCO's reliability
16 outcomes by 2020 as summarized in table SFT 3?

17 A I agree that's what it says.

18 Q When you say, Exelon proposes to use the
19 following metrics, which of the metrics on table
20 SFT 3 are you referring to?

21 A Average performance commitments from the
22 merger by 2020, three-year average.

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1 Q Okay. Do you still have the copy of
2 your -- the excerpt from your Delaware deposition
3 in front of you as well?

4 A Yes.

5 Q Could you please turn to page 8?

6 A Yes.

7 Q And I want you to look at deposition
8 pages 27 to 28.

9 A Yes.

10 Q Beginning on line 24 of deposition
11 page 27, do you see the sentence that states, in
12 part, You started your analysis with 2011 through
13 2013; can you tell me why you picked that
14 three-year average as opposed to some other value?

15 Do you see that?

16 A Yes.

17 Q And then your answer, which picks up on
18 deposition page 28 at line 4, states, I understood
19 that the commitment that the joint applicant was
20 making was to use a benchmark year, which was for
21 the 2011 to 2013 period, and use the average
22 performance during that period.

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1 Do you see that answer?

2 A I do see that answer.

3 Q Just so I'm clear, you're talking about
4 Delmarva there, right?

5 A Well, yes. And as I now read it, I
6 realize that I was talking about an average
7 performance progress from that historical year,
8 even -- with regard to Delmarva.

9 Q Sure, and we'll get there. I just want
10 to understand -- the baseline was the average of
11 that three-year period, right?

12 A Yes.

13 Q Okay. And if I were to ask you the same
14 question, would your answer be the same with
15 respect to PEPCO D.C. as it was for Delmarva?

16 A So the question being, therefore, can you
17 tell me why you picked the three-year average? It
18 would be the same for the District.

19 Q Thank you. Now, can you please turn in
20 that same document to page 10 and I direct your
21 attention to deposition page 34.

22 A Yes.

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1 Q Do you see on line 4 the question that
2 states, The base value of 2011-2013, was that a
3 decision that you made or was that a decision that
4 Exelon asked you to use as the baseline? Do you
5 see that?

6 A They asked me to use it. Yes, I see it.

7 Q And that's the same for PEPCO D.C. as for
8 Delmarva; is that true?

9 A Yes, and it's in the context of
10 understanding that was their baseline for figuring
11 out what they could accomplish by the 2018 to 2020
12 period.

13 Q Thank you. And that's really what I'm
14 getting at. That's not a baseline you developed?

15 A That was a baseline that, as I just
16 described, that I understand that they chose for
17 making progress toward performance metrics in 2018
18 to 2020.

19 Q You are not offering, are you, an opinion
20 on the merits of that baseline as opposed to some
21 other baseline?

22 A Could you rephrase that? For what

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1 purpose?

2 Q For purposes of the analysis that you
3 did. So to rephrase, is a three-year average from
4 2011 to 2013 better or worse than a two-year
5 average from 2012 to 2013?

6 A Oh, I actually think that a multiple-year
7 average provides some robustness to handle
8 variation and volatility from one year to the
9 next. So I can see three years provides some
10 value, and that's not in any way suggesting that I
11 would not regard as very valuable the Commission's
12 annual performance metrics that it has
13 established.

14 Q Sure. And what I'm getting at -- I may
15 have confused you. What I am trying to understand
16 is you were asked to use the average from 2011 to
17 2013. You didn't make an independent value
18 judgment on that request, did you? You just
19 applied what you were asked to apply?

20 A I certainly looked at it and it was
21 reasonable to me, and that's why I used it.

22 Q Thank you. Turning back on the -- in the

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1 Delaware deposition, page 7.

2 A Yes.

3 Q Do you see that contains deposition
4 pages 21, 22, 23 and 24?

5 A Yes.

6 Q I'd like you to look, please, at the
7 right-hand side, and in particular on deposition
8 page 23. Do you see the answer that states, Well,
9 I had a commitment for a three-year average period
10 from Exelon, which is the period between 2018 and
11 2020, and I had to make assumptions about the
12 pattern of improvement and I assumed a linear
13 pattern. And I didn't get that from Exelon.

14 Do you see that?

15 A Yes.

16 Q Am I correct that that answer is
17 basically describing the process that you
18 undertook once you were given the baseline from
19 Exelon to get to an end state in 2020?

20 A Yes.

21 Q You're talking about Delmarva here. If I
22 were to ask you the same thing for PEPCO, do you

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1 see your answer would be the same?

2 A Yes.

3 Q Thank you.

4 If you look on deposition page 24,
5 there's a question, So you started with a base
6 number based on 2011-2013 of 159 and you had an
7 end number, and on that linear progression you
8 plugged in the intervening values.

9 Do you see that?

10 A Yes.

11 Q If we were to replace that figure of 159
12 for PEPCO D.C., that would be 149; is that
13 correct?

14 A I don't have it memorized, but subject to
15 check, yes.

16 Q Subject to check. Okay.

17 So I want to get an understanding of how
18 you performed this linear progression analysis.
19 And I guess your answer there on deposition
20 page 24 -- you're explaining what you did on
21 SAIDI, I'm assuming. Did you follow the same
22 process for SAIFI as well?

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1 A Yes.

2 Q Thank you.

3 So essentially you took the baseline
4 figure from 2 -- the average from 2011 to 2013,
5 you calculated what that was, and then you plotted
6 on a year-by-year basis the intervening years to
7 get to a figure in 2020 that would meet the
8 three-year average from 2018 to 2020; is that
9 right?

10 A I think I did what you said, but let me
11 say it again. I took the single number that is
12 the historical performance in the 2011 to 2013
13 period. I knew that we needed to get to a
14 performance outcome that on average during the
15 final three-year period, 2018 to 2020, was the
16 number. And then in the intervening years, I
17 plotted numbers to get there. That meant that I
18 overshot in 2020 in order to have an average in
19 the 2018 to 2020 period.

20 Q Sure. Thank you.

21 And you could have done that a number of
22 ways, but you just assumed that it would be -- it

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1 would be a moderate improvement each year to get
2 to the 2020 figure; is that right?

3 A I chose, and I believe appropriately, not
4 to do an engineering type of economic analysis of
5 actually pulling apart the budgets and figuring
6 out what I thought that could be accomplished in
7 each and every year. I didn't feel that that was
8 the appropriate thing for me to be doing here.

9 And a result of that, I had to choose was
10 I go to front-end load improvements, was I going
11 to vary it from year to year, was I going to
12 back-end load improvements? And I chose, again I
13 think appropriately, to use a smooth curve for the
14 purpose of developing an economic analysis.

15 Q Sure. Thank you. And that's what I was
16 trying to understand. There's a variety of ways
17 you could have done it, and you chose linear
18 progression, and you think that's a reasonable way
19 to do it?

20 A Yes.

21 Q Okay. Thank you.

22 Back to your direct testimony, in

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1 particular, page 26 and table SFT 3.

2 A Yes.

3 Q Am I correct that you updated this table
4 on February 17th and the result of that update was
5 a change of the figures that are in the middle
6 column?

7 A Yes. And I believe they're changed on
8 the right-hand column, too.

9 Q Yes. That's right.

10 A Yes.

11 Q And I asked Mr. Crane last Monday this
12 question and he did not know the answer and he
13 suggested that I ask you. When you updated your
14 analysis on February 17th, am I correct that you
15 did not update the column on the left to account
16 for PEPCO's 2014 performance in SAIDI and SAIFI?

17 A That's correct. I was very, very
18 surgical in the things that I was changing and did
19 not change that.

20 Q Sure. Just a couple of minutes ago I had
21 asked you about whether you made a value judgment
22 on the baseline; you were asked to use a two-year

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1 average versus a three-year, and you said a longer
2 average would be better. Would a four-year
3 average that included 2014 be more insightful than
4 a three-year average in 2011 to 2013?

5 A Hypothetically, yes, but I really
6 understood my assignment in the February 17th
7 submission to be to update very, very minimally
8 the changes in my testimony. And I didn't want a
9 lot of moving parts. So I kept the methodology so
10 that you and the other parties, and certainly the
11 Commission, could have an apples-to-apples
12 comparison to the original numbers that I had
13 calculated in my direct testimony. And that's why
14 I didn't update that.

15 Q Okay. Thank you. With respect to that
16 assignment, I'm guessing since Mr. Crane didn't
17 know whether you updated your analysis, he did not
18 ask you not to use 2014. Did Exelon or PEPCO ask
19 you not to use 2014?

20 A No, they didn't. But they did ask me to
21 do very minimally (sic) changes that were
22 consistent with the -- what I'll call the

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1 refreshed commitments that came in on -- as part
2 of originally, I think, the supplemental
3 testimony, but that are part of the February 17th
4 testimony.

5 Q Thank you.

6 A And I just really want to make it clear.
7 I did not have a conversation with the joint
8 applicants about whether I was going to update
9 that. When I say minimally, they asked me to do
10 things minimally. I then operationalized that.

11 Q Were you aware prior to February 17th
12 that PEPCO had actual data for its 2014 SAIFI and
13 SAIDI performance?

14 A I am aware of that because I read the
15 testimony of Mr. Alden that was part of this
16 package of submissions on the 17th of February.

17 Q Did you read Mr. Alden's testimony before
18 it was filed or was that after it was filed on
19 February 17th?

20 A On or about. I don't recall.

21 Q So if you knew of PEPCO's 2014
22 performance before February 17th, it would not

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1 have been significantly before?

2 A It wouldn't have been significant what?

3 Q Significantly before February 17th.

4 A No, it would not have.

5 Q Do you agree or would you accept, subject
6 to check, that had you updated the historical
7 performance period to reflect the three-year
8 period from 2012 to 2014, that the SAIDI metric
9 would go from about 1.03 interruption to 0.86
10 interruptions?

11 A I don't know what you're talking about.
12 So would you just direct me to some numbers? Are
13 you talking about my analysis, the results of my
14 analysis?

15 Q No, I'm not. Let's get back to your
16 table SFT 3.

17 A I'm with you.

18 Q The SAIFI that you calculated that's the
19 three-year average from 2011 to 2013 is 1.03; is
20 that correct?

21 A Yes. And now I follow you. I'm sorry, I
22 didn't understand. But, yes, I understood that

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1 those would have shown an improvement if you had
2 updated those from 2011 to 2013 to 2012 to 2014.
3 That is not why I did not change them. But,
4 indeed, that would show an improvement.

5 Q Sure. Understood. And do you understand
6 that the improvement would be about 16 percent for
7 both SAIDI and SAIFI?

8 A If you have calculated that and that's
9 what it's come -- I can do it, subject to check,
10 but I would have not have known that.

11 Q Okay. Thank you. If we can assume,
12 subject to check, that the improvement is about
13 16 percent, just simple math, that would change
14 the -- change in performance in the right column
15 for SAIFI from 36 percent to 20, and it would
16 change the 40 percent to about 24; is that right?

17 A Yes. But those numbers aren't used in my
18 analysis, those percentage numbers, anywhere. So
19 yes, they would be reported in a different number.

20 Q When you say those numbers aren't used in
21 my analysis, are you referring to the 20 and
22 24 percent I just referenced?

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1 A The numbers that I report in change in
2 performance are not actually literally numbers
3 that are plugged into any calculation. That's way
4 what I mean.

5 Q Sure. It's just the simple math of
6 taking your middle column, dividing it by your
7 left column, and that's the percentage shown in
8 the right column, right?

9 A Correct.

10 Q Okay. And I think that helps answer my
11 next question. Staying on page 26, on line 4, you
12 state, I understand that these enhanced
13 reliability commitments result in part from the
14 applicants' plan to share best practices across
15 all of the distribution utilities that will be
16 part of the merged entity's holding company with
17 opportunities for improvement for PEPCO operations
18 and for customer service.

19 Do you see that?

20 A Yes.

21 Q On line 4, when you say, These enhanced
22 reliability commitments will result in part -- I

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1 just want to confirm. I understand you to mean
2 just that, and I understand you not to mean the
3 change in performance will result in part.

4 Is that right?

5 A The difference between the two parts of
6 your sentence are lost to me.

7 Q Okay. Do you see on table SFT 3 the
8 right column, change in performance?

9 A Yes.

10 Q If I were to take those three words and
11 plug them in on line 4 where "enhanced reliability
12 commitments" is, that would be incorrect; is that
13 right?

14 A Correct.

15 Q Thank you.

16 A You are right.

17 Are you literally saying that -- are you
18 asking me conceptually or are you asking me
19 mechanically? Because conceptually, I am
20 suggesting that the company's performance will be
21 improved by a number of things, including their
22 sharing of best practices. Do I think that

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1 mechanically those literally, are those changed
2 performance -- is going to be tied specifically to
3 best practice? I don't know that.

4 Q Okay. Thank you. That's my next
5 question. If we can just assume the improvement
6 will be 10 percent for SAIFI, you do not have an
7 independent technical basis to know how that
8 10 percent was achieved; is that right?

9 A That is correct.

10 Q It could be best practices, it could be
11 preexisting practices at PEPCO, a combination of
12 things?

13 A I'm not commenting on that.

14 Q Is it your understand that Mr. Alden or
15 Mr. Gausman would be the witness who would address
16 that?

17 A Yes.

18 Q Okay. Thank you.

19 Let's turn back to page 5 of your direct
20 testimony.

21 A Yes, I'm there.

22 Q On line 13, you state, Combined with the

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1 reliability improvement projects already announced
2 by PHI and underway, including the undergrounding
3 project in Washington, D.C., I calculate that the
4 direct value to PEPCO's retail customers of
5 experiencing fewer and shorter service outages is
6 \$121.6 million.

7 Do you see that?

8 A Yes.

9 Q And you also reference that
10 \$121.6 million figure in table SFT 1 on the next
11 page, right?

12 A Yes.

13 Q And then it's elsewhere in your
14 testimony, would you agree?

15 A Yes.

16 Q If ratepayers rather than shareholders
17 bear cost responsibility for 100 percent of the
18 investments needed to meet the reliability
19 commitments, would you say that \$121.6 million in
20 benefits came at the expense of ratepayers?

21 A No, I would not. Customers or ratepayers
22 receive the value of electricity service that they

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1 pay for, and all parts of the cost of service are
2 provided for their behalf. It's not at their
3 expense, but it's on their behalf.

4 Q If shareholders rather than ratepayers
5 paid for 100 percent of the investments needed to
6 meet the reliability commitment, would you say
7 that that \$121.6 million came at the expense of
8 shareholders?

9 A It would be a gift to customers, yes.

10 Q And maybe you can't say, but I'm just
11 curious. Would that gift be at the expense of
12 shareholders?

13 A In effect, yes. The cost of providing
14 electricity service is not part of my analysis
15 generally, and I'm talking about the enhanced
16 commitment to achieve certain performance at
17 certain cost levels, just like the rest of the
18 cost of providing electricity generally.

19 Q Now, you agreed earlier that if we were
20 to update the baseline to be the average of 2012
21 to 2014 performance instead of 2011 to 2013, you
22 agree that would be an increase in the baseline;

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1 it would be an improved baseline; is that right?

2 A Yes. It would make the baseline a lower
3 number in terms of the duration and frequency of
4 outages.

5 Q Sure. And so, in that case, the
6 \$121.6 million figure would come down if we were
7 to use that updated three-year average; is that
8 right?

9 A Yes, it would, all else equal.

10 Q Yes. And the same question
11 essentially -- if you could turn to page 7 and
12 look at line 8, you discuss a range of 1,506 to
13 2,407 new jobs. If we were to update the baseline
14 to be 2012 to 2014 instead of 2011 to 2013, that
15 range would come down as well, right?

16 A Yes, it would, and it would still be
17 quite positive.

18 Q Can you tell me, with respect to this
19 range, did you develop the range of jobs based on
20 the combination of benefits from the customer
21 investment fund and the reliability commitments?

22 A Yes, that's clear in my testimony, I

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1 assume, because I show the breakdown later on.

2 Q Do you happen to know the proportion of
3 that range that's related to one versus the other?

4 A Yes. And I'll direct your attention to
5 table SFT 5 on page 37.

6 Q Thank you. Can you give me an
7 approximation of the magnitude of the decrease if
8 we were to update the baseline for reliability?

9 A I have not done that calculation. It
10 could be -- I have not done the calculation.

11 Q Fair enough. I want to stick with jobs,
12 while we're and that topic. Could you please turn
13 in your rebuttal testimony to page 11.

14 A I'm there.

15 Q On line 17, do you see where you testify,
16 I know there is a specific merger commitment that
17 for at least two years following consummation of
18 the merger, there will not be a net reduction due
19 to involuntary attrition as a result of the merger
20 integration process in the employment levels at
21 PEPCO?

22 A I see that, yes.

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1 Q Is the basis for your knowledge the
2 reliability commitment on jobs that is contained
3 in Mr. Crane's Exhibit (4A)-2? And specifically
4 if you look at paragraph 15.

5 A 15?

6 Q Yes.

7 A Well, I think you asked me whether it was
8 a reliability commitment.

9 Q And if I did ask, I did not intend to.

10 A Good. Because I was going to disagree
11 with that.

12 Q We're talking about jobs.

13 A Yes.

14 Q And the way I understand the words in
15 paragraph 15, that that commitment is for a
16 two-year period, and your testimony is for a
17 period of at least two years.

18 A I meant to parallel and track his
19 testimony -- I mean, this commitment. I was not
20 trying to slice hairs differently.

21 Q Okay. Thank you. Because I had a
22 similar discussion with Mr. Crane, and he had made

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1 a statement of at least two years, and I'm just
2 trying to understand what the firm commitment is.

3 Now, you understand that there is a
4 commitment to make good-faith efforts to hire 102
5 new union employees; is that right?

6 A Yes.

7 Q I want to point your attention to a
8 document that was admitted into the record today
9 as OPC Cross-Examination Exhibit 91. In your book
10 up there, it will be OPC Cross-Examination
11 Exhibit 98. And this is a three-page data
12 response by the joint applicants to OPC data
13 request 18-89. Will you let me know when you have
14 that?

15 A I have it.

16 Q Okay. Thank you.

17 A I'm with you.

18 Q Do you see on page 1 subpart E?

19 A E?

20 Q E, yes. It states, Will the additional
21 102 union employees result in a net increase in
22 union employees in the District of 102?

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1 Do you see that?

2 A I do.

3 Q If you would turn to page 2 and locate
4 part E, the statement there is, The joint
5 applicants have committed to hiring an additional
6 102 union employees in the District within a
7 two-year period. The net impact this will have on
8 total union workforce numbers cannot be determined
9 because other factors outside the control of the
10 joint applicants, e.g., voluntary retirements,
11 people leaving, et cetera, are not known at this
12 time.

13 Do you see that?

14 A I do.

15 Q I want to compare that response to a
16 statement you make on page 26 of your rebuttal
17 testimony. Let me know when you're there.

18 A Yes, I am there.

19 Q On line 15, you state, The new
20 information provided in Mr. Khouzami's rebuttal
21 certainly confirms that there will be net positive
22 jobs in the District.

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1 Is your understanding on page 26,
2 lines 15 to 17 -- would it change based on the
3 response we just looked at to OPC data
4 request 18-89?

5 A No, because my statement is with regard
6 to the entire package of employment-related
7 outcomes that I was talking about. For example,
8 the range of jobs that I describe in that SFT 5
9 table has quite (sic) positive jobs even with a
10 updated baseline period, as you and I have just
11 discussed, and the movement of jobs that the joint
12 applicants have committed to make from Virginia
13 into the District and the most recent information
14 about the order of magnitude of PHI jobs that
15 could be lost in the District and the 102 job
16 commitments that are part of the current package.

17 Q Okay.

18 A It was all of those things.

19 Q Okay. Thank you. So you just gave me a
20 list of quite a few, and I want to focus on the --
21 I believe it was the first one, and that was your
22 estimate of jobs.

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1 A Yes.

2 Q So when you say the new information
3 provided in Mr. Khouzami's rebuttal, are you
4 referring to information beyond what's provided in
5 Mr. Khouzami's rebuttal?

6 A I'm really sorry. I lost track of the
7 page that I was -- that you were me asking about
8 in my own testimony.

9 Q Sure. We are in your rebuttal testimony.

10 A Yes, I'm there.

11 Q Page 26.

12 A Thank you.

13 Q Lines 15 to 17.

14 A Thank you.

15 Q And really what I'm looking for is, when
16 you say, The new information provided in
17 Mr. Khouzami's rebuttal testimony, what is that
18 information?

19 A Well, without going back and looking at
20 every word in it, he talked about the -- it's my
21 recollection that he talked about moving jobs from
22 Virginia into the District. He talked about the

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1 updated numbers with regard to expected
2 synergy-related reduction in force at PHI, only
3 some of which are likely to occur in the District,
4 but not all of which. The information that he
5 updated about the commitments to -- the
6 commitments' best efforts -- I'm not meaning to
7 rephrase the character of the commitment on the
8 union jobs, but it's all of those things that I
9 was referring to, in addition to my estimates of
10 economic impacts in the District.

11 And I'm saying I think that's surely net
12 positive of all of those things.

13 Q Sure. I'm just struggling with the
14 reference to Mr. Khouzami's testimony. I did not
15 understand that to mean Mr. Khouzami's testimony
16 plus your analysis of jobs.

17 A Yes, all of the above.

18 Q Okay. Let's turn to a different topic.
19 Can you please turn in Exhibit (G)-1, which is the
20 first exhibit to your direct testimony...

21 A Yes.

22 Q Do you see on page 2 at the bottom, there

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1 is a heading that states, Selected consulting
2 experience?

3 A Yes.

4 Q Am I correct that this section of your
5 exhibit essentially provides a snapshot of some of
6 the engagements that you've worked on that you
7 felt were relevant to this proceeding?

8 A No. It's everything that's not
9 confidential --

10 Q Okay.

11 A -- as of the cutoff date. I did not pick
12 and choose to put relevant things.

13 Q Okay. So selected means public?

14 A Yes.

15 Q Okay. Thank you very much.

16 Let's turn to page 4.

17 A I'm with you.

18 Q Do you see the fourth bullet down from
19 the top says, Exelon Corporation and Constellation
20 Energy, Baltimore Gas & Electric?

21 A Yes.

22 Q Is that a reference to the

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1 Exelon/Constellation merger proceeding before the
2 Maryland commission, case number 9271?

3 A Yes. And the connection would be seen
4 over in my list of testimonies.

5 Q Okay. Thank you. I was going to ask.
6 You state you did an analysis and you did --
7 testimony and an analysis; is that right?

8 A All of the above.

9 Q All of the above.

10 A Yeah, they're all the same thing as far
11 as I'm concerned.

12 Q Okay. And the analysis you state was an
13 analysis of the economic impacts on the Maryland
14 economy associated with the proposed clean energy
15 commitments tied to the proposed merger of Exelon
16 and Constellation Energy.

17 Do you see that?

18 A Yes.

19 Q With regard to Exelon's clean energy
20 commitment in that prior proceeding in Maryland,
21 is it fair to say that your testimony compared
22 Exelon's commitment to the state's larger policy

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1 goals relating to a clean energy economy?

2 A Yes, because in that particular set of
3 commitments, the merging parties chose to include
4 a number of things related to construction of
5 renewable projects, construction of LEED buildings
6 and so forth. So that was their particular
7 package of commitments for that merger.

8 Q Okay. Thank you.

9 A There were no reliability commitments.

10 Q Is it your understanding that there are
11 no firm commitments on clean energy, renewable
12 energy in this proceeding?

13 A Well, to slice hairs, I'd say in terms of
14 the documents that we have and the filings that
15 have been made, I am aware of aspects of
16 settlement agreements in other jurisdictions that
17 have clean energy commitments that would inure to
18 the District. And I'm thinking specifically of
19 the \$50 million capital contribution that Exelon
20 has proposed to make for green energy and
21 sustainability financing, some portion of which
22 would flow to the benefit of the District, because

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1 that is for all of the PHI jurisdictions.

2 Q That --

3 A That, of course, assumes that the
4 settlement is approved in Maryland.

5 Q Sure. That's what I was going to ask.
6 You're referring to a provision of the Maryland
7 settlement?

8 A Yes.

9 Q That \$50 million, is it your
10 understanding that will be paid for by
11 shareholders?

12 A The \$50 million in capital, I understand,
13 will be put forth originally by shareholders to a
14 set of clean energy finance organizations during
15 the -- a period of, I think, 15 to 20 years,
16 subject to check. I'm not quite sure. My
17 recollection isn't perfect on that.

18 During that period, the ultimate grantees
19 of either low-cost or no-cost finance for clean
20 energy would pay back to the fund that is being
21 managed by others the principal and whatever
22 portion of the interest.

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1 At the end of the initial interim period,
2 that capital would go back to Exelon unless Exelon
3 chose to keep it in place and continuing to fund.

4 Q Thank you. You anticipated my next
5 question, was that Exelon would recover that
6 principal that they made available, right? Good.

7 A And certainly that would be a -- a cost
8 of -- an opportunity cost to the shareholders
9 during the period in which the capital was not
10 available to the shareholders --

11 Q Okay.

12 A -- and available to the District and
13 Maryland and Delaware and New Jersey.

14 Q If we exclude provisions from settlements
15 in other jurisdictions and only look at the
16 commitments here in the District, is it your
17 understanding that there are no commitments
18 related to clean energy or renewable energy?

19 A I wouldn't say that. I would not agree
20 with that categorically. And the reason I say
21 that is the customer investment fund is a
22 \$33.75 million fund that the Commission could

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1 deploy in any number of ways, including toward
2 clean energy for 100 percent or some smaller
3 amount of that money.

4 And as you know, I've analyzed the
5 implications for the economy if it were to be used
6 for energy efficiency, for example, and that
7 certainly is a clean energy component from my
8 point of view.

9 Q Okay. So getting back to my original
10 question, we've got provisions from other
11 settlements that could constitute a commitment on
12 clean or renewable energy, and then we've got the
13 potential deployment of CIF funds.

14 Is there anything else that you would
15 consider a firm commitment on clean energy or
16 renewable energy?

17 A Not that I recall.

18 Q Okay. Could you please turn in your
19 rebuttal testimony near the end to page 55.

20 A Yes.

21 Q On line 13, do you see where you testify,
22 I encourage the Commission to refrain from using

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1 this merger as the procedural venue for taking up
2 matters relating to public policies relating to
3 the utility of the future and new clean energy or
4 sustainability policy for the District?

5 A Yes, I do.

6 Q Are you familiar with public interest
7 factor number 7 that the Commission has
8 established in this proceeding?

9 A Yes.

10 Q What's your understanding of that public
11 interest factor?

12 A That the Commission will use that lens to
13 evaluate the impacts or the anticipated impacts of
14 the merger for the community in the District.

15 Q Would you agree that specifically public
16 interest factor 7 looks at the conservation of
17 natural resources and the preservation of
18 environmental quality?

19 A Yes.

20 Q With respect to your testimony on page 55
21 that we just discussed, are you asking the
22 Commission to refrain from looking at new clean

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1 energy or sustainability policies that are related
2 to either commitments or potential commitments in
3 this proceeding?

4 A Stepping back from that sentence and
5 looking at the completeness of my testimony, what
6 I'm encouraging the Commission to do is certainly
7 use public interest factor number 7, along with
8 the other factors, to evaluate whether this merger
9 is a good thing for the District of Columbia.

10 And that can include whether there are
11 harms to the public interest factor number 7 and
12 the other factors, whether there are tangible
13 benefits. And the Commission, as I can see it,
14 with regard to public interest factor number 7 can
15 interpret how to use some of the monetary
16 commitments for that purpose if they'd like.

17 What I'm suggesting here is that a number
18 of the intervenors, in my opinion, were asking for
19 this Commission to use this proceeding to go far
20 beyond what exists today in terms of public policy
21 in the District.

22 And I was encouraging the Commission to

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1 look at the merger on its terms and then, if the
2 merger is approved and the Commission wants to
3 look at all of the issues that the parties are
4 raising, to do so in the context of another
5 proceeding.

6 Q Okay. Could you have Ms. Travers help
7 you locate Mr. Gould's September 2014 supplemental
8 direct testimony? And specifically I want to
9 point your attention to page 3.

10 A Yes. I'm on page 3 of Mr. Gould's
11 testimony.

12 Q Do you see line 1 at the top begins,
13 Finally?

14 A The -- finally, I will explain how...?

15 Q Yes.

16 A Yes.

17 Q There Mr. Gould states, I will explain
18 how Exelon's and PHI's commitments to
19 environmental sustainability are aligned and how
20 the merger will result in a sustained focus on
21 conservation of natural resources and enhancement
22 of environmental quality in the District.

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1 Do you see that?

2 A I do.

3 Q And then the heading right below that
4 states, Exelon's commitment to sustainability; is
5 that right?

6 A Yes.

7 Q With respect to the testimony we just
8 discussed on page 55, you are not suggesting that
9 the Commission should refrain from considering
10 Exelon's commitment to sustained focus on
11 conservation of natural resources and the
12 enhancement of environmental quality in the
13 District; is that right?

14 A No, I didn't say that. What I said was
15 that the Commission certainly should look at
16 public interest factor number 7, that it is
17 identified as something that's important.

18 Mr. Gould has responded to a number of
19 parties' points of view that Exelon's
20 environmental policies are misaligned with the
21 District's environmental and sustainability
22 policies. I see his perspective as saying, no,

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1 that's not the case, and I'm going to explain why.

2 That's different from what I was

3 suggesting, which is that a number of the parties

4 are asking for a number of other additional

5 commitments and components, and I'll call them

6 conditions in the merger of one sort or another,

7 and to take those up in -- as part of a much more

8 detailed discussion of, again, microgrids and a

9 variety of other things, which are totally

10 legitimate topics of discussion. And I'm just

11 encouraging that those happen subsequent to a

12 merger review.

13 Q This proceeding has been described as one

14 of the most significant proceedings that will come

15 before the Commission. Is it your opinion that

16 the Commission would be misguided to consider

17 those other positions or potential commitments

18 that you discussed, given the gravity of this

19 proceeding on the future of electric distribution

20 service in the District?

21 A I respectfully believe that the

22 Commission can look at whatever it wants to in

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1 this proceeding. And it's my judgment that the
2 Commission is taking extremely seriously and
3 soberly its responsibility to look at a variety of
4 issues according to the seven factors and many
5 other things that are on the minds of the
6 Commission members.

7 So I am completely embracing what they
8 are looking at, and that's slightly different than
9 actually then operationalizing each one of the
10 requests that have been made on one or another
11 issue, such as utility of the future topics.

12 Utility of the future topics I know are
13 of interest to the Commission. I presume whether
14 or not this merger is approved, they will continue
15 to be of interest to the Commission. And I don't
16 think that the merger, however important it is as
17 a moment for the District, changes anything about
18 the authority of the Commission to look at those
19 questions subsequently.

20 And I think that they will have a willing
21 party in the joint applicants in doing that.

22 Q This may not be what you're saying, so

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1 please correct me if I'm wrong. It sounded to me
2 like you're saying the Commission, in conducting
3 its public interest factor number 7 inquiry,
4 should consider clean energy, sustainability
5 policies at a high or a policy level, but when it
6 comes to the specifics or the mechanics of how to
7 implement those policies, those types of decisions
8 should be deferred to a separate independent
9 proceeding. Is that close?

10 A No. I trust that the Commission will use
11 its judgment in deciding what weight to give to
12 intervenors' positions on all topics being brought
13 to the Commission in this proceeding. I have no
14 doubt that Commission members will do that. But I
15 am suggesting that there are many, many, many
16 detailed matters associated with a number of the
17 topics that have been raised on, again, what I'm
18 paraphrasing as utility of the future issues that
19 go far beyond the depth of analysis that any of
20 the members of the parties have looked at so far.

21 And so it would surprise me if the
22 Commission were to go and -- go to that level of

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1 depth, because we haven't done that in the -- in
2 the proceeding to date.

3 Q If we consider the solar provisions of
4 the Maryland settlement that's in evidence in this
5 case, or the \$50 million fund that you had just
6 discussed, don't we start getting there in this
7 case with consideration of those types of
8 provisions?

9 A That's a settlement in all due respect.
10 That's a very different process, as you know. And
11 that's not exactly the same as a litigation
12 administrative proceeding. It does not include a
13 settlement offer as part of it.

14 Q Okay. Let me back up. A few minutes ago
15 I asked, have the joint applicants made any firm
16 commitments on clean energy and renewable energy
17 in this case? And you cited two. One was the
18 customer investment fund potentially being
19 deployed in a manner that would support those
20 types of investments. And the other that you
21 cited were settlements.

22 Are you saying the Commission should or

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1 should not consider those provisions that you were
2 discussing in the other settlements?

3 A You've lost me because, when I talked
4 about them, the other settlements, I was talking
5 about specific provisions in particular
6 settlements that have already been reached in
7 other jurisdictions between the joint applicants
8 and settling parties. Those are actually written
9 down and settling. Some of those provisions have
10 benefits that would spill over directly to the
11 District of Columbia in the event of a merger.

12 That's -- that is part of what this
13 merger would accomplish if those -- if the
14 Maryland settlement, for example, were approved by
15 the Maryland commission.

16 I think that's both procedurally and
17 substantively something different than taking up
18 and using this proceeding to adjudicate --
19 actually, I'm using the wrong term -- to enter
20 into a rulemaking on utility of the future issues.
21 I think that's beyond this -- I would encourage
22 the Commission to find that that's beyond the

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1 scope of this particular merger. It hasn't been
2 noticed for that purpose.

3 And other parties may be interested in
4 being involved on those issues. And I assume that
5 the Commission would actually agree with that, and
6 there's a lot of people who are very interested in
7 those topics and they did not choose to intervene
8 in this case, this merger case.

9 Q Okay. I have just, I think, three more
10 questions on this topic. One, this is not the
11 first merger proceeding you've testified in.
12 We've established that, correct?

13 A Right.

14 Q So you generally understand -- let me
15 back up.

16 Recognizing that each jurisdiction is
17 different, you generally understand the standard
18 that commissions apply is either a no-harm
19 standard or some type of benefit standard; is that
20 generally accurate?

21 A I would say there's some combination of
22 public interest, customer benefit and no harm.

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1 And there's all sorts of combinations of them.

2 Q Sure. Thank you. And you testify in
3 this proceeding as to the District's standard as
4 applied to the reliability commitments; is that
5 right?

6 A Yes.

7 Q I think that was my third question, so
8 I'm going to ask four.

9 Do you understand in this proceeding that
10 the joint applicants are proposing a benefit to
11 issues that fall under the umbrella of public
12 interest factor 7, or are they proposing or
13 representing that there's no harm with respect to
14 public interest factor number 7?

15 A I don't know the answer to that. And
16 certainly part of what has been offered as a
17 monetary benefit could be used by the Commission
18 affirmatively to create a benefit from the
19 customer investment fund for energy efficiency or
20 for renewable energy development or anything else
21 related to sustainability.

22 Q Let's switch gears. I have just two more

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1 topics that I would like to cover with you.

2 Staying in your rebuttal testimony -- do you still
3 have that?

4 A Yes.

5 Q Could you flip to page 20, please.

6 A Yes.

7 Q The first half of that page is blank; am
8 I correct?

9 A Yes.

10 Q And in the second half, you're responding
11 to the testimony OPC Witness Dismukes. Do you see
12 that?

13 A Yes.

14 Q On -- beginning on line 17, do you see
15 where you say that, Dr. Dismukes inappropriately
16 slices economist hairs by suggesting that the type
17 of economic activity characterized as indirect or
18 even induced in an input-output economic model
19 should not be counted as a direct economic effect
20 for purposes of tracing impacts of the merger?

21 A Yes.

22 Q Would you agree with me that in

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1 Dr. Dismukes' testimony where he uses the terms
2 direct, indirect and induced, that he is referring
3 to your characterizations of those three terms?

4 A I don't recall.

5 Q Well, let's flip back to your direct
6 testimony, if would you, and look at page 33,
7 please.

8 A Okay.

9 Q And we talked about this earlier, but on
10 line 14 you say, The direct benefits derived from
11 two things -- and you italicize "direct," right?

12 A Yes.

13 Q And the two things that are direct
14 benefits are the customer investment fund and the
15 enhanced reliability commitments affecting PEPCO's
16 distribution system; is that right?

17 A Yes.

18 Q And then on page 35, we talked about
19 line 10 where you say indirect impacts. Do you
20 recall that?

21 A I'm sorry. Line -- page 10?

22 Q No, I'm sorry. Page 35, line 10.

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1 A Yes.

2 Q Do you see the reference to indirect
3 impacts?

4 A Yes.

5 Q And then on page 36, line 7, do you see
6 the reference to induced effects?

7 A Yes.

8 Q Can you tell me, if you know -- is there
9 anywhere in your testimony where you refer to an
10 indirect benefit as opposed to an indirect effect
11 or indirect impact?

12 A What distinction are you trying to make?
13 There are probably lots of different places that I
14 had -- can you focus me in a little bit more?

15 Q Well, what distinction are you intending
16 to make, for example, on page 36 line 7 when you
17 use induced effects as opposed to page 33, line 14
18 when you say direct benefits?

19 A I mean to use benefits and impacts and
20 effects in the same meaning. The distinction that
21 exists between those three places in my testimony
22 that you're pointing out are focused on the

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1 conceptual elements in the IMPLAN model and in
2 input-output analyses.

3 So I apologize in advance for going
4 through this, but a direct effect is a first
5 infusion of money. It's an impact. It's an
6 effect. It's a benefit.

7 The next use of that money when it goes
8 from the pocket of a customer into the economy is
9 the indirect effect. It's an impact, an effect, a
10 benefit. There could be some of that money that
11 goes out of the District. That's lost. You don't
12 count that as a direct effect or impact,
13 et cetera.

14 But the induced effect is part of then
15 the tertiary response in the economy as the money
16 rolls around yet further.

17 Those are arcane terms that economists
18 use, and that's how I was using them, and
19 obviously I didn't use them very understandably.
20 I mean those to be all the same thing.

21 And when Mr. -- Dr. Dismukes was
22 critiquing me, I couldn't understand why he was

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1 not counting indirect and induced effects, because
2 those are well-established economic principles
3 that those effects occur economically. And they
4 would in the District as the money associated with
5 the customer investment fund, for example, is
6 spent here.

7 Q You testified just a few minutes ago that
8 you have provided testimony in a number of merger
9 proceedings. Do you recall that?

10 A Yes.

11 Q And you also agreed that you testified as
12 to the standard that applies in the District of
13 Columbia in this proceeding; is that right?

14 A Yes.

15 Q You understand, do you not, that the word
16 "direct" is used in the merger standard that this
17 Commission applies?

18 A I do understand that.

19 Q Thank you.

20 A And I am suggesting that from the direct
21 impacts on the District it would be reasonable and
22 appropriate to look at what economists call direct

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1 and indirect and induced impacts as all real
2 benefits that are directly flowing from the merger
3 because they wouldn't happen without the merger
4 happening.

5 Q I want to make sure I have this right.
6 For purposes of the Commission's merger standard
7 which uses the term "direct," are you saying that
8 the Commission should interpret direct to mean not
9 only direct, but indirect and induced?

10 A The Commission is using statutory, I
11 guess, or regulatory language. I don't know
12 whether it's in your statute, and I apologize for
13 not doing that. And I am encouraging that, as the
14 Commission looks at economic impacts, that there
15 are things that go directly as a result of the
16 merger that can include and do include induced and
17 indirect impacts of the expenditure of money
18 that's coming from the merger.

19 So yes, I am asking the Commission to
20 incorporate all of those as part of -- consistent
21 with the merger standard.

22 Q With respect to your last answer when you

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1 said what you're asking the Commission to do, are
2 you asking the Commission to modify its public
3 interest standard?

4 A I am not an expert on legal precedent and
5 the merger standards in the District. I believe I
6 am an expert on economic analyses, and it is
7 entirely appropriate in the domain of economics to
8 look at first order, second order and third order
9 effects that would or would not happen but for the
10 merger.

11 So I am talking about that suite of
12 impacts as being included as directly flowing from
13 the merger. That's not a legal opinion in any
14 way, but it is an opinion of someone who is
15 formerly a regulator and who practices in
16 economics.

17 Q Thank you. That's helpful. And I'm not
18 asking for a legal opinion. I'm really trying to
19 understand the confines of the word "direct." I
20 think that was helpful.

21 When you talk about the benefits that
22 would not occur but for the merger, you're making

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1 assumptions about what will occur in the future,
2 and then you're asking the Commission to judge the
3 reasonableness of -- reasonableness of those
4 assumptions; is that right?

5 A I think we're all doing that, yes.

6 Q I think you said you think we're all
7 doing that; is that right?

8 A I did say that.

9 Q Is there any difference inherently in the
10 assumptions that you're making with respect to
11 what an approved merger future would look like and
12 the assumptions that OPC and the intervenors are
13 making with respect to what a no-merger future
14 would look like?

15 A Yes. My assumption about what wouldn't
16 happen without the merger is the customer
17 investment fund would not be coming to the
18 District. That's clear. That's not a hard
19 assumption to make. I am identifying what firm
20 bright line commitments are happening as a result
21 of reliability commitments as part of this.

22 The distinction I'm drawing there from

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1 what I see the intervenors saying is they believe
2 that no matter what, in the absence of the merger,
3 for example, on the performance on reliability
4 metrics, that PEPCO will meet them without a
5 doubt. And I just think there's more uncertainty
6 about that.

7 Q Okay. Thank you. I've got just one last
8 area I want to explore with you. And let's start
9 in your rebuttal testimony. Do you still have
10 that?

11 A Yes.

12 Q Okay. Would you turn to page 52?

13 A I'm there.

14 Q Do you see the third bullet down from the
15 top you are addressing Dr. Dismukes again. And
16 specifically on lines 11 to 13, you say that
17 Dr. Dismukes has proposed, quote, some new role
18 for PEPCO in providing energy efficiency?

19 Do you see that?

20 A Yes.

21 Q And then there's a quote, There is likely
22 little to nothing Exelon can bring to the table on

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1 energy efficiency, unquote. And there's a
2 footnote 87 which tracks down to Dr. Dismukes
3 November testimony at pages 24 and 25. Do you see
4 that?

5 A Yes.

6 Q Could you have Ms. Travers pull
7 Dr. Dismukes' November testimony and turn to
8 page 25 -- excuse me, 24 and 25. Let me know when
9 you're there, please.

10 A I'm on the page. And what are the lines?

11 Q You cite page 24, line 17 through
12 page 25, line 12. This should be Exhibit OPC (A).

13 A Give me one moment here. Well, I can see
14 the problem. That's a -- I've misidentified the
15 page, it seems to me.

16 Q Well, I don't think you do, actually. If
17 you turn to page 25, look at line 1, the sentence
18 that begins on line 1.

19 A Okay. I see that, yes.

20 Q I think you were just being broad in
21 citing the entire question and answer.

22 A Okay.

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1 Q You'll see, the quote that you have on
2 page 52, that begins on line 2 of page 25 of
3 Dr. Dismukes' OPC (A); is that right?

4 A Yes.

5 Q I'm going to read this into the record
6 since Dr. Dismukes' testimony is not yet in the
7 record. Beginning on line 1 of page 25 it states,
8 quote, Mr. Morgan also notes that there is likely
9 little to nothing Exelon can bring to the table on
10 energy efficiency in the District and for PEPCO's
11 ratepayers since the District's Clean and
12 Affordable Energy Act (CAEA) statute precludes
13 direct utility involvement in energy efficiency
14 program delivery.

15 Do you see that?

16 A I do. But I think that's not
17 inconsistent with my view that Exelon could still
18 bring something to the table, given its experience
19 in other jurisdictions, in terms of creating an
20 atmosphere that's favorable to energy efficiency.

21 Q Okay. You're jumping ahead of me a bit.
22 Back to line 1. When Dr. Dismukes --

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1 A Of mine or his?

2 Q Of his.

3 A Okay.

4 Q When Dr. Dismukes says, Mr. Morgan, do
5 you understand him to be referring to OPC witness
6 Rick Morgan?

7 A Of course.

8 Q Do you understand Dr. Dismukes to be
9 summarizing Mr. Morgan's position from lines 1 to
10 5?

11 A I do.

12 Q Can you tell me where in this section
13 that you quote from page -- excuse me -- you cite
14 from page 24, line 17 to page 25, line 11 where
15 Dr. Dismukes proposes, quote, some new role for
16 PEPCO in providing energy efficiency, unquote, as
17 you testify on page 52 of your rebuttal?

18 A You're right. I think I inartly phrased
19 that and would phrase it differently now that
20 you've called it to my attention.

21 Q How would you phrase it?

22 A Dr. Dismukes' view that relying on

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1 Mr. Morgan, there is a conclusion that Exelon can
2 bring nothing to the table with regard to energy
3 efficiency.

4 Q Okay. So your position is not that
5 Dr. Dismukes is proposing a new role; it's that
6 he's saying the CAEA essentially precludes Exelon
7 from bringing anything to the table; is that
8 right?

9 A No, I would phrase it slightly
10 differently, that the fact that there is this
11 Sustainable Energy Utility is not inconsistent
12 with having Exelon have a favorable track record
13 with its distribution companies on energy
14 efficiency, which also can help advance that goal
15 in the District.

16 Q Okay. I'm with you that far.

17 A Okay.

18 Q And here's where I kind of fell off.

19 A Okay.

20 Q Do you still hold the position that
21 Dr. Dismukes is proposing some new role for PEPCO
22 in providing energy efficiency?

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1 A No.

2 Q Okay. Dr. Tierney, that is all the
3 questions I have. Thank you very much.

4 THE WITNESS: Thank you.

5 CHAIRMAN KANE: I think we will take this
6 opportunity for a ten-minute break.

7 (Whereupon, a short recess was taken.)

8 CHAIRMAN KANE: All right. We're back on
9 the record in formal case 1119. It is 3:50 p.m.

10 Mr. Lorenzo?

11 MR. LORENZO: Your Honor, Ms. Lapson
12 is -- we're wondering how late we're going to go
13 tonight. According to the schedule, we still have
14 over three hours of cross for Dr. Tierney, and
15 Ms. Lapson is waiting to go on the stand. She's
16 not in the hearing room. But I would want to know
17 if I could release her to go back to New York at
18 this time. You know, if for some reason we finish
19 early, we have Mr. McGowan here. We could start
20 there. You know, if we go from 4:00, and
21 three-plus hours we have left, we'll be at 7:00,
22 so that's --

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1 CHAIRMAN KANE: Yes. It looks like we
2 might be able to finish with Ms. Tierney today.

3 MR. LORENZO: That's right.

4 CHAIRMAN KANE: So, yes, please tell her
5 to go and come back on April 20th.

6 MR. LORENZO: I will do that, Your Honor.

7 CHAIRMAN KANE: Thank you.

8 Ms. Francis?

9 MS. FRANCIS: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. FRANCIS:

12 Q Good afternoon, Dr. Tierney.

13 MS. FRANCIS: I'm going to start, Your
14 Honor, by marking some AOBA data responses as
15 exhibits, with agreement from the joint
16 applicants. And I'd like to start by having
17 what's been pre-identified as AOBA Exhibit 82,
18 which was the joint applicants' response to AOBA
19 data request number 1-11, including attachments A
20 and B, I'd like that marked for the record as
21 AOBA 91.

22 CHAIRMAN KANE: So marked.

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1 (AOBA Cross Exhibit Number 91 was marked
2 for identification.)

3 MS. FRANCIS: The next one has been
4 pre-identified as AOBA 83, and that is the joint
5 applicants' response to AOBA data request
6 number 42.

7 The next one is pre-marked as AOBA
8 Exhibit 85. It is the joint applicants' response
9 to AOBA data request 4-4, which I'd like to have
10 marked for the record as AOBA 93.

11 CHAIRMAN KANE: So marked.

12 (AOBA Cross Exhibit Numbers 92 and 93
13 were marked for identification.)

14 MS. FRANCIS: The next is what has been
15 preliminarily identified as AOBA 87. That was
16 marked for the record yesterday as 87. However,
17 I'm going to ask Dr. Tierney to verify it because
18 counsel suggested that both Mr. McGowan and
19 Dr. Tierney were the sponsors. So I'm going to
20 ask her to identify that one.

21 The next one has been pre-identified as
22 AOBA 84, which I'd like to have marked for the

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1 record as AOBA 94.

2 CHAIRMAN KANE: So marked.

3 (AOBA Cross Exhibit Number 94 was marked
4 for identification.)

5 MS. FRANCIS: And that is -- excuse me.
6 That is the joint applicants' response to AOBA
7 data request 4-5.

8 CHAIRMAN KANE: So marked.

9 MS. FRANCIS: The next one has been
10 pre-identified as AOBA 86, which is the joint
11 applicants' response to AOBA data request 4-5,
12 which I'd like to have marked for the record as
13 AOBA 95.

14 CHAIRMAN KANE: So marked.

15 (AOBA Cross Exhibit Number 95 was marked
16 for identification.)

17 MS. FRANCIS: The next one has been
18 pre-identified as AOBA Exhibit 149, which is the
19 joint applicants' response to AOBA data
20 request 3-4 in case 9361. I'd like to have that
21 marked for the record as AOBA 96.

22 CHAIRMAN KANE: So marked.

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1 (AOBA Cross Exhibit Number 96 was marked
2 for identification.)

3 BY MS. FRANCIS:

4 Q Dr. Tierney, to refresh your
5 recollection, I'm Frann Francis. I'll be
6 cross-examining you on behalf of the Apartment and
7 Office Building Association.

8 A Nice to see you again.

9 Q Nice to see you too.

10 If you would just take a look for a
11 moment at what has been pre-identified as AOBA 87.
12 I don't know if you have it in your book that way
13 or as AOBA record 87. And just tell me if you are
14 able to verify that you are one of the named
15 preparers on that data response and that it is
16 true and correct to the best of your information,
17 knowledge and belief.

18 A It is.

19 Q Okay. Thank you.

20 Dr. Tierney, I would like the start my
21 cross by just going to your conformed direct
22 testimony at page 1, lines 23 through 24.

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1 A Page 1?

2 Q Page 1.

3 A Yes, I'm there.

4 Q Am I correct that you have a Ph.D. and
5 your master's degrees are in regional planning?

6 A Yes.

7 Q And am I correct that your CV which is
8 provided as Exhibit (G)-1 indicates at page 2 of
9 31 that your undergraduate degree is in art
10 history?

11 A Yes.

12 Q And at the bottom of page 1 and the top
13 of page 2 of your conformed direct testimony, you
14 indicate that you taught at the University of
15 California at Irvine for three-and-a-half years.

16 A Yes.

17 Q Does your CV at page 2 indicate that that
18 period when you taught at UC Irvine was from 1978
19 to 1982?

20 A Yes.

21 Q Could you please tell me, in what
22 department did you teach at UC Irvine?

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1 A It used to be the department of social
2 ecology. It was a multi-disciplinary department,
3 and I taught courses in things like economic
4 development, environmental policy, methods of
5 quantitative analysis of public policies.

6 Q In your assessment of the economic
7 impacts of the merger in this proceeding, you've
8 used two models, the ICE model to assess the
9 economic value of reliability improvements, and
10 the IMPLAN model to assess the economic multiplier
11 effects of a few of the possible alternative uses
12 of the customer investment fund; is that correct?

13 A Yes.

14 Q Now, am I correct that you are not
15 specifically trained as an economist?

16 A That's true, but I took input-output
17 modeling in my regional economics program for my
18 Ph.D. so I am not an economist; I have had lots
19 of economic courses.

20 Q Do you present yourself in this
21 proceeding as an economic modeler or as an
22 econometrician?

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1 A You know, an econometrician would be a
2 statistical analysis of something. I did not use
3 econometrics in this methodology in any possible
4 way.

5 Q And do you present yourself in this
6 proceeding as an economic modeler.

7 A Yes.

8 Q Am I correct that you are not the
9 developer of the ICE model that you've used to
10 estimate the value of reliability improvements?

11 A I did not develop it.

12 Q Okay. Are you a developer of the IMPLAN
13 model?

14 A No, I am not. But as I say, I was taught
15 by those who were developers of some of the
16 original input-output models that sprang from
17 Nobel Prize winners.

18 Q Do you know who originally designed the
19 IMPLAN model?

20 A Some folks in Minnesota, based on
21 Leontief's models.

22 Q Do you know who programmed the

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1 relationships and computational procedures that
2 constitute the IMPLAN model?

3 A Yes. The folks who began in -- I think
4 they were from the University of Minnesota, and
5 then have now a proprietary model called IMPLAN.

6 Q Could you please tell me, what steps did
7 you take to verify the accuracy and the
8 reliability of the IMPLAN model before you used it
9 in this proceeding?

10 A Because I have graduate degree training
11 in input-output analysis, I was quite familiar
12 with this tool. I've followed it over many years.
13 And so I'm very familiar with the IMPLAN
14 methodology and was very comfortable. It's used
15 as one of the industry standards for running
16 input-output analyses.

17 Q So you did not specifically take any
18 steps for this proceeding other than your past
19 knowledge and experience to verify the accuracy
20 and reliability of the IMPLAN model; is that
21 correct?

22 A I would not say that. Because I am very

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1 familiar with --

2 Q Just one --

3 MS. FRANCIS: Did I do something wrong
4 with the mic again?

5 BY MS. FRANCIS:

6 Q I'm sorry, Dr. Tierney. Could you give
7 me your answer again?

8 A I have a feeling that -- we're impaired
9 on the hearing over here, I think.

10 Q Okay.

11 A And she's way important than I am.

12 Q Let me try the question again.

13 A Thank you.

14 Q What steps did you take to verify the
15 accuracy and the reliability of the IMPLAN model
16 before you used it in this proceeding other than
17 your knowledge of having used it in the past or
18 seen its use in the past?

19 A It was precisely that methodology that
20 led me to feel comfortable that it is a reasonable
21 tool for understanding the economic relationships
22 between inputs of dollars and outputs in different

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1 parts of the economy. As I say, I'm quite
2 familiar with the underlying theory of regional
3 economic development on which these models are
4 based.

5 I am very familiar with this, like the
6 REMI model and others like it. And I've seen them
7 used in practice by many governmental agencies,
8 including in the District of Columbia. So I have
9 been familiar with them for 30 years, have been
10 aware of this particular lineage of input-output
11 model. And because I have used it before, I was
12 familiar with its practice.

13 Q Do you know the origins of the IMPLAN
14 model?

15 A Yes.

16 Q Okay. Would you accept that the IMPLAN
17 model was initially created to produce economic
18 impact assessments required by the Rural
19 Development Act of 1972, and its first application
20 in 1976 was to estimate economic impacts for the
21 U.S. Forestry Service?

22 A Absolutely. And it has started from

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1 there because it's able to simulate the effect
2 when an economic event, such as a logging program
3 or the injection of money into a fund for use of
4 various purposes in the District, for example.

5 These are tried and true methodologies that did
6 begin in the rural economic agricultural sector.

7 Q And am I correct that there are large
8 databases of information upon which the model
9 relies in addition to the limited inputs that you
10 provided for each scenario?

11 A Absolutely. For example, the Bureau of
12 Economic Analysis of the United States government
13 is the underlying data that is used to run the
14 simulation, if you will, of the District's
15 economy.

16 Q And could you please tell me, what steps
17 did you take to verify the appropriateness of the
18 details of the database upon which the model
19 relied when you ran your scenarios?

20 A I relied upon the -- my knowledge and
21 experience that the Bureau of Economic Analysis
22 collects data from various sectors of the economy

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1 and reports it, and that's the underlying
2 database.

3 Q And am I correct that you presented no
4 evidence of efforts to compare estimates of either
5 economic impacts or employment impacts estimated
6 in prior applications of the IMPLAN model to
7 subsequent real-world results?

8 A Ms. Francis, that would be a near
9 impossibility to do unless you had a perfect
10 controlled experiment and could track and
11 color-code dollars and watch them flow around the
12 economy.

13 That said, there is a great body of
14 literature in the economic -- in regional
15 economics that has used this methodology, and it's
16 very, very well understood. I did not feel it was
17 needed to reinvestigate the economic accounts of
18 the Bureau of Economic Analysis of the
19 U.S. government.

20 Q Am I correct that you offer no
21 demonstration of the accuracy and reliability of
22 estimates derived from past applications of the

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1 IMPLAN model?

2 A The body of experience over the years is
3 what I relied upon as the basis for determining
4 that this was a reasonable methodology to use.

5 Q Dr. Tierney, isn't it easier to generate
6 forecasts of future economic impacts when you know
7 that it is unlikely that anyone will be able to
8 construct a meaningful comparison of the estimated
9 economic impacts that you produce to real world or
10 actual results?

11 A Would you just rephrase that or read
12 it -- or tell it to me again?

13 Q Okay. Isn't it easier to generate
14 forecasts of future economic impacts when you know
15 that it's unlikely that anyone will be able to
16 construct a meaningful comparison of the estimated
17 economic impacts that you've produced to real
18 world or actual results?

19 A Without wanting to quibble, I'm troubled
20 by your word "easier." If what you mean is that
21 one can use phantom methods, no, it's not easier.

22 There's -- as I say, there's a very long

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1 literature about economic relationships on which
2 these models are built. I have used models like
3 this to look back in the past to see what
4 happened, and what you have to do when you do that
5 is develop a counter-factual about what you think
6 would have happened in the absence of this, and
7 you still have to simulate the world.

8 In my field, people simulate the world in
9 a variety of different ways all the time. And we
10 have come to learn that these are reasonable
11 tools. And it's not a question of whether it's
12 easier, as if it's make-believe. These are
13 reasonable methodologies that are relied upon by
14 public policy decision-makers and investors around
15 the country.

16 Q Now, am I correct that both of the models
17 you have used, the IMPLAN and the ICE models, are
18 what might be characterized as canned models, and
19 all you did was plug and chug; that is, you put in
20 a limited set of data and you let the model
21 compute the results?

22 A I love that phrase. I have not heard the

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1 word "plug and chug" before. What I would say is
2 that they are public domain models that anyone
3 else can use to see if they can replicate the same
4 information. The databases on which they are
5 built and the underlying algorithms are available.

6 So yes, one can plug. But I wouldn't use
7 the derogatory term of plug -- chug and plug.

8 Moreover, I would say that everyone in
9 this room who has the ability to understand and
10 make determinations about what are economic
11 categories to use, they would be able to use this
12 and replicate, as some of the intervenors' parties
13 have done.

14 Q Just for the record, plug and chug was
15 not meant to be a derogatory --

16 A What was it meant to be?

17 Q A question.

18 A Okay.

19 Q Now, please let's turn to your conformed
20 rebuttal testimony at page 9.

21 A I am there.

22 Q Now, at page 9 -- I'm looking at lines 15

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1 through 19 -- you identify four witnesses,

2 Mr. Comings, Mr. Smith --

3 A Wait, wait, wait. I must be on the wrong
4 page. What are you asking me to look at?

5 Q Page 9, looking at lines 15 through 19.
6 Do you want to take a moment and just look them
7 over?

8 A Of my rebuttal?

9 Q Correct.

10 A I'm sorry.

11 Okay. I'm there now. Sorry.

12 Q Are you ready?

13 A Yes.

14 Q Okay. At page 9, lines 15 through 19,
15 you identified four witnesses, Mr. Comings,
16 Mr. Smith, Mr. Oliver and Dr. Dismukes, who all
17 criticize your analysis of the merger's
18 employment-related impacts on the District's
19 economy; is that correct?

20 A Yes.

21 Q At page 10, line 4, you identify six
22 witnesses, including Dr. Dismukes, Mr. Mara,

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1 Mr. Comings, Mr. Oliver, Mr. Gorman, and Dr. Paige
2 who, according to you, according to your
3 characterization of their testimonies, believe
4 that you have defined the impacts of the merger
5 too broadly.

6 Do you see my reference?

7 A Yes.

8 Q Would you accept that those assessments
9 are generally offered by experienced and seasoned
10 regulatory professionals who arrived at their
11 conclusions independently?

12 A There are many people on this list that I
13 did not know before this proceeding. So I don't
14 know whether I would characterize them the same
15 way.

16 Q Which ones didn't you know before this
17 proceeding?

18 A The only one that I did know was
19 Dr. Dismukes.

20 Q And did you read the other resumes of --

21 A I did not read --

22 Q -- the other witnesses?

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1 A I'm sorry. I did not read the entire
2 resumes of all the other witnesses, no.

3 Q Did you read their testimony?

4 A Yes. Yes.

5 Q At page 21, lines 16 through 17 of your
6 rebuttal testimony, do you identify three
7 witnesses that criticize your use of the ICE
8 model?

9 A Yes.

10 Q And again, am I correct that the
11 criticisms offered by those witnesses represent
12 independent assessments?

13 A They are by three individual people.

14 Q Now, at page 27, lines 7 through 9 of
15 your rebuttal testimony, you reference several
16 witnesses, including, but apparently not limited
17 to, Mr. Hempling, Mr. Oliver and Dr. Dismukes, who
18 suggest that the merger will make it harder for
19 the Commission to carry out its regulatory duties;
20 is that correct?

21 A Yes, I say that.

22 Q Okay. And in this instance, do I

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1 understand that you do not specifically testify
2 that the concerns are invalid, but rather that the
3 Commission should defer those considerations to a
4 later time?

5 A I wouldn't say that entirely.

6 Q Well, I'm looking at lines 12 to 13 of
7 page 28.

8 A I'm sorry. I thought you were talking
9 about 27. That's the page you had me on.

10 Q Yes, you're right. I did. And now I
11 turned the page. And I see on lines 13 through
12 14 -- and I see that you state, And these parties
13 ignored the fact that if problems arise in the
14 future, the Commission will be able to address
15 them at that time.

16 A To me, that was a little different than
17 suggesting that these things should be dealt with
18 in the future. What I was intending to say is
19 nothing about this merger will change the
20 authority that the Commission inherently has to
21 address the concerns -- many of the concerns that
22 are raised in a -- a very long list of potential

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1 harms that these witnesses identify that they
2 think will happen.

3 Q Now, is it your position that the
4 regulatory concerns that witnesses Hempling,
5 Oliver and Dr. Dismukes and others have raised
6 will not affect the public interest of the
7 District of Columbia?

8 A Are they legitimate questions for the
9 Commission to examine when the Commission -- when
10 a circumstance gives rise to a problem? That is a
11 legitimate thing for the Commission to look at.

12 That's different than what I see many of
13 the witnesses talking about that I'm referring to
14 in this part of my testimony as saying they think
15 there's going to be a problem, and so now there
16 need to be a lot of remedies to address those in
17 anticipation of those problems occurring. And I'm
18 suggesting the Commission's authority will not be
19 changed as a result of the merger, and the
20 Commission will have the authority to address
21 things.

22 Q That response just stepped around my

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1 question. So I'm going to try it a little bit
2 differently. Do you believe that the regulatory
3 concerns that witnesses Hempling, Oliver and
4 Dismukes, as well as others, have raised won't
5 affect the public interest of the District of
6 Columbia?

7 A If the long list of horrible things, for
8 example, that Mr. Hempling believes will happen,
9 there could be problems that I assume the
10 Commission would take steps to address. Do I
11 think that those are problems that will occur and
12 that we identify that they need to be addressed
13 now because they, quote, will occur? No, I don't
14 think so.

15 And that's why I think approving the
16 merger is consistent with the Commission retaining
17 the authority it has to address problems as they
18 arise in the future, given the various elements of
19 the regulatory package here.

20 Q If this Commission's consideration of the
21 regulatory concerns identified by witnesses
22 Hempling, Oliver and Dismukes and others are

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1 deferred to a later proceeding, is it possible
2 that, post-merger, the options available to the
3 Commission for addressing those concerns will be
4 more limited?

5 A It entirely depends upon the particular
6 issue. And my reading of these concerns were
7 raising a number of hypothetical problems that are
8 not of the nature you're describing. They are
9 things that will not be -- that the Commission's
10 authority will not be limited from addressing in
11 the future if problems were to arise.

12 Q But Dr. Tierney, that was a very
13 generalized answer. But if certain
14 considerations, those suggested by some of the
15 witnesses, are deferred until after the merger is
16 approved in a later proceeding, isn't it possible
17 that the Commission will find itself in the
18 position of having more limited options for
19 addressing those additional concerns?

20 A Well, let me give you an example of what
21 I recall is one of the concerns of Mr. Oliver that
22 I'm referring to here on page 27. Mr. Oliver

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1 describes what I will call cost allocation
2 questions associated with the -- with PEPCO's --
3 with rate-making with regard to PEPCO that
4 includes dollars associated with an affiliated
5 service organization.

6 Today, PEPCO is part of a holding company
7 where there is a service company and the
8 Commission must wrestle right now with questions
9 of cost allocation between PEPCO and the service
10 company. That will be -- that would continue to
11 be the case in the future were the merger
12 approved, and there are still questions that the
13 Commission will need to wrestle with with regard
14 to cost allocation questions for a service
15 company.

16 That doesn't change with the merger, as
17 far as I can see.

18 Q Are there other issues raised by some of
19 these parties that would be changed as a result of
20 the merger?

21 A Well, there are a number of things that
22 are being addressed through ring-fencing and other

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1 processes that are part of the merger and that are
2 ways to address many of those considerations. The
3 Commission is exploring through very detailed and
4 scrupulous and appropriate examination of a number
5 of questions so that they can understand whether
6 or not they need to decide now in a merger
7 approval/review of this application versus in the
8 future.

9 So the Commission is doing its job on all
10 of these points right now, and in the future will
11 be able to do that as well.

12 Q Now, please turn to your conformed direct
13 testimony at page 7, line 8.

14 A Yes. I am there.

15 Q On that page, do you indicate that the
16 merger will generate 1506 to 2407 new jobs?

17 A I do.

18 Q And is that what you've estimated using
19 the IMPLAN model scenarios?

20 A Yes, with inputs from the customer
21 investment fund and the reliability improvements,
22 and does not take into account any jobs associated

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1 with PEPCO, PHI or its affiliates.

2 Q Now, the number of jobs that you
3 estimate, 1506 to 2407, appear to give the
4 impression of being rather precise. Can you
5 provide the Commission any indication of the level
6 of precision that can be associated with those
7 estimates?

8 A I could have rounded these numbers. I
9 could have rounded them to the closest five. I
10 could have rounded them to the closest ten or
11 the -- rounded to the closest 50. Those are all
12 reasonable.

13 What I did was provide the actual output
14 of the model, and that was -- that is a verifiable
15 calculation, and I didn't do rounding.

16 Q Have you established confidence intervals
17 for those estimates, in other words, plus or minus
18 10 percent, plus or minus 25 percent, plus or
19 minus 50 percent?

20 A No, but I provided the underlying bases
21 for which the numbers were calculated. For
22 example, one of the reasons there's a range here

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1 is because I used various assumptions about how
2 the customer investment fund would be used, thus
3 providing a range.

4 Q Would you just say that one more time?

5 A Yes. The customer investment fund has
6 three different scenarios for how the money would
7 be used. They lead to quite different numbers
8 of -- for value-added and employment if you were
9 to use the numbers -- excuse me -- if you were to
10 use the customer investment fund for a credit on
11 customers bills versus for energy efficiency or
12 for renewable investment or any other thing, for
13 example.

14 So the range that is reflected in these
15 numbers comes in part from the fact that I used
16 different sensitivity analyses for the customer
17 investment fund.

18 Q Those were three different -- completely
19 different scenarios that you used in that
20 analysis; wasn't that correct?

21 A Yes.

22 Q Okay. Excuse me, Dr. Tierney. Am I

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1 correct that these purported numbers of jobs
2 actually only reflect job years --

3 A Yes.

4 Q That's just part of the question.

5 -- where each estimated job is
6 effectively a job that is only sustained for one
7 year, and if a job is sustained longer than one
8 year, it is counted as multiple jobs?

9 A If it is one job that comes out of
10 IMPLAN, it's one full-time equivalent in effect.
11 So if there's two jobs that are half-year jobs,
12 that's two jobs, but there -- excuse me. That
13 would be -- let me start over. Excuse me.

14 Two job years could be half-time jobs for
15 four years or full-time jobs for two years or one
16 job held by one person for two years.

17 Q But it is effectively a job that is only
18 sustained for one year, and if it is sustained for
19 longer than one year, it is counted as multiple
20 jobs; is that correct?

21 A Yeah. The reason I didn't agree with
22 your answer is multiple jobs is not the same as

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1 the way I described it, just mathematically.

2 Q Now, over the six-year period, 2015
3 through 2020, over which you estimate employment
4 and economic impacts, would you agree that the
5 average number of incremental jobs in a single
6 year is only one-sixth of the numbers you present
7 as new jobs?

8 A No. I very strenuously think that it is
9 a wrong idea to divide this by the number of
10 years, and here's why. Some of that money is
11 spent in one year, and that's, for example, in the
12 case of any of the three scenarios for the
13 customer investment fund. There's a big infusion
14 of money right upfront. If you spend that on
15 energy efficiency, though, there's savings that
16 flow for ten years, and those savings are, in
17 effect, dollars in the pockets of households who
18 don't have to spend as much on electricity.
19 That's a long-term effect. That's not the same as
20 averaging those over that period.

21 Same is true for the reliability impacts.
22 It would not be appropriate to divide these by

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1 six.

2 Q Because the amount of money spent in each
3 year is not equal; is that what basically you're
4 saying?

5 A The economic value is not equal in each
6 year.

7 Q Now, please reference your Exhibit (G)-5.

8 A I'm sorry. (G)-5 is Exhibit 5 of (G1) --
9 (1G)?

10 Q It's in your conformed direct testimony.
11 I see you have (G)-1, (G)-2, (G)-3.

12 A Okay. I've got it.

13 Q Page 1 of 1 of (G)-5 attached to your --

14 A I'm there.

15 Q Okay. Am I correct that the estimates of
16 jobs value-added and incremental tax revenue shown
17 in the columns under the heading customer
18 investment fund reflect the results of three
19 separate scenarios for which estimates were
20 generated using the IMPLAN model?

21 A Yes.

22 Q Now, by far, the largest jobs impact for

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1 the three customer investment fund scenarios is
2 associated with the assumption that the entire CIF
3 would be applied to energy efficiency measures.

4 Based on your estimates, energy
5 efficiency measures would generate 1,050 new jobs
6 where neither of the other two CIF spending
7 alternatives that you've examined would generate
8 more than 176 jobs. Am I reading your exhibit
9 properly?

10 A Yes.

11 Q That seems to suggest that spending CIF
12 dollars on energy efficiency produces much greater
13 overall benefits than direct customer credits
14 regardless of whether such credits are granted on
15 a uniform dollar per customer basis to all
16 customers or just to low-income customers.

17 A It seems to suggest that if your only
18 criteria for looking at how you wanted to spend
19 the money was what would be the net present value
20 of economic impact in the District of Columbia,
21 you would move toward energy efficiency. I am not
22 suggesting that is the only way to value the

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1 trade-offs of using a particular pot of money that
2 Exelon is providing as part of its merger.

3 So there are different considerations.

4 Putting the dollars in energy efficiency as
5 opposed to low-income customers has just a very
6 different impact on the income distributional
7 issues. And so I wanted to illustrate that they
8 have different implications for the economy of the
9 District, but that doesn't tell me where the
10 Commission wants to put the money.

11 Q But your chart is suggesting that
12 spending the CIF dollars on energy efficiency
13 produces much greater overall benefits than direct
14 customer benefits; isn't that correct?

15 A Again, I'm going to say it -- I'll try to
16 say it differently. There are different values
17 that the -- criteria, factor, et cetera, that the
18 Commission may want to use in deciding how to
19 deploy the customer investment fund.

20 One thing that we know to be a very big
21 economic payback for each dollar spent is in
22 energy efficiency, because after you make an

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1 initial investment, a customer reaps savings over
2 the life of the efficiency measure.

3 So that has a lot of value for the
4 District of Columbia, but that may not be the only
5 thing the Commission cares about.

6 Q My question had nothing to do with what
7 the Commission's concerns are. All I'm addressing
8 is what's on the page in front of me and your
9 chart and what your chart says. That's all I'm
10 focused on. I know the Commission can make its
11 own determination, but I need to understand this
12 chart and what it says. So could we just try to
13 focus just on this chart?

14 A Yes.

15 Q Now, let's try this question. Just what
16 you're saying in this chart, what the numbers say.

17 A I'm telling you what they said.

18 Q I heard a lot about what the Commission
19 needs to look at. I'm just looking at what these
20 numbers are saying. So could we just try it that
21 way?

22 A I would love to.

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1 Q Okay. This chart on your (G)-5 suggests
2 that spending the customer investment fund dollars
3 on energy efficiency produces greater overall
4 benefits than direct customer benefits; is that
5 correct?

6 A Yes. For the economy of the District,
7 not for the direct customers themselves.

8 Q Am I correct that you've made no
9 assessment of the benefits presently provided to
10 low-income residential customers in the District?

11 A That's correct.

12 Q Now, am I correct that you've made no
13 assessment of the needs of low-income customers in
14 the District of Columbia for additional assistance
15 at this time?

16 A That's correct.

17 Q Are you aware of the activities of the
18 Sustainable Energy Utility in the District of
19 Columbia?

20 A Yes, it's their allocation of dollars
21 which guided my allocation of dollars in the
22 scenario on energy efficiency.

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1 Q Could you please provide your
2 understanding of the SEU's activities over the
3 last couple of years and its level of funding to
4 pursue those activities?

5 A If I recall correctly, and I would
6 obviously need to check this, there is something
7 between 15 and \$20 million of money that is
8 collected from customers, and that goes to -- for
9 retrofits for appliances, some low-income housing
10 measures for energy efficiency and so forth,
11 additionally, renewable energy investments.

12 Q Do you have any more detailed
13 understanding than that?

14 A Yes. There is information in my work
15 papers that describes the breakout of use of SEU
16 dollars between residential, commercial,
17 industrial and low-income. If I recall correctly,
18 maybe 60 percent of the dollars go to commercial
19 and industrial customers. The remaining dollars
20 are split between renewable projects, maybe around
21 15 percent, and I'm thinking that low-income
22 multi-family customers get maybe another

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1 15 percent. That order of magnitude. And I'm
2 sure I'm wrong on the details.

3 Q Okay. I'll accept that.

4 Am I correct that you made no assessment
5 of the impacts of the SEU's energy efficiency
6 funding activities on the economy of the District
7 of Columbia over the last two or three years in
8 this proceeding?

9 A I did not. This was about what would
10 happen with incremental dollars.

11 Q So even though there are energy
12 efficiency measures already being funded in the
13 District, you made no attempt to validate the
14 IMPLAN model estimates for energy efficiency
15 programs against actual results for the SEU's
16 activities; is that correct?

17 A That would not have been possible to do,
18 period.

19 Q Now, I'm going to ask you to please
20 reference the work papers for your original direct
21 testimony that are provided in attachment B to
22 your response to AOBA data request 1-11, and to

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1 please look at page 9 of attachment B.

2 MS. FRANCIS: Your Honor, for the record,
3 I am talking about what's been pre-identified as
4 AOBA 82, which has been marked for the record as
5 91, and it is page 11 of 17 of the exhibit.

6 THE WITNESS: Oh. This document has all
7 those numbers I was trying to remember a minute
8 ago. Okay. I'm there.

9 BY MS. FRANCIS:

10 Q Now, Dr. Tierney, I'm looking at page 11.
11 Page 11 is at the top of the page.

12 A I'm there.

13 Q Now, could you please tell me, does
14 page 11 of attachment B to AOBA data request 1-11
15 show the distribution of reliability benefits
16 between residential and commercial and industrial
17 customers by year for the years 2015 through the
18 years 2020?

19 A Yes.

20 Q Now, a little to the right of the middle
21 of the page, page 11, we find a column headed,
22 Percent benefits residential. And under that

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1 heading there's an entry of 3 percent. Do you see
2 that percentage?

3 A Yes.

4 Q Does the 3 percent number at the heading
5 percent benefits residential indicate that the
6 residential class experiences 3 percent of total
7 reliability benefits?

8 A What it says is that when you calculate
9 the value of an increment of reliability
10 improvement, the evidence tells us that
11 residential customers are willing to pay an amount
12 to avoid an outage. But when you contrast that in
13 the literature to the damages experienced by
14 commercial and industrial customers from an
15 equivalent outage or avoiding an outage, the value
16 to commercial and industrial customers is much
17 larger. That's what that's telling you.

18 Even though you have many, many, many
19 more customers in the residential class, which you
20 can see right next to the numbers you pointed out
21 to me, 237,973 residential customers, there is a
22 smaller value per customer associated with

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1 avoiding an outage than there is for a commercial
2 or industrial customer. That's what that's
3 telling you.

4 Q So is it incorrect for me to think that
5 what this column indicates is that the residential
6 class, in a class basis, experiences 3 percent of
7 the total reliability benefits?

8 A Yes.

9 Q And just looking below the 3 percent --
10 below the percent benefits residential, the
11 3 percent, we find a similar entry for C&I
12 customers. What is that percentage?

13 A 100 minus 3 equals 97 percent.

14 Q Now, to the left of the 3 percent entry
15 for residential customers and the 97 percent entry
16 for C&I customers, we find dollar amounts by year.
17 Now, looking, for example, at the column for 2015,
18 am I correct that the \$120,844 amount for
19 residential is computed by multiplying the 2015
20 dollar amount for all customers by 3 percent?

21 A No. No.

22 Q It's not?

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1 A No, it's not. The 3 percent represents
2 the relationship -- if you look at the column
3 which is called total (2014 NPV), you'll see the
4 total benefits to PEPCO customers of my calculated
5 reliability benefits. It's \$75.86 million. And
6 that is derived and built up from running the
7 numbers for commercial/industrial customers in --
8 for SAIDI and SAIFI in 2015 and doing the same for
9 residential customers in 2015, and then so on.

10 Those are individual calculations for
11 each year, and it happens to end up at the end
12 with 3 percent for residential.

13 Q I just multiplied all the years out.

14 A And so, because they're linear, it is
15 coincidentally that way, but these are built off
16 of annual numbers.

17 Q And your answer would be the same if I
18 asked you the same question in regard to
19 commercial customers; in other words, if I was
20 multiplying the 4,028, \$135 (sic) by the
21 97 percent, that would also be incorrect?

22 A Mathematically, it's working out that

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1 way, because this is a linear progression. But
2 the way you're thinking about it isn't right to
3 me, because the percentages result from the
4 underlying calculations for the residential class
5 and commercial class. Those are added together to
6 get the total.

7 Q Am I correct that the 3 percent figure
8 used to represent the residential share of
9 reliability benefits and the 97 percent figure
10 used to represent the C&I share of such benefits
11 are hard entries in your electronic spreadsheet
12 file and are not numbers that are computed within
13 the work papers provided as part of AOBA 1-11,
14 attachments A and B?

15 A That's correct. They are the output of
16 the ICE calculator. They are raw numbers from the
17 ICE calculator. And I did not embed the whole
18 equipment electronically into my work papers.
19 It's on the web.

20 Q To the right of the residential and C&I
21 percentages of benefits on page 11 of
22 attachment B, we find data for numbers of

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1 residential customers and numbers of C&I
2 customers. Do you see those numbers?

3 A Yes.

4 Q Okay. Am I correct that if we sum the
5 237,973 residential customers and the 26,411 C&I
6 customers, the total is 264,384?

7 A Yes.

8 Q Would you accept that the 237,973
9 residential customers represent 90.01 percent of
10 that total?

11 A Yes, which is the norm in a distribution
12 company in an urban area.

13 Q Does this data indicate that your
14 analysis assumes that 90 percent of PEPCO's total
15 customers in D.C. will receive only 3 percent of
16 the reliability benefits?

17 A I'm going to -- you probably don't want
18 me to, but I'm going to rephrase it into my words,
19 which is when you calculate the value to
20 residential customers of an outage, it's a smaller
21 dollar than the value to commercial and industrial
22 customers. So you can have many fewer commercial

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1 and industrial customers for whom an outage is
2 very costly or, conversely, a reliability
3 improvement is really valuable from a monetary
4 point of view to commercial and industrial
5 customers.

6 So it's -- it's well understood in the
7 data that that's the case. And the numbers you're
8 looking at are not appreciating this fundamental
9 difference that reliability value has a very
10 strong monetary importance for commercial and
11 industrial customers if all you're doing is
12 looking at the money.

13 Q I understand your answer. Now could we
14 try to do it -- and you can give me a yes or a no.

15 A I'll try.

16 Q Okay. Because I'm going to try and do it
17 with my words. Does the data indicate that your
18 analysis is assumes that 90 percent of PEPCO's
19 total customers in D.C. will receive only
20 3 percent of the reliability benefits?

21 A No. The data indicate that the data for
22 commercial and industrial customers on which I

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1 have built my analysis is that those customers
2 appreciate a higher value monetarily for
3 reliability.

4 Q Do you understand that PEPCO's budgeted
5 reliability programs for the 2015-2020 time period
6 includes significant dollar amounts for PEPCO's
7 D.C. PLUG initiative?

8 A I do know that.

9 Q And are you familiar with the D.C. PLUG
10 initiative?

11 A At a very high level, yes.

12 Q Could you please tell me, what is your
13 understanding of the focus of the activities that
14 are part of the D.C. PLUG initiative?

15 A I am aware that there was a initiative
16 undertaken by the District government in
17 conjunction with PEPCO to make a proposal that
18 there would be undergrounding and overground
19 programs that would be paid for in part by bonded
20 dollars from the District of Columbia that would
21 be collected or recovered on electricity
22 customers' bills, and that those would be in

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1 conjunction with dollars that are on customers'
2 bills to support PEPCO's actions for
3 investments -- for capital and O&M on reliability.

4 Q Would you accept Dr. Tierney, that the
5 D.C. PLUG initiative is focused primarily on
6 predominantly residential portions of the District
7 of Columbia and includes no activities that affect
8 the downtown business districts within the city
9 where the vast majority of commercial buildings in
10 the District are found?

11 A I don't know that.

12 Q Now, Dr. Tierney, I'm going to ask you to
13 please reference what was preliminarily identified
14 as AOBA Exhibit 83, which has been marked for the
15 record as AOBA 92, which is a copy of your
16 response to AOBA data request 4-2.

17 A I have it.

18 Q Now, in part A of AOBA data request 4-2,
19 you were asked to provide the data, analyses,
20 studies, calculations and assumptions that support
21 the percentage of reliability benefits assigned to
22 residential benefits and to C&I benefits; is that

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1 correct?

2 A Yes.

3 Q Am I correct that your response to part A
4 of AOBA data request 4-2 simply refers us back to
5 AOBA 1-11, which we just reviewed, and does not
6 provide any additional insight regarding the
7 manner in which the referenced percentages were
8 determined; is that correct?

9 A Correct.

10 Q In part B of your response to AOBA data
11 request 4-2, you were asked to identify the
12 documents relating to PEPCO's planned reliability
13 programs in the District of Columbia that support
14 your assignment of 97 percent of reliability
15 benefits to C&I customers.

16 Does your response to part B indicate
17 that you did not review any planned reliability
18 program documents for either your original
19 analysis or for the analysis included in your
20 February 17th, 2015 supplemental testimony?

21 A That's right.

22 Q Okay. Now, am I correct that you

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1 performed your analysis of the economic benefits
2 of Exelon's planned post-merger reliability
3 improvements for PEPCO without any assessment of
4 the focus of reliability planned for PEPCO over
5 the years 2015 through 2020?

6 A That's right.

7 MS. FRANCIS: Now, Your Honor, I'm going
8 to ask the witness to turn to what's been
9 preliminarily identified as AOBA Exhibit 2, which
10 is marked for the record -- no, I didn't mark it
11 yet -- which I'd like to mark for the record as
12 AOBA Exhibit 98 which is copy of the Lawrence
13 Berkeley National Laboratory report that the
14 witness referenced on page 28 of her conformed
15 direct testimony as well as footnotes 19 and 20 in
16 that testimony.

17 CHAIRMAN KANE: So marked.

18 (AOBA Cross Exhibit Number 98 was marked
19 for identification.)

20 CHAIRMAN KANE: Go ahead.

21 MS. FRANCIS: And I'd like to have that
22 marked as AOBA Exhibit 98.

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1 CHAIRMAN KANE: Yes, go ahead.

2 BY MS. FRANCIS:

3 Q Dr. Tierney, this is the LBNL report that
4 you reference in your testimony?

5 A Yes. It's one of them.

6 Q Okay. And am I correct that this LBNL
7 report referenced in your conformed direct
8 testimony reports greater dollar values for
9 improvements in C&I electric service reliability
10 than for residential service reliability
11 improvements?

12 A Yes. This is a study that led to the
13 development of the ICE calculator. They're
14 building blocks. This is a building block for the
15 other.

16 Q Would it be reasonable for this
17 Commission -- would it be reasonable for this
18 Commission to conclude that any effort to estimate
19 the economic benefits for reliability improvements
20 needs to be sensitive to differences in the
21 reliability improvements that residential
22 customers experience versus the reliability

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1 improvements that C&I customers will experience?

2 A I'm really sorry. I'm trying very hard,
3 but I did not really understand your question.

4 Q Okay. Let's try it again.

5 Would it be a reasonable conclusion for
6 this Commission to make that any effort to
7 estimate the economic benefits for reliability
8 improvements needs to be sensitive to the
9 differences in the reliability improvements that
10 residential customers will experience versus the
11 reliability improvements that C&I customers will
12 be -- will experience?

13 A It is reasonable for the Commission to
14 understand, in my opinion, that the survey
15 literature indicates that commercial and
16 industrial customers place a higher value on
17 reliability investments than do residential
18 customers. And that's -- so that would be
19 reasonable, yes. And that's supported by the
20 information in this seminal report.

21 Q Now, I'm going to ask that you reference
22 your rebuttal testimony at page 21, line 19 to

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1 page 22, line 1. Now, at page 21, line 19 of your
2 rebuttal, you suggest, through the use of a
3 parenthetical comment, that AOBA Witness Oliver
4 admits that the LBNL study represents the best
5 available estimates of the value of service
6 reliability.

7 That isn't quite what Mr. Oliver actually
8 stated in his testimony, is it?

9 A I don't have his testimony memorized. So
10 I thought that was my interpretation of what he
11 said.

12 Q Okay.

13 A And I thought I was quoting him actually.

14 Q Okay. Well, I'm going to ask if you
15 would take out a copy of Mr. Oliver's testimony
16 and --

17 A Oh, no. Actually, I should rephrase.
18 That is a quotation from the report, I think.

19 MS. FRANCIS: Could somebody please
20 hand -- thank you.

21 BY MS. FRANCIS:

22 Q I'm just going to repeat my question,

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1 Dr. Tierney, because I think -- I want to get the
2 cites right to the specific pages. At page 21,
3 line 19 --

4 A Excuse me. Hold on a minute. Because
5 I'm still trying to find...

6 Q I'm going to give you very specific page
7 and line numbers of Mr. Oliver's testimony --

8 A Okay.

9 Q -- but I'd like to refer to your
10 testimony first. Okay?

11 A I now have them both, yes.

12 Q Okay. Now, referencing your rebuttal
13 testimony at page 21, line 19, you suggest through
14 the use of a parenthetical comment that, quote,
15 Mr. Oliver admits the best available estimates --
16 that the LBNL study represents the best available
17 estimates of the value of service reliability.

18 And then I asked you, that isn't quite
19 what Mr. Oliver actually stated in his testimony,
20 is it?

21 A Well, it is actually what he stated, but
22 he also stated that, in his view, there are severe

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1 limitations, which I disagree with in terms of his
2 conclusions. So it is a quotation from his
3 testimony, yes.

4 Q Okay. Now, just let's -- let me trace
5 some of the cites. And as support for that
6 supposed admission, you provide footnote 34 at the
7 bottom of page 21, which cites Mr. Oliver's direct
8 testimony at page 49, line 2 through page 50,
9 line 21; is that correct?

10 A No. What I was citing was the part of
11 his testimony on line -- in footnote 36.

12 Q Well, I'm looking right now at -- excuse
13 me. I had the wrong page. But I'm looking at
14 your page 21 -- excuse me. You're exactly
15 correct. I was looking at the wrong page.

16 Footnote 36 cites Mr. Oliver's testimony
17 at page 50, lines 16 through 17; is that correct?

18 A Yes, that's what I just answered a minute
19 ago.

20 Q Now, please look at Mr. Oliver's direct
21 testimony at page 50 and focus on lines 16 through
22 18. So if, in fact, we look at the referenced

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1 lines of Mr. Oliver's direct testimony, we find
2 that his testimony states, Although the LBNL
3 report may represent the best available estimates
4 of the value of service reliability, it has severe
5 limitations for applications to the Mid-Atlantic
6 region in general and specifically to the District
7 of Columbia.

8 Is that correct?

9 A Yes, that's what I said just a minute
10 ago.

11 Q Now, moreover, in the discussion in
12 Mr. Oliver's direct testimony that follows the
13 testimony we just referenced, am I correct that
14 Mr. Oliver discusses specific attributes of the
15 data and analyses presented in the LBNL report
16 that undermine its application in the Mid-Atlantic
17 region, and Mr. Oliver continues to state that
18 none of the western, mid-western and southern
19 utilities for which data was used to develop the
20 relationships in the ICE model has a mix of
21 customers that reasonably approximates those found
22 in District of Columbia? Is that correct?

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1 A Indeed, and I responded to that in my
2 rebuttal testimony where I said, yes, it's true
3 that the authors of this report do, as all
4 researchers do, identify where you would need to
5 do additional research. They do not say it's
6 invalidated. And I said that the characteristics
7 of an urban place is likely to make the value of
8 electricity even higher.

9 So his critique, in my opinion, is not
10 reasonable. That's what I said in my rebuttal.

11 Q Okay. Now, again, referencing
12 Mr. Oliver's direct testimony at page 50, I ask
13 you to focus on the quotation lines presented at
14 lines 8 through 13 where Mr. Oliver is quoting the
15 report and he says, The absence of interruption
16 cost information for the northeast Mid-Atlantic
17 region is particularly troublesome because of the
18 unique population density and economic intensity
19 of that region. It is unknown whether weather and
20 customer compositions are controlled. The average
21 interruption costs from this region are different
22 than those in other parts of the country.

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1 Is it your testimony, Dr. Tierney, that
2 the quotation presented does not accurately repeat
3 the words of the author?

4 A Yes. They accurately repeat the words of
5 the author and, as I said, there's no reason to
6 believe that the conclusion is that the report
7 understates the value in the District of Columbia,
8 which is so highly dependent on electricity.

9 Q Now, I'm going to ask you to take a look
10 at the actual report.

11 A I have it open.

12 Q Okay.

13 MS. FRANCIS: Your Honor, for the record,
14 that's been identified for the record as
15 AOBA 97 --

16 BY MS. FRANCIS:

17 Q -- which is a complete copy of the LBNL
18 report that you've referenced. And I'd like you
19 to please turn to the summary and conclusion
20 section of that report which starts on page 81.
21 And just for the record, at the top of the page,
22 that's page 113 of 130. Are you with me,

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1 Dr. Tierney?

2 A Yes, I've been -- this has been open now
3 for a while.

4 Q Okay. Now, in the first sentence of the
5 second paragraph of the LBNL report, am I correct
6 that it states, There are limitations on how the
7 data from this meta-analysis should be used?

8 A Yes. The word "severe" is not there.

9 Q Excuse me?

10 A The word "severe" that is in Mr. Oliver's
11 testimony is not there.

12 Q The language that Mr. Oliver cites in his
13 direct testimony is found in the third sentence of
14 the fourth paragraph on page 81 of the LBNL
15 report. Do you see that?

16 A Yes.

17 Q In the first two sentences of the fourth
18 paragraph on page 81, do you accept that LBNL
19 explicitly states, A further limitation of our
20 research is that the surveys that form the basis
21 for the studies we examined were limited to
22 certain parts of the country; no data were

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1 available from the northeast, Mid-Atlantic region,
2 and limited data were available for cities along
3 the Great Lakes?

4 Is that correct?

5 A Yes.

6 Q In fact, the northeast, Mid-Atlantic and
7 Great Lakes regions of the United States are among
8 the most heavily populated areas in the United
9 States; is that correct?

10 A That's correct. And the sum total of
11 this research indicates that the authors of this
12 report would not only like to see more research
13 done in that area, but they would also like to see
14 the development of an ICE calculator that uses
15 data from each state, and that both of those
16 things have happened. There has not been detailed
17 surveys yet done of the Mid-Atlantic. And,
18 therefore, this still does represent the most
19 recent information available.

20 Q Turning back to your rebuttal testimony
21 at page 22, I ask you to focus on lines 3 through
22 4.

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1 A Yes.

2 Q And your testimony at page 22
3 characterizes the authors of the LBNL report as
4 noting that the absence of interruption cost
5 information for the northeast Mid-Atlantic region
6 is an area where additional research would be
7 useful. Is that correct?

8 A Correct.

9 Q Now, please focus on the last paragraph
10 of page 81 of the LBNL study. The authors
11 indicate in that paragraph that their work has
12 removed an important barrier to the widespread use
13 of value-based reliability planning.

14 Do you see that?

15 A Yes.

16 Q But don't they follow that statement
17 which indicates there are other barriers for which
18 additional work needs to be done?

19 A Yes. And again, I want to tell you one
20 of the things that I know that may not be found in
21 those precise words. This is the work of the
22 Ernest Orlando Laboratory on energy studies. It's

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1 the technical analysis division. This study is --
2 this study in this division is funded by the
3 Department of Energy to move forward research and
4 knowledge on a variety of things, including
5 reliability. The authors are identifying
6 additional work that can be done in the future.

7 It is the case that I've actually served
8 as the chair of the technical review panel for
9 this very part of LBNL lab. This is what they
10 always do in reports like this: Where would you
11 move the ball next? That's what they've done in
12 this section of their report.

13 That does not undermine its usefulness,
14 given that it is the most recently available and
15 comprehensive study that exists in the literature.

16 Q Okay. In the first item of work noted by
17 the authors is, Additional interruption cost
18 surveying should be carried out in the regions
19 where information on customer interruption is
20 currently unavailable.

21 Is that correct?

22 A Yes.

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1 Q Okay.

2 MS. FRANCIS: Your Honor, that's all the
3 questions I have for Dr. Tierney.

4 CHAIRMAN KANE: Thank you, Ms. Francis.
5 D.C. government?

6 MR. COYLE: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. COYLE:

9 Q Good afternoon, Dr. Tierney.

10 A Good afternoon or evening.

11 MR. KULAK: Your Honors, we have been
12 going about an hour and 45 minutes. I would just
13 like to give the witness -- if you could just
14 check with the witness if she's okay, or whether
15 she would like a break.

16 CHAIRMAN KANE: Do we need a break now?

17 THE WITNESS: Yes, we do. Yes, we do.

18 CHAIRMAN KANE: Okay. The reporter too.
19 Okay. I was going to wait a little bit longer.
20 That's fine before we start with --

21 MR. KULAK: Thank you, Your Honor.

22 CHAIRMAN KANE: -- the D.C. government.

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1 And just let me -- D.C. government had
2 indicated about 45 minutes you might need with
3 this witness?

4 MR. COYLE: I think that's still
5 reasonable.

6 CHAIRMAN KANE: Still reasonable?

7 MR. COYLE: It's still reasonably
8 dependable, yes.

9 CHAIRMAN KANE: Okay. And DC SUN, about
10 half an hour, and MAREC about an half an hour. So
11 it looks like we've got about another two hours.

12 I would like to see, although it cuts
13 into people's evenings, if we could finish, if
14 possible -- but we'll see -- with this witness.
15 So -- because we still do have two more of your
16 witnesses -- okay. We'll take a quick break.

17 (Whereupon, a short recess was taken.)

18 CHAIRMAN KANE: Okay. We're back on the
19 record.

20 And D.C. government it's -- 5:24. And
21 D.C. government, you're up.

22 MR. COYLE: Thank you, Your Honor.

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1 BY MR. COYLE:

2 Q Good late afternoon once again,
3 Dr. Tierney.

4 A Hello.

5 Q We've met before, but I'll introduce
6 myself for the record. My name is John Coyle.
7 I'll be asking you some questions this afternoon
8 on behalf of the District of Columbia government.

9 A Great.

10 Q Would you turn to your direct testimony,
11 please, Joint Applicants' Exhibit (G) at page 6,
12 line 2, and read from page 6, line 2 over to
13 page 7, line 12 to yourself. Let me know when
14 you're ready.

15 A I'm on the direct, correct?

16 Q That's correct.

17 A Okay. Thanks. Yes.

18 Q Okay. Is it correct that the two
19 regulatory commitments for which your testimony
20 seeks to establish a financial value are, one, the
21 customer investment fund and, two, what you call
22 the, and I'm quoting, enhanced reliability

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1 commitments, closed quote?

2 A Yes.

3 Q Okay. Would you take a look at
4 Exhibit -- Joint Applicants' Exhibit (4A)-2 to
5 help focus our discussion.

6 A Yes.

7 Q The customer investment fund appears at
8 page 1, commitment number 6; is that correct?

9 A Yes.

10 Q And what you're calling the enhanced
11 reliability commitments appear at page 2,
12 commitment 7, and page 3, commitment 8, correct?

13 A Yes.

14 Q Okay. Let's talk first about what you
15 call the enhanced reliability commitments. Let me
16 ask if I could prevail on Ms. Travers again to
17 find you a copy of Mr. Gausman's direct testimony,
18 Joint Applicants' Exhibit (E).

19 A Yes.

20 Q And ask you to turn to page 4, lines 2 to
21 3.

22 A Yes.

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1 Q Mr. Gausman there sets forth the SAIDI
2 and SAIFI levels that PEPCO is required to attain
3 by the Commission's electric quality of service
4 standards; is that correct?

5 A Yes.

6 Q Okay. I know we have a couple of
7 different SAIDI conventions running around here.
8 The Commission expresses SAIDI in hours and
9 decimal portions of hours, while the joint
10 applicants use minutes, but you can get from one
11 to the other just by multiplying by 60, correct?

12 A Yes.

13 Q Okay. So the SAIDI for 2015, according
14 to Mr. Gausman's testimony, equates to 133
15 minutes, correct?

16 A Yes.

17 Q And, for 2016, equates to 120 minutes?

18 A Actually, I have to reorient myself.

19 Q Okay.

20 A Gausman's testimony, 2015?

21 Q Yes.

22 A And you divided hours in SAIDI by 2. I

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1 just want to make sure, because the number -- I
2 wasn't reading where you said it.

3 Q I'm sorry. I was multiplying by 60 to
4 get to minutes.

5 A Got it. Thank you.

6 Q All right. Are we okay with 133 for --

7 A Yes.

8 Q -- 2015?

9 A Yes. Thank you.

10 Q And, for 2016, 120?

11 A Yes.

12 Q 2017, 109?

13 A Yes.

14 Q 2018, 99?

15 A I take it, subject to check.

16 Q Okay. 2019, 89?

17 A Okay.

18 Q And 2020, 81?

19 A Yep.

20 Q Okay. Now, SAIFI remains the same. So
21 Mr. Gausman's -- is Mr. Gausman, to your
22 knowledge, correctly rendering the Commission's

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1 EQSS requirements, SAIFI, of 1.09 for 2015?

2 A Yes.

3 Q 1.05 for 2016?

4 A Yes.

5 Q 1.02 for 2017?

6 A Yes.

7 Q 0.98 for 2018?

8 A Yes.

9 Q 0.95 for 2019?

10 A Yes.

11 Q And 0.89 for 2020?

12 A Yes.

13 Q Now let's go to your direct testimony at
14 page 29, line 1 to page 30, line 3. And I'd ask
15 you to read that to yourself and let me know when
16 you're ready.

17 A 29 -- page 29?

18 Q Page 29, line 1 to page 30, line 3.

19 A Yes.

20 Q Okay. Is it fair to say that you
21 describe in that portion of your testimony what
22 you did in order to develop the economic value you

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1 claim is associated with what you call the
2 enhanced reliability commitment?

3 A Yes.

4 Q Let me review it with you briefly.

5 First, you took the three-year average of PEPCO's
6 actual SAIDI and SAIFI performance for the period
7 2011 through 2013, correct?

8 A Yes.

9 Q And you used that as your "without
10 reliability improvements" scenario?

11 A Yes.

12 Q Okay. Next, in order to derive your
13 "with reliability improvements" scenario, you took
14 the three-year average represented in Mr. Alden's
15 testimony as the three-year average SAIDI and
16 SAIFI values that the joint applicants commit to
17 attain during the period 2018 through 2020, and in
18 your words, I entered an annual value for each
19 year between 2015 and 2020 by calculating a linear
20 trend between the historical values and the
21 2018-2020 average commitment values from
22 table SFT 3, correct?

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1 A Yes.

2 Q And table SFT 3 appears on page 26 of
3 your direct testimony?

4 A Yes.

5 Q The annual values that you entered in
6 developing -- let me -- yeah. The annual values
7 that you entered, you provided those in a
8 discovery response, correct?

9 A Yes.

10 Q In your direct testimony?

11 A In my work papers.

12 Q In your work papers?

13 A I think so.

14 Q All right. And the annual values that
15 you provided in your work papers were for the
16 joint applicants' original reliability commitment,
17 the 107-minute SAIDI and the 0.54 SAIFI?

18 A Yes, but I think in the work papers for
19 my February 17th testimony I provided additional
20 work papers.

21 Q Okay. Let me see if I can find those,
22 Dr. Tierney.

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1 So you did. Okay. Let's -- can we go
2 through both versions?

3 A I don't know that I have my work papers
4 here.

5 Q Okay. How about if I read them out to
6 you, subject to check?

7 A Okay.

8 Q Your original work papers assumed -- I'll
9 just go down the line first for SAIDI and then for
10 SAIFI, if that's all right.

11 Your original work papers, you posited a
12 2015 SAIDI value of 140.6, a 2016 SAIDI value of
13 132.2, a 2017 SAIDI value of 123.8, a 2018 SAIDI
14 value of 115.4, a 2019 SAIDI value of 107, and a
15 2020 SAIDI value of 98.6.

16 A Okay.

17 Q Do you accept that, subject to check?

18 A Sure.

19 MR. KULAK: Excuse me, Mr. Coyle and Your
20 Honors, if Mr. Coyle could point us to a data
21 request or something so we could follow along, I
22 think that might be easier and more helpful for

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1 the witness.

2 MR. COYLE: Well, I can point you to the
3 witness' work paper, if you like, sir.

4 MR. KULAK: I'm sure we responded to a
5 data request that provided those. Do you have
6 that available?

7 MR. COYLE: I think you provided it with
8 the work papers that came with her testimony, and
9 I could identify the work paper for you, if you
10 care to look it up, but I wasn't about to make it
11 an exhibit.

12 MR. KULAK: Very well, then.

13 CHAIRMAN KANE: Well, anything that's
14 referred to would have to be in the record as an
15 exhibit.

16 MR. COYLE: All right. Well, I'm
17 asking --

18 CHAIRMAN KANE: So either -- if you want
19 to refer to work papers, they'll have to go in as
20 an exhibit, or else if it's in the testimony some
21 other place, in another exhibit.

22 MR. COYLE: Well, what I'm --

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1 CHAIRMAN KANE: But it needs to be
2 referred to specifically.

3 MR. COYLE: What I'm attempting to do is
4 to reconstruct the document with the witness
5 through her recall.

6 CHAIRMAN KANE: You can't do that.

7 MR. COYLE: Can't do that.

8 CHAIRMAN KANE: Can't do that?

9 MR. COYLE: All right.

10 Well, in that case, since I don't have
11 it, I'll have to ask the bench's leave to submit
12 it later.

13 CHAIRMAN KANE: The other parties have to
14 have it if you're referring to it.

15 We are off the record.

16 (Discussion held off the record.)

17 CHAIRMAN KANE: Back on the record.

18 MR. COYLE: Let's try this with AOBA 82,
19 Exhibit AOBA 82.

20 CHAIRMAN KANE: Has that been -- AOBA
21 preliminary 82 or --

22 MS. FRANCIS: Your Honor, it's

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1 preliminarily 82. That was marked for the record
2 as AOBA 91.

3 CHAIRMAN KANE: So it's already been
4 marked for the record as AOBA 91?

5 MS. FRANCIS: That's correct. I'm just
6 checking. Yes, Your Honor.

7 CHAIRMAN KANE: All right. Then you may
8 refer the witness to that exhibit.

9 MR. COYLE: All right.

10 CHAIRMAN KANE: If you would identify it,
11 not only by number, but by its title.

12 MR. COYLE: Yes, Your Honor. AOBA --
13 what's been identified as AOBA 91 is the response,
14 the joint applicants' response to data request
15 AOBA 1-11 with attachments A and B, and I was
16 asking the witness about attachment A.

17 CHAIRMAN KANE: Okay.

18 THE WITNESS: This is my original, not my
19 revised.

20 MR. COYLE: Right.

21 THE WITNESS: Okay.

22 BY MR. COYLE:

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1 Q Right. Now, but we can confirm, can we
2 not, Dr. Tierney, that this is the -- I say
3 this -- AOBA 91, attachment A are the SAIDI and
4 SAIFI values that you interpolated as a linear --
5 what did you call it? Sorry. An annual value for
6 each year between 2015 and 2020 by calculating the
7 linear trend between the historical values and the
8 2018 to 2020 average commitment values from
9 table SFT 3.

10 A That's right.

11 Q Okay. All right. And that, again, is
12 based on the original enhanced reliability
13 commitment -- your term -- of a SAIDI of 107
14 minutes and a SAIFI of 0.54 interruptions,
15 correct?

16 A Yes.

17 Q Okay. And then you say you recalibrated
18 this interpolation of data points as part of
19 your -- as part of developing your supplemental
20 direct testimony that was filed in February of
21 2015?

22 A Yes.

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1 Q Okay. Then going back to your direct
2 testimony at page 29, lines 10 to 11, you say, I
3 also entered the number of residential,
4 non-residential customers, and otherwise accepted
5 the District's specific default values that the
6 ICE calculator contains, and you ran the ICE
7 calculator based on those inputs, correct?

8 A Yes.

9 Q All right. And the same would be true
10 with the different linear interpolation that you
11 used for your supplemental direct testimony?

12 A Yes.

13 Q Okay. The numbers that the ICE
14 calculator generated with those inputs are those
15 that are reflected, after being discounted to net
16 present value with a 3 percent social discount
17 rate in table SFT 4 at page 30 of your direct
18 of -- lines 9 and 10, correct?

19 A Yes.

20 Q Okay. And the numbers that appear in
21 table SFT 4 of your conformed testimony, are they
22 the product of your interpolated data points that

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1 were done to support your original calculation or
2 the revised calculation that you did in connection
3 with your February testimony? Do you understand
4 the question?

5 A Well, I'm --

6 Q Or should I rephrase it?

7 A I think I need counsel's advice to know
8 what documents I'm looking at. At the end of the
9 day, these numbers have been changed from the
10 physical documents that were turned over --

11 Q Right.

12 A -- originally, and so am I looking at the
13 updated numbers?

14 Q Let me see if I can make this a little
15 easier for you, without the intercession of
16 counsel, and I really don't mind counsel's
17 intercession. I just -- let me try and ask the
18 question in a way that you can follow.

19 When you did your -- when you prepared
20 your conformed direct testimony, the numbers that
21 appear in table SFT 4 --

22 A I need to interrupt. I don't understand

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1 in the District's vernacular what conformed means.

2 Does that mean the final ones that we've revised.

3 Q That's what I mean.

4 A Thank you. Okay.

5 Q Yep. The final revised version of your

6 direct testimony includes values that were

7 developed using a different set of SAIDI and SAIFI

8 values, projected SAIDI and SAIFI values, than the

9 ones that are associated with AOBA 91

10 attachment A, correct?

11 A Correct.

12 Q Okay. Great.

13 So what appears in your direct, the

14 estimate of 3,648,601 for residential benefit and

15 117,971,422, those are numbers that you associate

16 with the joint applicants' current reliability

17 commitment as set forth in Exhibit (4A)-2 in

18 commitment number 7, correct?

19 A Yes.

20 Q That is to say, the SAIDI of 90 and the

21 SAIFI of .0.66?

22 A Yes.

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1 Q Now, am I correct, Dr. Tierney, that your
2 analysis attributes all improvements in PEPCO's
3 SAIDI and SAIFI that occurs between January 1,
4 2015 and December 31, 2020 to the merger?

5 A Yes.

6 Q Let me ask you now --

7 A The merger commitments, yes.

8 Q Let me ask you now to go to your
9 February 2015 supplemental direct testimony at
10 page 2, line 2 through page 3, line 14 and ask you
11 to read that to yourself and let me know when
12 you're ready.

13 A What was the last line?

14 Q Bear with me just a second. It was from
15 page 2, line 2 to page 3, line 14 of your
16 supplemental direct. That's (4G), I believe.

17 A Yes. Okay.

18 Q Okay. You've read that?

19 A Yes.

20 Q And you state there that you used the
21 same methodology to calculate the benefits
22 associated with the revised merger commitment,

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1 correct?

2 A Yes.

3 Q All right. And when you say you
4 calculate the net present value of merger benefits
5 to PEPCO's customers in the District to equal
6 \$155.4 million, you were talking about the sum of
7 the 33,750,000 in the customer investment fund
8 plus the \$121,620,023 calculated in table SFT 4
9 that appears at page 30 of your direct; is that
10 right?

11 A Yes.

12 Q Now, let me ask you, Dr. Tierney, to go
13 to page 9, line 9 and page -- through -- I'm
14 sorry, your direct testimony again, page 9, line 9
15 through page 10, line 12 and read that to
16 yourself.

17 A Yes.

18 Q Okay. Would you agree with me,
19 Dr. Tierney, that the Commission's adoption of the
20 electric quality of service standards makes those
21 standards legally binding on PEPCO whether or not
22 the merger occurs?

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1 A I'm not going to render a legal opinion,
2 but it is certainly my understanding that the
3 Commission holds the companies accountable to
4 those.

5 Q Okay. Would you also agree with me that
6 the Commission adopted the EQSS in 2011? You
7 acknowledge that in your testimony, right?

8 A Yes.

9 Q Let me ask you to take a look at what's
10 in evidence as Exhibit DCG 44. That's commission
11 order number 16626 which denies PEPCO's request
12 for reconsideration of the Commission's order
13 adopting the EQSS.

14 A I have it.

15 Q Did you review that Commission order in
16 connection with the preparation of your testimony
17 or the analyses discussed in your testimony?

18 A Yes, but I have not reviewed it since
19 then, I'm sorry to say, so it may take me a minute
20 here.

21 Q That's all right. I didn't have any
22 questions about it. I just wanted to make sure

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1 you had reviewed it.

2 A Yes.

3 Q Okay. Good. Would you agree with me,
4 Dr. Tierney, that the -- the Commission's adoption
5 of the EQSS and the obligation imposed on PEPCO to
6 meet the levels of SAIDI and SAIFI set forth in
7 those standards are circumstances that occurred in
8 July of 2001 and became final in November 2001 --
9 sorry, 2011, July 2011 and November 2011?

10 A I don't recall that, those dates, but
11 subject to check...

12 Q Okay. And both of those dates are well
13 prior to the announcement of the merger on
14 April 30, 2014, correct?

15 A Yes.

16 Q All right. And you say in the portion of
17 your testimony we were just looking at that you're
18 aware of the legislation authorizing revenue bonds
19 to, in your words, quote, help support
20 undergrounding of parts of the PEPCO distribution
21 system, unquote.

22 Are you referring in that portion of your

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1 testimony to the Electric Company Infrastructure
2 Improvement Financing Act of 2014?

3 A Yes.

4 Q Are you aware that that bill was adopted
5 on first and second readings on January 7, 2014
6 and February 4, 2014?

7 A No.

8 Q Do you know whether that bill was signed
9 by Mayor Gray on March 3rd, 2014?

10 A I have no recollection of the dates.

11 Q Okay. Would you accept those dates,
12 subject to check, Dr. Tierney?

13 A Sure.

14 Q Would you agree with me that those dates
15 are all before April 30, 2014 when the merger was
16 announced?

17 A Yes.

18 Q Now, let's take a look at a couple of
19 other data points, Dr. Tierney. Let me ask you to
20 look at Exhibit DCG 64, which is the response to
21 staff data request 6-1 to the joint applicants.

22 A Okay. I've never seen this before.

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1 Q So you did not consider that
2 information -- I'm sorry. Let me back up.

3 That is a data request response from the
4 joint applicants, is it not?

5 A Yes.

6 Q To a data request propounded by
7 commission staff, yes?

8 A Yes.

9 Q Okay. And what does it say that PEPCO's
10 2014 SAIDI was?

11 A Well --

12 MR. KULAK: Your Honor, I just -- this is
13 a little peculiar here. It's a DR request that
14 was not sponsored by this witness. He's asking
15 her to now read it.

16 MR. COYLE: The witness -- let me respond
17 to that, if I may. Were you finished? I don't
18 mean to intrude.

19 COMMISSIONER FORT: Excuse me. Are you
20 objecting to it? I didn't hear an objection. Are
21 you just asking a question? What are you doing
22 with it?

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1 MR. KULAK: I am objecting to this
2 particular procedure. If he wants to ask her
3 about the document, that's fine. If he's trying
4 to read it into the record as if she's sponsoring
5 it, I'm concerned.

6 MR. COYLE: Well, my point is --

7 CHAIRMAN KANE: Mr. Coyle?

8 MR. COYLE: My reason for doing all this
9 is that Dr. Tierney has testified that she has
10 prepared an analysis of the economic impacts of
11 the applicants' commitments that are based on
12 interpolating a set of points, SAIDI and SAIFI.

13 It will emerge as a result of this
14 questioning that her analysis doesn't incorporate
15 the 2014 information and that the analysis is,
16 therefore, subject to challenge on the basis that
17 it doesn't incorporate this among other piece of
18 information.

19 CHAIRMAN KANE: It might be simpler just
20 to ask her whether or not it incorporates the 2014
21 information as a --

22 COMMISSIONER FORT: Or you can lay the

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1 foundation to cross her on the document in front
2 of her, and I haven't heard you do that. So those
3 are two options, and you can choose which one you
4 want.

5 MR. COYLE: All right.

6 BY MR. COYLE:

7 Q I think I can make it simple.

8 Dr. Tierney, you said you've never seen DCG 64
9 before, correct?

10 A That's correct.

11 Q So would it be fair to infer from that
12 that you didn't factor it into the analysis in
13 your testimony that we've been discussing?

14 A No. I think I responded previously to
15 OPC's question about this and said I did not, and
16 that was because I had understood that I needed to
17 very surgically update my analysis and didn't want
18 to introduce a lot of other factors associated
19 with updates besides just the revised commitment.
20 So I was very clear about -- that's what I did.

21 And so I did not reflect 2014 update
22 numbers.

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1 Q Okay. Now, how does the information
2 conveyed in DCG 64 compare to the SAIDI and SAIFI
3 that you used for 2015 in your original work paper
4 in AOBA 91?

5 COMMISSIONER FORT: I'm sorry. I didn't
6 have the document. Is that same document we were
7 just talking about?

8 MR. COYLE: It's AOBA 91. And DCG 64 is
9 the data request response with the 2014 data in
10 it.

11 COMMISSIONER FORT: The one that we just
12 made a ruling on?

13 MR. COYLE: Yes.

14 COMMISSIONER FORT: You're not going to
15 do it if we just made a ruling that you can't use
16 that document.

17 MR. COYLE: There hasn't -- I'm sorry. I
18 wasn't aware there had been a ruling.

19 CHAIRMAN KANE: We're using the AOBA
20 document.

21 MR. COYLE: We're using the AOBA
22 document.

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1 COMMISSIONER FORT: That's what I was
2 asking, which document --

3 CHAIRMAN KANE: And that's the only one
4 we're using.

5 COMMISSIONER FORT: That's the only one
6 we're using?

7 MR. COYLE: No, I was asking her how the
8 information in DCG 64 compared to the information
9 set forth in AOBA 91.

10 COMMISSIONER FORT: And is DCG 64 the
11 document that we were just discussing when the
12 joint applicants objected?

13 MR. COYLE: That's correct.

14 COMMISSIONER FORT: So I thought that the
15 Chair -- did you not hear her make a ruling on
16 that, that you were not asking on that document?
17 We gave you two choices. You can make a
18 foundation for using the document that the witness
19 says she has not seen or did not sponsor, or you
20 could find a different way of asking the question.
21 But you can't go back to the document that's not
22 in front of us, right?

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1 MR. COYLE: With --

2 COMMISSIONER FORT: She doesn't have the
3 document in front of her. You haven't made a
4 foundation to ask her -- to cross-examine her on
5 that document.

6 MR. COYLE: The documents -- well, again,
7 I don't mean to be antagonistic. We can get at
8 this a different way.

9 COMMISSIONER FORT: All right. Why don't
10 we get at it a different way.

11 MR. COYLE: I recognize that it's late in
12 the day. I don't mean to fray tempers here.

13 I would observe, however, that DCG 64 is
14 already in evidence, so that -- it seems me the
15 witness is certainly capable of saying how it
16 compares to what she did in her analysis.

17 CHAIRMAN KANE: Or indicating whether or
18 not she's familiar with DCG 64.

19 MR. COYLE: She's already --

20 CHAIRMAN KANE: Earlier -- the ruling was
21 on the work papers --

22 MR. COYLE: Right.

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1 CHAIRMAN KANE: -- that we're not going
2 to introduce the work papers.

3 MR. COYLE: Right. Right. She's also
4 already said she hadn't seen DCG 64. So --

5 CHAIRMAN KANE: All right.

6 MR. COYLE: -- I think that's
7 Commissioner Fort's point and I think I'll drop
8 it.

9 CHAIRMAN KANE: Thank you.

10 COMMISSIONER FORT: I would think that
11 you could figure out a different way to ask that
12 question, you know, if there's some information in
13 there that you want to use. But you can't have
14 her look at the document and question her on the
15 document.

16 MR. COYLE: Thank you.

17 BY MR. COYLE:

18 Q Let me ask you to go back to --

19 MR. COYLE: Thank you, Commissioner.

20 BY MR. COYLE:

21 Q Let me ask you to go back to AOBA 91,
22 Dr. Tierney, and identify --

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1 A Just a second.

2 Q That's the work paper, your original work
3 paper.

4 A I thought that was 82, so what number am
5 I working with here? Is AOBA identification
6 Exhibit 82 -- is that 91?

7 Q Yeah, that's 91. It's now 91.

8 A Thank you. Sorry.

9 Q It's all right.

10 CHAIRMAN KANE: Originally marked --
11 preliminarily marked as 82, now marked for
12 identification as 91.

13 THE WITNESS: Thank you.

14 BY MR. COYLE:

15 Q Now, let me ask you, the first place --
16 actually, let me ask you to do an arithmetic
17 conversion first, if I could. If you multiply
18 1.61 times 60, what do you get, Dr. Tierney?
19 Would you accept 96.6, subject to check?

20 A Yes.

21 Q Okay.

22 A I actually already did, so I don't have

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1 to check.

2 Q All right. Does a SAIDI as low as 97
3 appear anywhere on the data set that you used to
4 calculate your original numbers?

5 A No.

6 Q Do you know, as you sit here, whether a
7 SAIDI as low as 97 appears in the interpolated
8 data set that you used to calculate the numbers
9 that appear in the revised version of your direct
10 testimony?

11 A I believe so.

12 Q Okay. Do you know in what year that
13 appears?

14 A I don't remember.

15 Q Okay. All right. Fair enough.
16 How about a SAIFI as low as 69? Going to
17 AOBA 91, when is the first time a SAIFI of 0.69
18 appears?

19 A I'm sorry, I don't have those numbers
20 memorized. I don't remember.

21 Q I'm just -- right now I'm just asking you
22 about what's in front of you, AOBA 91, the

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1 original work papers. What's the first place in
2 that set of interpolated numbers that you use a
3 SAIFI as low as 69?

4 A 2018, if I'm understanding your question
5 right.

6 Q You're understanding my question
7 perfectly. Thank you.

8 So your analysis of the economic benefits
9 of the enhanced reliability commitments is
10 untethered from actual data, isn't it,
11 Dr. Tierney?

12 A I wouldn't put it that way. I would put
13 it that it is tethered at a historical period,
14 which is what I understand that Exelon used with
15 PEPCO in identifying a trajectory that led to
16 their commitments which are, again, a tethered
17 period at the end of the 2018 to 2020 period.

18 Q Okay. And not to beat a dead horse, but
19 you did agree with me earlier that your analysis
20 attributes all improvement in PEPCO's SAIDI and
21 SAIDI (sic) performance between 2015 and 2020 to
22 the joint applicants' enhanced reliability

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1 commitments.

2 A Yes.

3 Q Okay. Regardless of what levels might
4 have been attributable to things like the
5 existence of the EQSS.

6 A We understand each other, yes, that's
7 what it is.

8 Q Okay. And regardless of any improvement
9 that might be attributable to the D.C. power line
10 underground program?

11 A I did not distinguish between those.

12 Q Great. Inviting your attention back to
13 Exhibit (4A)-2 at page 2, item 7, so we have it in
14 mind, the commitment is to attain a three-year
15 average of SAIDI of 90 between 2018 and 2020 --

16 A I'm sorry.

17 Q Yep.

18 A Would you start -- I now have the
19 document.

20 Q Okay.

21 A I'm trying to listen.

22 Q All right.

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1 A So please start over.

2 Q The commitment set forth in page 2,
3 item 7 --

4 A Yep.

5 Q -- of Exhibit (4A)-2 is to attain a
6 three-year average SAIDI of 90 --

7 A Yes.

8 Q -- correct, between 2018 and 2020?

9 A Yes.

10 Q Within PEPCO's existing forecasted
11 capital budget for reliability-driven distribution
12 expenditures, yes?

13 A Yes.

14 Q And within, quote, forecasted, unquote,
15 O&M budgets, correct?

16 A Yes.

17 Q Although we know, and I believe you've
18 testified previously, that the budgets set forth
19 in table 1 for O&M are not restricted to PEPCO
20 D.C. and include P.G. and Montgomery County; is
21 that right?

22 A I don't know that I said anything about

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1 that one way or the other.

2 Q All right. Do you know whether those
3 budgets include Prince George's and Montgomery
4 Counties?

5 A I assume you asked someone who does know
6 the answer. I don't know.

7 Q Okay. You didn't investigate that?

8 A No.

9 Q Okay. And were you aware that PEPCO
10 doesn't actually forecast O&M budgets, so that the
11 ones listed in the line item in table 1 of
12 commitment 7 are just a baseline budget escalated
13 at a rate of 3 percent a year?

14 A I don't know that.

15 Q Okay. And as you sit here today, do you
16 have any idea how the joint applicants propose to
17 allocate those O&M budgets among the District,
18 Prince George's County and Montgomery County,
19 Maryland?

20 A I don't know that.

21 Q Okay. Now I'd like to invite your
22 attention back to Mr. Gausman's direct testimony,

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1 Joint Applicants' Exhibit (E) at page 4, lines 2
2 to 3 which we were looking at earlier.

3 A Yep.

4 Q Do you believe Mr. Gausman is accurate
5 when he says that the SAIDI required by the
6 Commission's EQSS is 99 minutes for 2018, 89
7 minutes for 2019 and 81 minutes for 2020?

8 A I was reading on page 4, which is what I
9 thought we were on.

10 Q Of Mr. Gausman's testimony?

11 A Yep.

12 Q Of his direct. I think -- I think you
13 might be in the wrong place. Let me know when you
14 have it, Dr. Tierney.

15 A Yeah, I was on the right page. I didn't
16 see the numbers you said.

17 Q I'm sorry. And that may be because you
18 need to do a little math.

19 A Sorry.

20 Q Remember the convention is to multiply by
21 60, right?

22 A Yes, I did, but I didn't remember them as

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1 virtual numbers on the page.

2 Q I'm sorry.

3 A So...

4 Q Do you want to do the math and confirm to
5 me whether I'm right or not?

6 A What was it -- I'm very sorry to hold the
7 attention of everybody and hold you all up, but I
8 didn't follow that.

9 Q Okay. Multiplying by 60, you get an EQSS
10 SAIDI requirement of 99 minutes for 2018, 89
11 minutes for 2019, and 81 minutes for 2020?

12 A I am now with you with this
13 clarification. Thank you.

14 Q My pleasure, Dr. Tierney. And you agree
15 with me, correct?

16 A Those are the numbers, yes.

17 Q All right. If you add those three
18 numbers and divide by three, the average is 90; is
19 that right?

20 A I think so, yes.

21 Q Okay. So the SAIDI aspect of the joint
22 applicants' commitment number 7 is actually the

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1 same one that's required by the Commission's EQSS,
2 is it not, on a three-year average basis?

3 A I guess so, if it's exactly the same
4 number. But is it over the same time period that
5 the EQSS sits?

6 Q Well, I just asked you to look at the
7 EQSS data, Dr. Tierney, did I not, and
8 Mr. Gausman's rendition of what the EQSS requires
9 for SAIDI?

10 A Yes, and those are annual numbers, and it
11 does come out to 90, but it's not exactly the same
12 thing as what I thought they were, but...

13 Q Okay. The three-year average of what the
14 Commission's existing regulations under EQSS
15 require is 90, is it not, for 2018 through 2020,
16 converting from hours to minutes as we've done?

17 A I am doing the math as we speak.

18 Q Okay.

19 A It's approximately 90.

20 Q It's actually a little lower than 90,
21 isn't it?

22 A Yes.

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1 Q Okay. So the claimed benefit of
2 commitment number 7 is not the attainment of the
3 three-year average SAIDI of 90, is it? And that's
4 required by the EQSS.

5 A As I have said many times, I have
6 understood the commitment of the claimed enhanced
7 reliability benefits to be the tripartite elements
8 of the actual performance target, the penalty and
9 the budget.

10 Q Okay. Well, let's talk about the budget.
11 You can see in table 1 on Exhibit (4A)-2 --

12 A Which is, in layman's term?

13 Q That's the list of commitments.

14 A Thank you.

15 Q Right? Thank you. Are you with me?

16 A Yes.

17 Q Okay. Commitment number 7, table 1, you
18 see the capital expenditure budgets and the O&M
19 budgets in table 1 that we were just talking
20 about?

21 A I do.

22 Q So that's the budgetary commitment that

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1 you're talking about?

2 A Yes.

3 Q Okay. Do you have a number in mind as to
4 what additional level of capital expenditure
5 beyond PEPCO's current distribution
6 reliability-driven CapEx budget and its
7 distribution reliability O&M budget for the
8 District might be required to meet the SAIDI
9 required by the EQSS on average over the three
10 years between 2018 and 2020?

11 A I do not, and that is because I have
12 depended upon the testimony of the joint
13 applicants' witnesses who have commented on such
14 things, and believe that they are concerned that
15 they can't achieve -- that PEPCO can't achieve the
16 EQSS on the current budgets.

17 Q Were you watching the hearing when I
18 asked Mr. Gausman the same question I just asked
19 you and he told me he didn't know the answer?

20 A I did not see that part of the hearing.

21 Q Okay. Now, is that the SAIFI aspect of
22 the joint applicants' commitment number 7 is 0.66

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1 interruptions; is that right?

2 A Yes.

3 Q And the Commission's EQSS requirement for
4 SAIFI for 2018 is -- 0.98 interruptions for 2018,
5 0.95 interruptions for 2019, and 0.89
6 interruptions for 2020; is that correct?

7 A Gosh, I was following along and it looked
8 like you were two numbers off to me.

9 Q Do you want to look at Mr. Gausman's
10 direct at pages -- you don't have to do any --

11 A 2018 is .95?

12 Q That's correct.

13 A I misheard you then.

14 Q Well --

15 A Okay. So it's -- 2018 is .095. 2019,
16 0.92. 2020, 0.89. I didn't hear that that's what
17 you --

18 Q I may have misspoke. I think you're
19 correct. Thank you.

20 And adding those three SAIFI figures for
21 2018, 2019, 2020 and dividing by three yields an
22 average of what, Dr. Tierney?

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1 A About 90.

2 Q Okay. So a SAIFI of 0.66 interruptions
3 would be an improvement over the EQSS requirements
4 for that period, 2018 through 2020, correct?

5 A Yes.

6 Q Do you know what the actual SAIFI level
7 was that PEPCO achieved in 2014?

8 A No.

9 Q Let me ask you, do you believe that
10 Mr. Gausman would know?

11 MR. KULAK: Objection, Your Honor.

12 THE WITNESS: Yes, I do.

13 Did you say object? I didn't hear.

14 MR. KULAK: I did object to that
15 question.

16 CHAIRMAN KANE: Objection sustained.

17 MR. KULAK: Thank you, Your Honor.

18 BY MR. COYLE:

19 Q Let me ask you, Dr. Tierney, to take a
20 look at what is in evidence as Exhibit DCG 42,
21 which is part of the joint applicants' response to
22 data request AOBA 1-10, attachment A. In

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1 particular, I'm -- well, let me let you get to
2 attachment A. Let me know when you're ready.

3 A So I have the document.

4 Q Let me ask you to turn to attachment A
5 which is a document entitled, The SAIFI/SAIDI
6 component breakdowns by jurisdiction, dated May 8,
7 2014.

8 A Okay.

9 Q Were you in the hearing room when I
10 examined Mr. Gausman concerning this document
11 yesterday?

12 A No.

13 Q You were not. Okay. Let me ask you to
14 turn to page --

15 MR. KULAK: Your Honor, I do need to note
16 that is one of the documents that's confidential
17 for the record. We're fine with Mr. Coyle
18 questioning on it. But for your reference --

19 CHAIRMAN KANE: Thank you for that, for
20 the record.

21 BY MR. COYLE:

22 Q Let me ask you to turn to the page

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1 numbered 10 of 29 in the lower right-hand corner
2 of that document, Dr. Tierney.

3 A Okay.

4 Q In the course of your analysis, did
5 anyone make you aware of what PEPCO forecasted its
6 stand-alone performance in terms of SAIFI to be
7 over the next -- between the period 2014 and 2018?

8 A I saw very general information. I don't
9 remember seeing this. And so I think the answer
10 to your question is generally yes, but not
11 specifically.

12 Q Right. Let me ask you, without reference
13 to the document at this point, do you recall
14 hearing whether PEPCO expected to be able to
15 achieve a SAIFI as low as 0.7 interruptions by
16 year end 2017?

17 A No, I don't remember that.

18 Q Do you recall hearing that PEPCO
19 anticipated being able to attain a SAIFI as low as
20 0.71 interruptions by year end 2015 on a
21 stand-alone basis?

22 A I don't recall that.

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1 Q Okay. Dr. Tierney, what did you look at,
2 if you didn't look at the information that's in
3 front of you now as part of Exhibit DCG 42, in
4 terms of assessing PEPCO's stand-alone capability
5 to attain compliance with the Commission's EQSS?

6 A I relied on the testimonies of Mr. Alden
7 and Mr. Gausman. I did not go to their underlying
8 work papers. And additionally, I relied on the
9 testimony of Mr. Rigby with regard to concerns
10 about the ability to achieve the EQSS
11 notwithstanding the intention to do so.

12 Q Okay. Let me just ask you, Dr. Tierney,
13 still on page 10 of the attachment to Exhibit
14 DCG 42 --

15 A Great.

16 Q Okay. The last bullet on the bottom of
17 page 10 says what? The page is headed, PEPCO D.C.
18 SAIFI breakdown.

19 MR. KULAK: Your Honor, I think we have
20 the same problem. Mr. Coyle is asking about a
21 document she's never seen before, that she has
22 explained she has not relied upon, and he's asking

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1 her to read the contents of it into the record.

2 CHAIRMAN KANE: Mr. Coyle, I think we've
3 been over this, and these numbers.

4 MR. COYLE: Well, Your Honor, I think I'm
5 entitled to establish the limits of the witness'
6 grounding in fact for her opinion. The opinion is
7 being offered to support a claim that something is
8 worth \$120 million. It seems to me I should be
9 allowed some latitude in testing what she knows
10 and doesn't know.

11 MR. KULAK: Yes, but asking her about
12 documents she's never seen and text she's never
13 seen to try to get that into the record is not an
14 appropriate way of doing that.

15 MR. COYLE: Bear with me just a second.

16 (Discussion held off the record.)

17 MR. COYLE: Let me withdraw my question
18 and see if I offer something a little bit less
19 controversial.

20 BY MR. COYLE:

21 Q Dr. Tierney, with respect to whatever
22 investigation you managed to do with respect to

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1 PEPCO's stand-alone plans for attaining compliance
2 with SAIDI and SAIFI requirements under the EQSS,
3 do you know whether PEPCO's analyses on a
4 stand-alone basis included the effects of
5 undergrounding projects that were then anticipated
6 to occur?

7 A I don't. What I relied upon was the
8 testimonies of the reliability witnesses of the
9 joint applicants as well as the CEO of PEPCO which
10 indicated that there was a difference between what
11 PEPCO thought could happen and what the merger was
12 providing in terms of the enhanced reliability
13 commitments. I did not go back and look at the
14 underlying reliability plan.

15 Q Okay. So isn't it a fact, Dr. Tierney,
16 that whatever the incremental effect of the merger
17 might be, if any, on PEPCO's attainments
18 concerning compliance with the Commission's EQSS,
19 it's quite a bit less than the numbers that you
20 fed into the ICE calculator to come up with
21 \$121 million reflected in table SFT 4 on page 26
22 of your direct testimony?

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1 A The numbers I provided, I think, were
2 based on a sound and reasonable expectation. We
3 have seen trends occurring which would reduce the
4 amounts of benefits that were calculated in that
5 method.

6 Q Dr. Tierney, to be clear -- and I don't
7 mean to beat a dead horse here, but you did tell
8 me that you attributed all improvements in PEPCO's
9 EQSS performance for SAIDI and SAIFI between 2015
10 and 2020 to the enhanced reliability commitments
11 under the merger in reaching your \$121 million
12 figure in table SFT 4, correct?

13 A So you want me to say it again?

14 Q It's all right. That is a correct
15 understanding of your testimony, is it not?

16 A Yes.

17 Q Okay. Thank you.

18 And Dr. Tierney, would you agree with me
19 that all of the improvements in EQSS performance
20 for SAIDI and SAIFI that are embedded in
21 commitment number 7, other than the commitment not
22 to exceed the existing five-year budget for

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1 distribution reliability CapEx and distribution
2 O&M are attributable either to the existing
3 Commission EQSS requirements or to pre-merger
4 projections by PEPCO of what it could achieve on
5 its own?

6 A Well, first of all, I don't know what
7 PEPCO could estimate pre-merger about what it
8 could achieve on its own. I think I've said I
9 don't know that one.

10 I think I have said that the budget
11 matters a lot in terms of the three-part
12 commitment that exists with reliability
13 improvement. So it's the budget, the firm
14 numbers, the penalty.

15 Q Okay. And you, as you sit here, have no
16 idea personally, based on any investigation you've
17 done, whether PEPCO would exceed its proposed
18 reliability-driven distribution CapEx or its O&M
19 budgets or, if so, by how much in order to achieve
20 compliance with the existing EQSS SAIDI and SAIFI
21 requirements for 2018 through 2020?

22 A No. But I really did take seriously the

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1 statement by Mr. Rigby that he was concerned that
2 they would not be able to achieve those
3 performance metrics with the planned budget.

4 Q Nobody has ever quantified for you what
5 that impact might be?

6 A No.

7 Q And you have no idea what it might be as
8 you sit there today?

9 A I don't.

10 Q Thank you. Now, let's talk about the
11 customer investment fund. Would you agree with
12 me, Dr. Tierney, that it is appropriate to
13 evaluate whether the commitment number 6, customer
14 investment fund, actually confers direct and
15 traceable benefits on customers in terms of
16 whether or not it is outweighed by other
17 considerations by including, for example, a net
18 loss of employment in the District as a result of
19 the merger?

20 A I was listening very carefully and I
21 don't know the punch line of the question. So
22 tell me again. I'm sorry.

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1 Q Do you want me to repeat the question or
2 rephrase it?

3 A Rephrase it, please.

4 Q I kind of like the way it was phrased.

5 A Well, I'm sorry. It was a very, very
6 long sentence.

7 Q Would you agree with me, Dr. Tierney,
8 that it's important to evaluate whether or not
9 commitment number 6, the customer investment fund,
10 actually confers a direct and traceable net
11 benefit on District customers?

12 A Sure. I understand that that's very much
13 the focus of attention of one portion of this for
14 the Commission.

15 Q Okay. And would you agree with me that
16 the customer investment fund might not confer a
17 direct and traceable net benefit on District
18 customers if it is outweighed by, for example, a
19 net loss of employment in the District occasioned
20 by the need to achieve merger synergies?

21 A I would not agree with that. That is a
22 tangible direct large amount of money. The

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1 Commission will make determinations about how it
2 compares to any other aspect of the merger, but
3 with regard to a direct and traceable benefit of
4 the customer investment fund, I think that's
5 pretty clear.

6 Q So you don't think the Commission, in
7 evaluating whether the customer investment fund is
8 a direct and traceable benefit of the merger,
9 ought to look at whether it's really a net benefit
10 or whether it's outweighed by a loss of District
11 employment that has occurred as a result of
12 achieving merger synergies?

13 A Well, as I said before, I believe that
14 there are various elements of the moving parts of
15 the employment. Would you like me to go over them
16 again?

17 Q I'm sure we will, Dr. Tierney, but this
18 will go quicker if you let me ask the questions.
19 Trust me.

20 A And what was the question?

21 Q I hadn't asked one. You were answering.
22 If you've lost your place, I'll start again.

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1 A Thank you.

2 Q Isn't it true that unless you look at the
3 totality of what is being gained and lost as a
4 result of the merger, you can't really tell what a
5 direct and traceable net benefit to customers is?

6 A Well, when I first heard you ask me the
7 question, I did not hear you say the word "net."
8 I thought you were saying the direct and traceable
9 benefit about the customer investment fund.

10 Q Okay.

11 A So yes, it is important to look at all of
12 the elements. I believe the customer investment
13 fund is a very large element of that and, in fact,
14 one looks at these various other employment
15 issues, and I still believe it is a net benefit.

16 Q Okay. Would you go to your rebuttal
17 testimony, please, Dr. Tierney, Joint Applicants'
18 (3G), beginning at page 15, line 16 and read over
19 to page 16, line 4.

20 A 15? Page?

21 Q Page 15, line 16 to page 16, line 4.

22 A Yes.

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1 Q Okay. Now, you say there that, and I'm
2 quoting, Even in the event the merger ends up
3 leading to reductions in PHI employment in the
4 District (which it now appears will not occur) it
5 seems unlikely that such changes -- however
6 unfortunate for the actual people affected --
7 would, in aggregate, exceed the number of job
8 additions (1506 to 2407 additional job years) I
9 estimated to occur in the District's overall
10 economy as a result of the merger. Directionally,
11 the merger can reasonably be seen as leading to
12 net positive job creation in the District's
13 economy rather than in a net loss of jobs, closed
14 quote.

15 That's your testimony, right?

16 A Yes.

17 Q Okay. Now, I'd also invite your
18 attention to footnote 22 at the bottom of page 16
19 which provides an explanation of the difference
20 between jobs and job years.

21 A Yes.

22 Q Okay. Since that's your summary, I

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1 assume you'll vouch for it.

2 A Yes, and we've gone through this, as you
3 may have heard, earlier today.

4 Q And I don't propose to go through it
5 again. I just wanted to put out a placeholder
6 where you had explained the difference. Thank
7 you.

8 A Yes.

9 Q Now, I would like to take a look at some
10 facts and see how they are incorporated into your
11 views as expressed in the part of your testimony I
12 just quoted.

13 You were discussing with Mr. Gray earlier
14 this afternoon the relocation of 50 PEPCO Energy
15 Services employees from Arlington, Virginia to the
16 District pursuant to joint applicants' commitment
17 number 18, correct?

18 A Yes.

19 Q I'd like to ask you to take a look at
20 what is in evidence as Exhibit DCG 84.

21 A I think I've got it.

22 Q This is the confidential -- joint

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1 applicants' confidential response to data request

2 AOBA 1-23, attachment A, errata version number 1.

3 And before I ask you anything about it --

4 MR. COYLE: -- I'll inquire of counsel

5 for the joint applicants, since this is a

6 confidential document, whether the usual

7 understandings apply with respect to examining a

8 witness on a confidential document.

9 MR. KULAK: It does, and we hope you will

10 lay the appropriate foundation as well.

11 BY MR. COYLE:

12 Q Dr. Tierney, were you present in the

13 hearing room yesterday when I was cross-examining

14 Mr. Khouzami?

15 A For part of the time.

16 Q Okay. Would you take a minute and look

17 through Exhibit DCG 84 and tell me whether you --

18 first of all, whether you've ever seen that

19 document before?

20 A I don't recall ever seeing it before.

21 Q Do you recall being present for

22 Mr. Khouzami's cross-examination with respect to

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1 that document yesterday?

2 A I don't know. I did not have the
3 document in front of me, and it's -- I don't
4 remember as a result of that, because I haven't
5 seen the document before.

6 Q All right. Let me ask you whether, in
7 formulating your view that the merger can
8 reasonably be seen as leading to net positive job
9 creation in the District, you did any
10 investigation concerning the probable duration of
11 the employment of the 50 PES employees, PEPCO
12 Energy Services employees, who are being moved
13 from Arlington to the District?

14 A No, I didn't.

15 Q Okay. So if they were only here for six
16 months and then their jobs were eliminated, would
17 that influence your view about the merger being
18 net positive?

19 A Not necessarily. And the reason I say
20 that is I honestly don't think that there's any
21 job that is a permanent job in the District, as
22 much as we would all love -- everyone here in this

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1 room would like to think of themselves as having
2 permanent jobs.

3 Q Do you have an understanding,
4 Dr. Tierney, as to the joint applicants' plans for
5 consolidation of the unregulated portions of their
6 respective businesses, PEPCO Energy Services and
7 Constellation?

8 A No.

9 Q When you were formulating your views
10 about whether or not the merger was net
11 positive -- whether the merger would lead to net
12 positive job creation in the District, did you
13 investigate the impacts of possible consolidation
14 of PEPCO Energy Services and Constellation on
15 regulated operations?

16 A I relied upon the witnesses -- other
17 witnesses who are expert and knowledgeable of
18 those issues.

19 Q And could you tell me which of those
20 witnesses ventured any opinion at all about how
21 long those 50 jobs were likely to remain?

22 A No. As I said, I relied on Mr. Khouzami

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1 for information about jobs and those movements of
2 jobs from one place to another and synergy
3 impacts. And I don't consider, practically
4 speaking, any job as a forever job.

5 Q Okay. But you, as you sit there, don't
6 have any idea how long any or all of those jobs
7 are likely to last once they're moved across the
8 river?

9 A No, I don't. Nor do I know about any job
10 at PHI or PEPCO in the absence of the merger.

11 Q Okay. Now, is it also true, Dr. Tierney,
12 that your view that the merger can reasonably be
13 seen as leading to a net positive job creation in
14 the District economy rather than net loss of jobs
15 is animated by the joint applicants' commitment
16 number 17, Exelon commits in good faith -- excuse
17 me -- Exelon commits to make a good-faith effort
18 to hire, within two years of the merger closing
19 date, at least 102 union workers in the District
20 of Columbia?

21 A Yes.

22 Q Let me ask you to take a look at what's

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1 in evidence as Exhibit DCG 91 which is the
2 response to data request DCG 4-8, attachment A.

3 A I have it.

4 Q Okay. Have you ever seen that document
5 before, Dr. Tierney?

6 A No.

7 Q Okay. Do you recall whether you were
8 present in the hearing room for my examination of
9 Mr. Khouzami concerning this document yesterday?

10 A Again, I don't remember because, since I
11 didn't have a document in front of me and I was
12 listening to numbers, but not -- I don't have all
13 the correspondence. I don't recall.

14 Q Okay. So would it also be true that you
15 have no idea whether the 102 bargaining unit
16 positions that are going to be the subject of this
17 good-faith effort are really positions that exist
18 today that are coming open because of retirements
19 or other forms of attrition so that they involve
20 no net job gain?

21 A I don't know that it's no net job gain,
22 but I definitely heard that there was some

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1 uncertainty about attrition and other things .

2 But I definitely did not hear yesterday a no net
3 job gain.

4 Q In the course of your investigation with
5 respect to commitment 17 and its role in your
6 analysis of the economic impacts of the proposed
7 merger, did you have occasion to inquire of anyone
8 whether commitment number 17 was going to result
9 in new employment or whether it was simply cycling
10 new employees through existing jobs?

11 A I would put it differently than simply
12 cycling. I heard that there were changes going on
13 in the workforce and that these could fill some of
14 those positions, but I don't know -- I never heard
15 that it would be no net job.

16 Q Okay. But you don't know how much, if
17 any, of the 102 positions that are subject to this
18 good-faith effort involve new positions and how
19 many involve existing positions?

20 A I don't.

21 Q Okay. Now, let me ask you to take look
22 at joint applicants' confidential Exhibit (3F)-2.

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1 A May I put away this other --

2 Q Yeah, we're finished with that. You've
3 never seen it, so I couldn't ask you about it.

4 A Okay.

5 Q You familiar with this document, aren't
6 you, Dr. Tierney?

7 A Sorry, I don't think I've seen this
8 document before.

9 Q Confidential Exhibit (3F)-2?

10 A I don't recall seeing it before.

11 Q Okay. Are you aware, without regard to
12 the document, whether the joint applicants
13 presently project that they will be achieving
14 labor synergies involving the elimination of a net
15 of 257 full-time equivalent positions?

16 A Yes, I do know that.

17 Q Okay. And 57 of those positions are
18 open, and 200 are currently filled, to your
19 understanding?

20 A Yes.

21 Q All right. Did you hear Mr. Khouzami in
22 the hearing yesterday say that the joint

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1 applicants have not yet decided where those
2 full-time equivalent positions will be eliminated?

3 A Yes, I did hear him say that.

4 Q So you are speculating when you say in
5 your rebuttal testimony at page 15, line 16 to
6 page 16, line 4 that even in the event the merger
7 ends up leading to reductions in PHI employment in
8 the District, the merger can reasonably be seen as
9 leading to net positive job creation in the
10 District's economy rather than a net loss?

11 A I would not characterize that as
12 speculating. I would characterize it as some
13 reasonable looking at the numbers. And what I
14 specifically have in mind is my table, SFT 5 I
15 believe it is. If you do the math, just basic
16 math, from what I heard was that there is 200
17 filled positions, 50 people moving into the
18 District, 102 positions that are being added.

19 And of the 200 filled PHI positions, I
20 heard Mr. Khouzami say he didn't know, but looking
21 at a allocation of that, that was entirely based
22 on the relationship between different functions

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1 across the footprint of the companies. I think he
2 said that was 100.

3 So if you compare those to the use of the
4 customer investment fund in table 5 that spans a
5 range, none of these are, quote, permanent jobs
6 that we're looking at, and you add information
7 about the reliability benefits, even shy of the
8 numbers I came up with, it is reasonable to
9 conclude that those will be net positive.

10 Q Thank you, Dr. Tierney. Now I need to do
11 a couple of exhibits with you.

12 Let me ask you to take a look, first,
13 Dr. Tierney, at what has been marked for
14 identification as Exhibit DCG 65. That is the
15 joint applicants' response to data request
16 DCG 8-74.

17 A All right. I have it.

18 Q You are the sponsor of that response,
19 correct?

20 A Yeah.

21 Q It was true and accurate when you gave
22 it?

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1 A Yes.

2 Q True and accurate to the best of your
3 knowledge as you sit there today?

4 A Yes, with the addition of the budget that
5 we've described.

6 Q Okay. Let me ask you to go next to
7 what's been marked for identification as DCG
8 Exhibit 66, which is the joint applicants'
9 response to OPC data request 3 -- sorry, OPC data
10 request 19-3.

11 A Yes.

12 Q Are you the sponsor of that response?

13 A Yes.

14 Q The response was true and correct when
15 you gave it?

16 A Yes.

17 Q Is it still true and correct as you sit
18 there today?

19 A Yes.

20 Q Okay. Let's go next to DCG 67.

21 A I have it.

22 Q Joint applicants' response to data

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1 request DCG 8-79?

2 A Yes.

3 Q You are the sponsor of that response?

4 A Yes.

5 Q True and correct when you gave it?

6 A Yes.

7 Q True and correct as you sit there today

8 as far as you know?

9 A Yes.

10 Q DCG 68. Joint applicants' response to

11 data request DCG 2-38. You are the author of

12 that -- sponsor of that response?

13 A Yes.

14 Q True and correct when you gave it?

15 A Yes.

16 Q Still true and correct?

17 A Yes.

18 Q Okay. DCG 69, joint applicants' response

19 to data request DCG 10-48.

20 A Yes.

21 Q That is your response?

22 A Yes.

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1 Q Okay. Still true and accurate as far as
2 you know?

3 A Yes.

4 Q DCG 70, joint applicants' response to
5 data request OPC 21-12. That's your response?

6 A Yes.

7 Q Accurate when you gave it?

8 A Yes.

9 Q Still accurate today?

10 A Yes.

11 Q Okay. Great. DCG 71, joint applicants'
12 response to OPC 19-2. Your response?

13 A Yes.

14 Q Accurate when you gave it?

15 A Yes.

16 Q Still accurate?

17 A Yes.

18 Q Okay. DCG 72, joint applicants' response
19 to data request OPC 18-58.

20 A Yes.

21 Q Your response?

22 A Yes.

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1 Q Accurate when you gave it?

2 A Yes.

3 Q Still accurate?

4 A Yes.

5 Q Great. We come back to DCG 73. Okay.

6 MR. LORENZO: Your Honor, we worked out

7 a --

8 CHAIRMAN KANE: Yes?

9 MR. LORENZO: -- deal with the benefit of

10 the Chair that we would stipulate to

11 witness-sponsored exhibits --

12 CHAIRMAN KANE: Right.

13 MR. LORENZO: -- so that Mr. Coyle --

14 CHAIRMAN KANE: We don't need to go

15 through all this --

16 MR. LORENZO: So that Mr. Coyle would

17 produce in the future the list of exhibits he

18 wants and introduce --

19 CHAIRMAN KANE: We don't need -- thank

20 you for reminding me.

21 MR. COYLE: I apologize for --

22 CHAIRMAN KANE: We don't need to go

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1 through this now.

2 MR. MEIER: Thank you. Apologize.

3 CHAIRMAN KANE: Because it's all been
4 stipulated in an attempt to save some time.

5 MR. COYLE: Okay.

6 BY MR. COYLE:

7 Q Dr. Tierney, please go to Exhibit DCG 73.

8 A Yes.

9 Q Is that an article that you authored
10 along with Paul Hibbard and Pavel Darling?

11 A Yes. I would call it a report, not an
12 article.

13 Q Okay. And does that report involve,
14 among other things, the use of the IMPLAN program?

15 A Yes, on a retrospective way.

16 Q Okay. And the IMPLAN program is the same
17 program that you used to do the economic analysis
18 presented in your testimony --

19 A Yes.

20 Q -- is that right?

21 Would you turn to page 17, please, of the
22 report?

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1 A Yes.

2 Q In the first full paragraph at the top of
3 the page, the paragraph says, This analysis is
4 structured to compare two cases: One, the
5 status quo representing conditions that have
6 evolved with the implementation of the GCA --
7 that's an abbreviation for Green Communities Act,
8 correct?

9 A Yes.

10 Q -- and, two, a counter-factual case
11 representing conditions that would have existed
12 without GCA implementation.

13 Do you see that?

14 A Yes.

15 Q And would you accept, Dr. Tierney,
16 subject to check, there are a number of other
17 places in that article where you reference a
18 counter-factual case?

19 A Yes. And as I say, this was a
20 retrospective analysis.

21 Q What is a counter-factual case
22 Dr. Tierney?

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1 A You imagine a world without some
2 circumstance occurring.

3 Q Okay. Is it true, Dr. Tierney, that one
4 of the risks of using IMPLAN without a
5 counter-factual is that you can overstate
6 benefits?

7 A I wouldn't call that a risk of IMPLAN.

8 Q Why not? Why wouldn't you call it a risk
9 of IMPLAN?

10 A Without a counter-factual, IMPLAN
11 provides you with certain information about
12 incremental changes.

13 Q Why did you use a counter-factual in the
14 report that's been marked for identification as
15 DCG 73?

16 A We were asked in this report to examine
17 and imagine a world in which the Green Communities
18 Act, with very specific provisions relating to
19 energy efficiency, development of renewable energy
20 resources, would not have happened.

21 We had a historical record of what
22 actually did happen in terms of additions of

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1 energy efficiency and renewables that were
2 stimulated by the Green Communities Act. We
3 withdrew those stimulated activities and we
4 modeled the electric system without those changes
5 having occurred.

6 Q All right. Let me ask you to take a look
7 at Exhibit DCG 74, what's been marked for
8 identification as Exhibit DCG 74, and that is your
9 post-settlement testimony in Maryland Public
10 Service Commission case 9361 filed March 27th,
11 2015. Are you familiar with that document?

12 A Yes.

13 Q Do you use a counter-factual -- one or
14 more counter-factuals in connection with an IMPLAN
15 analysis in that testimony?

16 A I do not. I don't imagine what would
17 have happened without the injection of the
18 20 megawatts of solar that I know will happen with
19 this merger and won't happen with it. All the
20 rest of the world is held equal.

21 Q Thank you, Dr. Tierney.

22 MR. COYLE: I have into further questions

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1 for this witness.

2 CHAIRMAN KANE: Thank you. DC SUN? DC

3 SUN, do you have some questions?

4 MS. SPENCER: Hi. Yes.

5 CHAIRMAN KANE: Thank you.

6 CROSS-EXAMINATION

7 BY MS. SPENCER:

8 Q Dr. Tierney, my name is Cara Spencer of
9 the law firm Kaye Scholer, LLP, and I'll be asking
10 you --

11 CHAIRMAN KANE: Ms. Spencer, I know you
12 want to rush towards conclusion, dinner, but the
13 court reporter has had a very long day.

14 MS. SPENCER: I am sure she has had the
15 longest day of all of us.

16 CHAIRMAN KANE: And the court reporter
17 needed to let me know if you need another break.
18 We have probably -- looking at probably about
19 another hour.

20 THE REPORTER: Yes, I could use a break.

21 CHAIRMAN KANE: You could use a break,
22 okay. Let's take a ten-minute break before we

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1 start with DC SUN.

2 (Whereupon, a short recess was taken.)

3 CHAIRMAN KANE: All right. DC SUN,
4 you're up.

5 MS. SPENCER: Thank you, Your Honor.

6 BY MS. SPENCER:

7 Q Dr. Tierney, your quantitative analysis
8 is based solely on the joint applicants' merger
9 commitments; is that correct?

10 A Yes.

11 Q And in response to Mr. Gray earlier
12 today, you indicated that the quantitative
13 analysis actually focuses on two of the merger
14 commitments, the consumer (sic) investment fund
15 and the enhanced reliability commitments; is that
16 correct?

17 A Yes.

18 Q Did you attempt to quantify benefits from
19 any of the other merger commitments?

20 A No, I did not.

21 Q You did not. Is that because you could
22 not find any -- let me go back.

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1 Could I ask you to refer to your rebuttal
2 testimony at page 15, lines 2 through 4. I am
3 going to ask you a question about the statement
4 that you make there.

5 A Yes.

6 Q So you didn't attempt to quantify
7 benefits from any of the other merger commitments.
8 Is that because you could not find any other
9 merger commitments that proposed or contained
10 tangible and non-speculative information on which
11 to base your analysis?

12 A Yes, because I would have had to come up
13 with an estimate of what I think PEPCO's world
14 would be like in the absence of the merger. And
15 then -- and that would be an estimate, and then
16 estimate what I think that the change of the
17 merger is going to be besides those two things.

18 Q So it would have been speculative, are
19 you saying, to make an estimate or to make a
20 supposition about what things would have been like
21 absent the merger? Is that what you're saying?

22 A Yes.

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1 Q With respect to commitment number 6 --
2 and now I'm referring to Joint Applicants' (4A)-2,
3 the list of merger commitments that you discussed
4 earlier today with Mr. Gray -- do you agree with
5 testimony that Mr. Crane gave earlier in these
6 hearings, and I'll quote him, there is no
7 commitment from Exelon that any of the consumer
8 investment fund money goes to energy efficiency
9 projects and that is only a recommendation, not a
10 commitment?

11 Now, let me give you the reference of
12 that. That occurs on the transcript page 443 --
13 that's the Tuesday transcript, Tuesday of last
14 week -- lines 4 through 8.

15 CHAIRMAN KANE: For the record, you're
16 referring to Tuesday, March 31st?

17 MS. SPENCER: Yes, thank you.

18 CHAIRMAN KANE: We've had two Tuesdays.

19 MS. SPENCER: That's right.

20 THE WITNESS: You asked me about
21 demand -- you just described energy efficiency as
22 a recommendation, and it doesn't look like that

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1 was the immediate question right beforehand. So
2 let me go back and review.

3 BY MS. SPENCER:

4 Q Sorry. Let me -- so page 442 of the
5 March 31st transcript, let's see, and on to
6 page 443.

7 A I read it now, yes.

8 Q Okay. So I'm just asking you if you
9 agree with the statements that he made there that
10 I just referenced.

11 A Yes. Because what I'm reading is that
12 the commitment is to provide 33.75 million, and it
13 will be up to the Commission about how to direct
14 it.

15 Q Okay. Thank you.

16 Does your quantitative analysis as a
17 whole give the Commission any tangible and
18 non-speculative information that is specifically
19 relevant to public interest factor 7 which is
20 conservation of natural resources and preservation
21 of environmental quality?

22 A I don't know that I have looked at the

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1 whole entirety of every single thing. When asked
2 about this previously, I said that I could imagine
3 the Commission would direct the -- parts of the
4 customer investment fund toward that, and that
5 otherwise, I didn't see any harm to public
6 interest factor number 7.

7 And then I mentioned the other aspects of
8 the settlements in other areas which happen to
9 affect the District.

10 Q So if I've understood you correctly,
11 you've said that the information that your
12 quantitative analysis offers to the Commission in
13 considering public interest factor 7 is that it
14 includes a consumer investment fund which the
15 Commission could direct in any way that it wants,
16 so that it could direct it towards energy
17 efficiency measures or any other measure? Is
18 that -- did I understand you properly or no?

19 A Yeah, I'll say it differently. If the
20 Commission believes that application is not
21 sufficiently robust with regard to public interest
22 factor number 7, there is a large monetary pot

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1 that could be directed in that way by the
2 Commission.

3 Q Would you say that that information is
4 specifically relevant, that's a benefit that is
5 specifically relevant to public interest factor 7
6 that is revealed in your quantitative analysis?

7 A Sure. There's a very high bang for buck
8 associated with using the customer investment fund
9 dollars toward energy efficiency.

10 Q Thank you. What about the updated
11 quantitative analysis that you submitted in light
12 of the revised merger commitments? Is it any
13 different in this respect from the original
14 analysis?

15 A No.

16 Q No. And as you've explained, the merger
17 commitments include some benefits that can't
18 readily be quantified. You talk about this in
19 various places in your direct and rebuttal
20 testimony.

21 Are any of the unquantifiable benefits
22 that you identify in your testimony specifically

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1 relevant to public interest factor 7?

2 A I have testified in my rebuttal testimony
3 that I believe Exelon has a substantial record on
4 sustainability. And having that as the owner of
5 PEPCO will be a good partnership going forward.

6 So I guess I would add that, as I can't
7 quantify that.

8 Q But looking specifically at the merger
9 commitments, are there any of the merger
10 commitments whose benefits can't be quantified?
11 The merger commitments themselves, aside from
12 other facts about -- other information that are
13 specifically relevant to public interest factor 7
14 that you identify in your testimony.

15 I didn't see any. I wanted to confirm
16 that with you.

17 A Well, slicing hairs, I would say 23 is
18 one that describes maintenance and promotion of
19 existing programs, recognizing that those programs
20 are not now managed or administered by PEPCO, but
21 having a partner who is interested in those
22 things, as Exelon would be, I believe that that is

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1 responsive to this.

2 Q Okay. Thank you. Is it your position
3 that the Commission must approve the merger if
4 there are benefits related to the first six public
5 interest factors, even if there is no tangible and
6 non-speculative benefit related to factor 7?

7 MR. KULAK: Objection, Your Honor. I
8 think that calls for a legal conclusion.

9 THE WITNESS: Me too.

10 MS. SPENCER: Well, I am -- I'm not
11 asking for a legal conclusion.

12 CHAIRMAN KANE: Could you repeat the
13 question?

14 BY MS. SPENCER:

15 Q Is it your position that the Commission
16 must approve the merger if there are benefits
17 related to the first six factors, even if there is
18 no tangible and non-speculative benefit related to
19 public interest factor 7?

20 MS. SPENCER: I think it's a reasonable
21 inference from the testimony that Dr. Tierney --

22 CHAIRMAN KANE: You can ask her what is

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1 the understanding, what is her understanding of
2 how the Commission must make a decision.

3 BY MS. SPENCER:

4 Q Well, then I'll ask that.

5 A I heard you say "must," and I think that
6 there's very little that the Commission must do.
7 So in that -- and that's being said as a former
8 regulator. The Commission has authority and great
9 discretion to exercise here, including the
10 discretion to have added public interest factor
11 number 7 to the screening tests that they'll be
12 using for this review.

13 So I would not imagine to answer your
14 question yes, even if you had added other parts of
15 the public interest factors, just because I think
16 that that's too declarative.

17 Q Okay. Well, isn't it your position --
18 okay.

19 Let me ask you about a proposal of
20 Ms. Schoolman's. The joint applicants make a
21 binding commitment to having 2.4 percent of the
22 energy consumed in the District come from local

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1 distributed solar generation by 2023. Are you
2 aware that she has offered that proposal?

3 A I don't remember the specific proposal,
4 but I think of it in the context of the overall
5 sustainability goals of the District for solar,
6 and I understand that those exist whether or not
7 the joint applicants would agree with that.

8 Q For the record, that proposal is offered
9 on page 60 of Ms. Schoolman's direct testimony.

10 Are you aware that the objective of
11 having 2.4 percent -- actually, 2.5 percent of the
12 energy consumed in the District to come from local
13 distributed solar generation by 2023, are you
14 aware that that is law in the District?

15 A I didn't remember whether it was law, but
16 I certainly read it in the -- something to that
17 effect in the -- is it D.C. Sustainability?
18 Sustainability D.C.?

19 Q Yes. It's in there, but it has a
20 statutory base as well. So you're saying that
21 you're not aware that it was the law, but it is.

22 Okay. Do you believe that a proposal

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1 that gives the joint applicants a financial
2 incentive to meet this statutory standard bears no
3 relationship to the merger?

4 A A financial incentive to the joint
5 applicants? I didn't understand your question.

6 Q Yes. So -- I'm sorry. I had asked about
7 Ms. Schoolman's proposal, the joint applicants
8 make a binding commitment to having 2.4 percent of
9 the energy consumed in the District by 2023 come
10 from distributed solar generation. And
11 Ms. Schoolman's proposal included imposing a
12 financial incentive on the joint applicants, if
13 the merger is approved, to meet that goal.

14 And I'm asking you about that proposal
15 specifically. Do you think that that proposal
16 bears no relationship to the merger?

17 A I don't. And the reason is, let's
18 assume, hypothetically, the Commission decided to
19 approve the merger tomorrow without that financial
20 incentive in place. I think the Commission could
21 open a proceeding tomorrow, bring everyone into
22 the room, all sorts of opinions about whether

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1 that's cost-effective, a good idea, terrific. I
2 might come in and say, hurray, that's great. And
3 then the Commission could decide on that.

4 I don't think anything exists about (sic)
5 this moment in time that changes whether that's a
6 good or bad idea. That could happen under the
7 Commission's authority the next day.

8 Q Do you think it bears no relationship to
9 the merger?

10 A I don't see that as a condition about --
11 that particular proposal is something that must be
12 settled at this point in time and, therefore, I
13 don't think it has to be part of the merger.

14 Q Isn't it also true that the Commission
15 could approve this merger tomorrow even if the
16 reliability incentive was not in place in merger
17 commitment 8?

18 A If the Commission decided that the
19 benefits were there without that, yes.

20 Q Does that mean that the -- the
21 reliability incentive also bears no relationship
22 to the merger?

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1 A No, that's not what I think about it. I
2 view this thing that we're talking about here is a
3 specific merger proposal brought to the Commission
4 by two specific companies. And they decided, for
5 whatever reasons they decided -- and I was not
6 part of how they constructed their package of
7 commitments -- they decided what they would offer
8 and what they thought would be important for the
9 District, not necessarily saying there aren't
10 other important things, but that this was their
11 package.

12 So that's what the Commission's
13 reviewing, I think, is this particular proposal
14 and deciding -- this merger proposal and deciding
15 whether or not it is something that would leave
16 the District better off with the merger than
17 without.

18 That doesn't mean there aren't all sorts
19 of other wonderful things that you and I might
20 have put in there, but I don't think that those
21 are necessarily what is before the Commission or
22 are necessary for the Commission to decide about.

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1 Q Dr. Tierney, we have two statutory
2 requirements in the District, one for the
3 reliability goals to be met and another for the
4 distributed solar generation standard to be met.
5 The merger commitments contain a -- in commitment
6 number 8, a financial incentive for joint
7 applicants to meet those commitments, to meet
8 those reliability commitments. And you are
9 telling me that a proposal that they meet the
10 distributed generation commitment actually bears
11 no relationship to the merger. Is that your
12 testimony?

13 A I don't see the financial incentive in
14 condition 8 -- I mean in paragraph 8. It's a
15 penalty.

16 Q Well -- okay. Yeah. So a financial
17 penalty, I was thinking of that as an incentive.

18 A Okay.

19 Q That's what I mean. Okay.

20 A And the question is -- again, I'm going
21 to go back to the same place I stood at a minute
22 ago, which is the joint applicants could have

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1 decided a variety of laws in the District that
2 they wanted to say this one we are absolutely
3 going to do and we're going to be -- set up a
4 penalty if we don't do it.

5 They chose the reliability one. I'm sure
6 there are laws about labor relations in the
7 District. I'm sure there are laws about X, Y, Z,
8 various other things, that are just not addressed
9 specifically in the commitments of the merger that
10 exist independent of the merger.

11 Q Dr. Tierney, I want to understand your
12 position. Is your position that a commitment
13 is -- bears some relationship to the merger if the
14 joint applicants have proposed it in their merger
15 commitments and not otherwise?

16 A Yes. In addition to commitments -- or,
17 excuse me -- conditions that the Commission thinks
18 need to be part of it.

19 Q You said in response to Mr. Gray earlier
20 today that some intervenor proposals go far beyond
21 what's currently in place in the District. Do you
22 think that the proposal to give the joint

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1 applicants a financial incentive -- to give the
2 joint applicants a financial incentive to achieve
3 the standard goes far beyond settled policy?

4 A I don't recall the proposal for the
5 financial incentive well enough to answer your
6 question yes or no relative to the statute that
7 exists.

8 Q Are you aware that D.C. law requires the
9 Commission to consider the environmental costs and
10 benefits in its calculation of what is in the
11 public interest?

12 A I don't know that that's in law. I read
13 it in the public interest factor 7.

14 Q Do you believe that Ms. Schoolman's
15 proposal to provide concrete financial incentives
16 for the joint applicants to meet the objectives in
17 D.C. law and the other clean energy proposals
18 offered by Ms. Schoolman distracts the Commission
19 from its task of determining whether the proposed
20 merger is in the public interest?

21 A I think that's what I said before. And
22 the reason I said it is that nothing will prevent

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1 the Commission the day after the merger from
2 considering that very same question.

3 I don't understand how the authority of
4 the Commission changes on this question about
5 whether or not the local utility should be given
6 financial incentives with regard to one or another
7 aspect of performance in the District.

8 Q So -- and this is my last question. Your
9 position is that if the Commission could open up
10 another proceeding on a question, that that
11 question is not relevant to this proceeding?

12 A No. I think that's a little bit more
13 black and white than I would put it. Obviously,
14 this question is relevant for the Commission to be
15 discussing. We are discussing it today. The
16 Commission is considering it. My opinion was that
17 the merger doesn't have to depend upon settling
18 all of these questions, and they are very
19 important and robust decisions.

20 The Commission might decide it wants to
21 decide this question in this merger case, and
22 other ones too, but I don't think it has to to

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1 satisfy the merger test.

2 MS. SPENCER: Thank you. I have no
3 further questions for you.

4 THE WITNESS: Thank you.

5 CHAIRMAN KANE: Thank you.

6 D.C. Water, you do not have any questions
7 for this witness?

8 MS. WHITE: I do not.

9 CHAIRMAN KANE: And MAREC does. Thank
10 you.

11 MS. ELEFANT: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. ELEFANT:

14 Q I'm -- good evening, good afternoon,
15 Dr. Tierney.

16 A Hi.

17 Q I'm Carolyn Elefant. We spoke probably
18 several months ago in the Maryland case, and here
19 we are again.

20 CHAIRMAN KANE: It is officially evening.

21 THE WITNESS: It depends upon which time
22 zone you're in.

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1 BY MS. ELEFANT:

2 Q Yes, that's true.

3 So I really don't have that many
4 questions. Do you have your rebuttal testimony in
5 front of you?

6 A I do.

7 Q Okay. If you could go to page 4, lines 8
8 to 12 -- and this is just something I wanted to
9 clarify. I think you answered this question in
10 different forms with some different questioners
11 before.

12 When you're speaking about taking up
13 these public interest matters that are raised by
14 different policy groups, you weren't -- you
15 weren't suggesting there that they aren't a factor
16 to be considered here; is that right?

17 A I am not suggesting that the Commission
18 not consider its own public interest factor
19 number 7. No, I am not saying that.

20 Q Okay. Now, if you could go to page 37 of
21 your rebuttal testimony. And over here you are
22 discussing a little bit about -- oh, I'm sorry.

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1 I'll wait until you get there.

2 A 37 of my rebuttal?

3 Q Yes, where you are -- do I have the right
4 page? I'm just referring you to the parts the
5 rebuttal testimony where you were speaking about
6 participation in PJM.

7 A Yes.

8 Q So do you recall your testimony in the
9 Maryland case where you were asked about this same
10 topic?

11 A Yes. Not perhaps every word of it, but
12 yes, I generally remember it.

13 Q What I wanted to direct your attention
14 to, to see if you recall, is, do you recall Office
15 of People's Counsel in Maryland questioning you
16 about the differences in votes within PJM between
17 Exelon and PHI?

18 A Yes. There were a series of amendments
19 that were characterized in questions and votes of
20 the two affiliates of different companies, Exelon
21 and PHI.

22 Q And so would it be fair to say that

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1 currently, as things currently stand pre-merger,
2 these two different companies from time to time do
3 express different views within PJM?

4 A Yes.

5 Q And is that --

6 A They do not vote on every single thing
7 the same way.

8 Q And that is something that would change
9 after the merger; isn't that right?

10 A On certain votes, but not on others
11 necessarily. And I don't know that you could tell
12 in advance which way they would move, whether they
13 would move more toward the PHI position prior to
14 the merger or some other thing. It's a more
15 complicated and different company after the
16 merger, should it be approved.

17 Q And after the merger, however, PHI will
18 be part of this Exelon family of companies; isn't
19 that right?

20 A Yes.

21 Q And so there will be other companies
22 within this family in addition to PHI, so it isn't

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1 necessarily an Exelon versus PHI, but rather
2 Exelon with its family -- existing family of
3 companies and PHI; is that right?

4 A Well, yes. In certain of votes of the
5 senior committees of PJM, stakeholder process, and
6 in certain votes of the transmission owners
7 committee of PJM process, there would be one vote
8 instead of two votes.

9 And as I say, I don't know that you can
10 decide a priori about what that means, about
11 whether it's something that the distribution
12 company wires function would be more interested in
13 or not.

14 Q Okay. And then I wanted to ask you -- so
15 I know that you're aware that D.C., in addition to
16 having a RPS or a standard for solar, also has
17 generally a renewable portfolio standard; is that
18 right?

19 A Yes.

20 Q And there's some testimony in here that
21 you gave about the production tax credit; is that
22 right?

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1 A Yes.

2 Q And I just wanted to ask you, does the
3 production tax credit help decrease the cost of
4 RPS compliance for ratepayers?

5 A I think you don't know whether it does or
6 does not. And the reason I say that is, in PJM,
7 often renewables are price-takers in the region
8 and, as a result, they may not affect the price of
9 electricity for consumers, a change in the PTC or
10 lack of the PTC.

11 Q Do you know whether Exelon -- or has
12 Exelon in this case made a commitment to comply
13 with the District of Columbia's RPS requirements?

14 A I don't think that's a merger commitment,
15 if that's what you mean.

16 Q Yes. That was my question.

17 A I don't think it's a merger commitment.

18 Q But it would presumably comply; is that
19 right?

20 A I absolutely think that they would
21 comply.

22 Q Okay. Let's see if I have -- oh, I have

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1 one more question. Are you familiar with the D.C.
2 Commission's factor 4 in its public interest
3 analysis?

4 A Would you just put the layman's label on
5 it, not the number?

6 Q It is the relevance of nuclear risk.

7 A Yes. I remember reading that one.

8 Q Okay. Do you have an understanding of
9 what that refers to?

10 A I have understood that to be the subject
11 of other people's testimony with regard to whether
12 there would be a risk in the generation business
13 of Exelon that might affect either the parent
14 holding company or specifically PEPCO. That's how
15 I've understood it, more in the context of
16 ring-fencing and financial and corporate
17 structures.

18 Q Now, I'm sure, as you're aware, Exelon --
19 a large portion of Exelon's generation, somewhere
20 around 80 percent, is nuclear; is that right?

21 A I don't remember whether it's 80 percent.

22 Q Is it a large percentage? Would you

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1 agree?

2 A Yes.

3 Q So does -- is that a factor that the
4 Commission should be evaluating under factor 4,
5 the portion of Exelon's generation that is derived
6 from nuclear?

7 A Under this risk factor? I mean, is that
8 your question?

9 Q Yes.

10 A I think that people have been
11 investigating that. I mean, I have not been privy
12 to every part of the testimony on the record on
13 ring-fencing, but I believe a lot of attention has
14 been paid to those questions.

15 Q Okay.

16 MS. SPENCER: I don't have any further
17 questions.

18 CHAIRMAN KANE: Thank you.

19 MR. KULAK: Your Honor, I do have very,
20 very brief -- oh, I'm sorry.

21 (Discussion held off the record.)

22 MS. WEIN: Waiting for these very --

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1 CHAIRMAN KANE: Please.

2 MS. WEIN: -- few questions.

3 CHAIRMAN KANE: Yes, please.

4 CROSS-EXAMINATION

5 BY MS. WEIN:

6 Q Good evening, Dr. Tierney. I'm Olivia
7 Wein with the National Consumer Law Center, and
8 I'm also representing the National Housing Trust
9 and the National Housing Trust Enterprise.

10 A Nice to meet you.

11 Q Nice to meet you.

12 And to provide a context for my very few
13 questions, our organizations have an interest in
14 energy efficiency and affordable multi-family
15 housing.

16 A Yes.

17 Q And low-income consumer access to
18 affordable energy. Okay. So --

19 A I am aware of that.

20 Q Thank you. In your direct testimony --
21 and most of my questions are here -- on page 8 --
22 is that me?

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1 Okay. Turning to page 8 of your direct
2 testimony, starting at line 2, you include among a
3 listing of non-quantifiable benefits the
4 applicants commit to retain low-income assistance
5 programs. Do you see that?

6 A Yes.

7 Q Is it your understanding that this is a
8 separate and distinct benefits only if one assumes
9 that PEPCO would, in the near future, be reducing
10 its own commitments to low-income programs in the
11 absence of the merger?

12 A It's true. And the way I meant this when
13 I was including it as a list of benefits is that I
14 wanted to make sure that it was clear that this
15 was not something that was questionable, but that
16 it would be continued under the commitments.

17 Q And if you turn to page 6 of your direct
18 testimony on the table, SFT 1, right in the
19 middle, there's a -- low-income assistance in
20 bold.

21 A Yes.

22 Q And that language states that, PEPCO

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1 commits to maintain and promote programs to
2 provide assistance to low-income customers.

3 I just wanted to know if you made any
4 assumptions about the impact of the promoting of
5 the low-income programs; for example, an increase
6 in the number of participants perhaps in the D.C.
7 low-income programs in any of your analyses.

8 A I didn't, but it was certainly with the
9 low-income customer group that I had in mind when
10 I wanted to illustrate what their -- what benefits
11 might accrue to the District in using or
12 channeling some of the customer investment fund
13 toward low-income customers either in the form of
14 a customer credit, which I did in one of the
15 scenarios specifically, but also in the energy
16 efficiency program, I modeled the allocation, so
17 to speak, of the dollars of that program in a way
18 parallel to and, therefore, in addition to what
19 the District already does to fund multi-family and
20 low-income housing for energy efficiency.

21 Q Thank you. On page 21 of your direct
22 testimony, lines 1 through 8, you explain that the

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1 Commission might decide to distribute the benefit
2 on an equal basis, award disproportionately in
3 favor of those who receive fewer of the other
4 types of benefits likely to flow from the merger.

5 And I was wondering if you could talk a
6 little bit more what you meant about, in the
7 listing of those who may receive fewer benefits --
8 you list low-income residential customers, and why
9 is that so?

10 A Because low-income customers bear a
11 disproportionately high burden of their household
12 budget on energy costs. And many of the
13 reliability benefits flow to commercial customers,
14 as we've described previously, in terms of the
15 value of reliable service. And there's a lot of
16 the residential customers who might be willing to
17 pay more in order to have a more reliable system,
18 but that's a harder case for low-income customers
19 to make. And they can't be willing to pay as much
20 for electric service and, therefore, may have to
21 be willing to be subject to more interruptions.

22 Q Tenants in master-metered building are

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1 sort of betwixt and between. Are they sort of
2 captured in any of your analyses or thinking
3 about -- you know, for example, even that listing
4 of low-income residential?

5 A Yes. When I was modeling the energy
6 efficiency scenario, there is a portion of that
7 that is in master-metered and large multi-family
8 housing. So that was captured in this.

9 Q Okay. Great.

10 I think actually you predicted one of my
11 clarifying questions, which was on the
12 reliability -- the difference in reliability
13 benefits between residential and C&I. And under
14 residential, I think there was a \$15 amount
15 listed?

16 A Yes.

17 Q And I wasn't quite sure if that was,
18 like, on average in a year, or is it a willingness
19 to pay sort of amount that you're capturing with
20 that \$15.

21 A It's a -- it's based on a series of
22 studies for residential customers about

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1 willingness to pay. And that's an average figure
2 that's drawn from them. And again, that goes back
3 to the point I made a minute ago, which is, on
4 average, a residential customer may be willing to
5 pay that amount of money to avoid an outage, but
6 some people may not have the same means to pay
7 that.

8 Q And the last question goes to a chart in
9 the supplemental direct testimony which includes
10 the what-if scenario on page 6 at the very end.

11 A Yes.

12 Q And I was just wondering here -- and I
13 think you may have answered it, but I just want to
14 be clear -- residents -- fixed-income residents in
15 master-metered units would be captured -- which of
16 these scenarios would be best for them of the four
17 possible directions for the CIF investment?

18 A Well, I'll answer it by saying I think
19 that the amount of money that would go to large
20 multi-family buildings or master-metered
21 apartments would fall in the energy efficiency
22 scenario, because there's more money directed

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1 generally toward energy efficiency.

2 MS. WEIN: Thank you. That was all.

3 THE WITNESS: Thank you.

4 CHAIRMAN KANE: Thank you.

5 COMMISSIONER PHILLIPS: I have no
6 questions.

7 CHAIRMAN KANE: Commissioner Fort?

8 COMMISSIONER FORT: On page 14 of your
9 direct testimony on lines 19 through 20, you say
10 you also track District of Columbia taxes that
11 flow from the direct, indirect and induced
12 effects. What District of Columbia taxes did you
13 track?

14 THE WITNESS: The IMPLAN model tracks
15 purchases and sales of goods and services and
16 labor income in the District. So when I reported
17 the -- what's called the value-added in the
18 District in my IMPLAN results for both the use of
19 the customers investment fund and reliability,
20 that has a lot of purchases and sales and labor
21 income. And so that's what's reflected here is
22 what -- local taxes, not federal income tax.

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1 COMMISSIONER FORT: So that's D.C. sales
2 tax?

3 THE WITNESS: Yes.

4 COMMISSIONER FORT: And which other D.C.
5 taxes?

6 THE WITNESS: Is there not a labor tax in
7 D.C.?

8 COMMISSIONER FORT: I'm just asking
9 what --

10 THE WITNESS: Personal income. I think
11 there's personal income.

12 COMMISSIONER FORT: I'm just asking what
13 you --

14 THE WITNESS: I don't recall. It --
15 sorry. I would be happy to answer that in a
16 record request if that's helpful. I don't recall.

17 COMMISSIONER FORT: If -- did you
18 consider, just so I understand, in your enhanced
19 reliability commitments for your \$121.6 million
20 figure, did you consider how much PEPCO would need
21 to spend to achieve that estimated \$121.6 million
22 enhanced reliability commitment?

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1 THE WITNESS: I assumed that the budget
2 amount would be spent, but I didn't calculate
3 the -- either the expenditure or the recovery of
4 that on either side of the equation. In other
5 words, I didn't assume there would be money
6 flowing out of the pockets of customers to pay for
7 that, or that PEPCO would be investing in the
8 projects in the District. None of that is in
9 there.

10 COMMISSIONER FORT: So my question for
11 that would be, if PEPCO spent more than that
12 amount to achieve that estimated amount of
13 enhanced reliability that you identify as a
14 benefit -- and so the net is zero or less -- is it
15 still a benefit?

16 THE WITNESS: Did I hear you say if they
17 spent more? I -- I assumed that they were
18 spending according to the budget, and if they
19 don't, that you'll haul them in to ask about that
20 and consider what the circumstances of that were.

21 COMMISSIONER FORT: But you didn't take
22 into account -- I'm just trying to understand

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1 whether or not you took into -- whether or not you
2 made any assumptions about the spending level.

3 THE WITNESS: I didn't. And I tried to
4 be clear. I didn't include any of the cost of
5 service items generally. And I am very certain
6 that I included personal income tax in the
7 District.

8 COMMISSIONER FORT: When you were looking
9 at avoided costs, I think on page 16 -- no, on
10 page 15 -- page 14, you're talking -- on line 9, I
11 think, you talk about avoided cost. And I was
12 wanted to know whether or not, when you were
13 deriving your estimates of avoided cost, you used
14 estimates specific to the District of Columbia.

15 THE WITNESS: There's two answers to your
16 question. In the first instance, the -- what I'll
17 call the damages to commercial and industrial
18 customers are aggregated from various studies that
19 have been done around the country for different
20 types of establishments. But the ICE calculator
21 calculates information that is relevant
22 specifically to the District of Columbia's

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1 population. So I would really say it was not
2 specific to the District except for customer
3 counts and a variety of other things.

4 COMMISSIONER FORT: Okay. Thank you.

5 CHAIRMAN KANE: Thank you.

6 Just a couple of questions, again, on the
7 same general area in your report. To be clear,
8 you said you used D.C. income tax as one of the
9 factors. Did you use specific information about
10 D.C. income tax?

11 THE WITNESS: Absolutely.

12 CHAIRMAN KANE: So you are aware that
13 well over half of the income that is earned in the
14 District is not able to be taxed by the District?

15 THE WITNESS: I am very aware of that.
16 So the database that is used for IMPLAN is from
17 the Bureau of Economic Analysis. It reflects
18 those patterns of what you can and cannot tax. So
19 it reflects the earnings and taxation practices in
20 the District of Columbia.

21 CHAIRMAN KANE: And income tax obviously
22 related to jobs, labor costs. What assumptions or

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1 what information and what data did that input make
2 about the percentage of District residents who
3 would be getting these new jobs that were created,
4 or job years?

5 THE WITNESS: The data reflect the
6 patterns of money flows in the District of
7 Columbia in 2012 that includes some people who
8 work outside the District, come into the District,
9 buy lunch, buy gasoline, go out of the District.

10 CHAIRMAN KANE: But they don't pay income
11 tax.

12 THE WITNESS: They don't pay income tax.
13 And then vice versa; some people who live in the
14 District live (sic) outside. And so those flows
15 are captured in --

16 CHAIRMAN KANE: People who live in the
17 District pay income tax --

18 THE WITNESS: Yes, yes, yes. Exactly.
19 Yes. But I meant that some of the other spending
20 they might do might be outside of the District.

21 CHAIRMAN KANE: On page 14 of your
22 testimony -- I'm looking at starting on line 14 --

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1 you said you did not quantify -- I did not
2 quantify the economic multiplier effects of the
3 joint petitioners' (sic) spending on
4 merger-related transaction costs in the District.

5 Is that correct?

6 THE WITNESS: Yes.

7 CHAIRMAN KANE: So you didn't figure in
8 all those lawyers that --

9 THE WITNESS: Or consultants.

10 CHAIRMAN KANE: Or consultants.

11 THE WITNESS: That's right. And I can
12 assure you I am spending money in the District.

13 CHAIRMAN KANE: The only other question I
14 have -- well, an observation. The benefits from
15 the customer information (sic) fund would be --
16 are highly dependent on how the Commission
17 determines to us that money; is that correct?

18 THE WITNESS: Yes. When you're talking
19 about the benefits to the District --

20 CHAIRMAN KANE: The financial benefits to
21 the District, not the other benefits, the other
22 kind of benefits, but the financial benefits.

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1 THE WITNESS: Yes.

2 CHAIRMAN KANE: Finally, just so I
3 understand, again, about job years -- and I've
4 been hearing this -- you may know I've spent quite
5 a few years in District government in another
6 capacity receiving proposals for development and
7 for contracts and everything else. There's always
8 a representation that there will be job creation.
9 It's an important concern of government.

10 So a job year -- and I'm going to use --
11 I think go to the top of page 16. I'll use your
12 lowest number to make it easy --

13 THE WITNESS: This is rebuttal or is this
14 direct?

15 CHAIRMAN KANE: This is direct -- I'm
16 sorry. Let me double-check. (3G). Yeah, this is
17 your rebuttal. I'm sorry. This is your rebuttal.
18 Page 16 of your rebuttal on the first line.

19 THE WITNESS: Great.

20 CHAIRMAN KANE: Okay. I'm just going to
21 use -- you've got 1500 to 2400 jobs there, job
22 years, additional job years, you said, no matter

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1 how you did it.

2 Now, 1500 -- let me take that -- job
3 years, that could be 1500 people working for one
4 year?

5 THE WITNESS: Yes.

6 CHAIRMAN KANE: Okay. And then the jobs
7 could disappear?

8 THE WITNESS: Yes.

9 CHAIRMAN KANE: Okay. Or it could be 150
10 people working for ten years and then the jobs
11 would disappear.

12 THE WITNESS: Yes.

13 CHAIRMAN KANE: Or, I suppose, 50 people
14 working for 30 years?

15 THE WITNESS: Yes. So think about it
16 this way. If the money from the customer
17 investment fund were spent -- given to everybody
18 in a credit on their bill, that's likely to lead
19 to very short-term impacts. And so most of those
20 jobs will be in the upfront period.

21 To the extent that there are reliability
22 benefits that are accruing at the end of the

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1 period, there are not going to be very many jobs
2 around the early years. So, yes, that's how
3 the --

4 CHAIRMAN KANE: I understand what that
5 means. So we're talking about creation of jobs.
6 You might create 50 jobs if they lasted for 30
7 years, and that's all, not 1500 jobs.

8 THE WITNESS: Yes, that's right.

9 CHAIRMAN KANE: That was my only
10 question. Thank you.

11 THE WITNESS: Thank you.

12 CHAIRMAN KANE: Redirect.

13 MR. KULAK: Very, very brief redirect,
14 Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. KULAK:

17 Q Dr. Tierney, you were asked a couple of
18 questions by Mr. Gray regarding the word "budget"
19 appearing in testimony of some of the joint
20 applicants' witness. I asked Ms. Travers to
21 provide you with Mr. Alden's direct testimony.
22 And I'm looking for Joint Applicants' Exhibit (D),

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1 as in David. I'd like to direct your attention to
2 page 9.

3 A Yes.

4 Q Would you like to read the first full
5 paragraph on that page, please.

6 A Exelon's proposed --

7 Q No, no, not aloud. Just to yourself.

8 A Yes, I read it.

9 Q Dr. Tierney, what is your understanding
10 of the word "expenditures" on line 7?

11 A Budgets, dollars.

12 Q Thank you, Dr. Tierney.

13 If I could direct your attention also to
14 your supplemental direct testimony, Exhibit (4G).

15 A Yes.

16 Q If you could turn to page 2.

17 A Okay.

18 Q And excuse me while I catch up. Just a
19 moment.

20 Go to page 2, line 22 --

21 A Yes.

22 Q -- through page 3. What are you

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1 referring to when you refer to aggregate capital
2 and O&M spending levels?

3 A Budgets.

4 Q Thank you, Dr. Tierney.

5 MR. KULAK: That's all, Your Honor.

6 CHAIRMAN KANE: That's all you have. All
7 right.

8 (Witness excused.)

9 CHAIRMAN KANE: Exhibits?

10 MR. KULAK: Yes, Your Honor. Joint
11 applicants would like to move in Exhibit (G), with
12 exhibits labeled (G)-1 through 5, Exhibit (3G),
13 with exhibits labeled 1 through 17, and
14 Exhibit (4G).

15 CHAIRMAN KANE: Thank you. They are
16 moved into the record.

17 (Joint Applicants Exhibit Numbers (G),
18 (G)-1 through (G)-5, (3G), (3G)-1 through (3G)-17,
19 and (4G) were received into evidence.)

20 MR. KULAK: Thank you, Your Honor.

21 CHAIRMAN KANE: People's Counsel,
22 Mr. Gray?

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1 MR. GRAY: Your Honor, I move for the
2 admission of OPC Cross-Examination Exhibit 100.

3 CHAIRMAN KANE: It's moved in.

4 (OPC Cross Exhibit Number 100 was
5 received into evidence.)

6 MS. FRANCIS: Your Honor, we're going to
7 move the admission of AOBA's Exhibits 91 through
8 97, inclusive. However, I would like to make a
9 clarification. In regard to AOBA 82, which is
10 marked for the record as 91, as joint applicants'
11 response to AOBA 1-11 with the attachments A and
12 B -- those are the work papers for Dr. Tierney
13 that I cross-examined on and D.C. government
14 cross-examined on.

15 Now, when those work papers were
16 provided, they were provided in an electronic
17 spreadsheet form. They were filed that way, and
18 we utilized it as cross-examination that way.
19 Obviously, here at the hearing room we had to file
20 hard copies.

21 I would just like to make sure that the
22 electronic copies, the electronic version, is in

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1 the record because that's the only way that the
2 parties can verify whether the cross-examination
3 and the testimony of Dr. Tierney is accurate when
4 it comes to the formulas that were programmed into
5 that electronic spreadsheet.

6 So I guess I'm asking the bench a
7 question, or I would like to make sure that
8 that's -- that I'm correct in that understanding
9 that the electronic version is also considered
10 part of the record.

11 CHAIRMAN KANE: I believe it should be.
12 We will take that up with the commission secretary
13 and make sure.

14 MS. FRANCIS: Thank you very much, Your
15 Honor.

16 CHAIRMAN KANE: You're welcome.

17 (AOBA Cross Exhibit Numbers 91 through 97
18 were received into evidence.)

19 CHAIRMAN KANE: D.C. government?

20 MR. COYLE: Thank you, Your Honor.
21 D.C. government would move the admission of
22 Exhibits DCG 65 through 74, inclusive.

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1 CHAIRMAN KANE: They are moved in.

2 (DCG Cross Exhibit Numbers 65 through 74
3 were received into evidence.)

4 CHAIRMAN KANE: DC SUN?

5 MS. SPENCER: DC SUN has no exhibits to
6 move in.

7 MS. WHITE: D.C. Water has no exhibits.

8 MS. ELEFANT: MAREC has no exhibits.

9 MS. WEIN: NCLC has no exhibits.

10 CHAIRMAN KANE: Very good. Thank you.

11 We have come to the end of a very long
12 week and a half. I want to thank everyone. We're
13 not over, but it does look -- but thank you for
14 getting at least to this point.

15 When we reconvene on Monday,
16 April 20th -- and I know some of you are going to
17 be very busy in the week in between -- we will
18 start with Mr. McGowan -- no, Ms. Lapson.
19 Ms. Lapson?

20 MR. LORENZO: Ms. Lapson.

21 CHAIRMAN KANE: Ms. Lapson --

22 MR. LORENZO: Yes, Your Honor.

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1 CHAIRMAN KANE: -- first, and then
2 Mr. McGowan. It looks, as if we kind of stick to
3 estimates, that we should get finished with both
4 of those witnesses on Monday.

5 MR. LORENZO: I would hope so.

6 CHAIRMAN KANE: And then we may also even
7 be able to start with one of the OPC witnesses on
8 Monday. And it does appear we might actually be
9 able to finish up within the two days, but we do
10 have Wednesday the 22nd also available.

11 So I also want to do a particular thanks
12 to our court reporter, to Denise Brunet, who I
13 think -- with a round of applause. And for
14 getting us the transcripts every morning also.

15 So that concludes this portion of the
16 hearing to date. We will see you all back on
17 the 20th. And good luck in Maryland.

18 (Whereupon, at 7:47 p.m., the above
19 proceedings were adjourned.)

20

21

22

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1 CERTIFICATE OF COURT REPORTER

2 I, DENISE M. BRUNET, Certified Court
3 Reporter, do hereby certify that the statements
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6 by me in shorthand and thereafter reduced to
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15 financially or otherwise interested in the outcome
16 of the action.

17 *Denise M. Brunet*
18



Denise M. Brunet
Certified Court Reporter

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