TRANSCRIPT OF PROCEEDINGS

BEFORE THE

PUBLIC UTILITY COMMISSION OF TEXAS

AUSTIN, TEXAS

APPLICATION OF CENTERPOINT	)	PUC DOCKET NO.
ENERGY ELECTRIC, LLC, FOR	)	30485
FINANCING ORDER	)	

PREHEARING CONFERENCE/HEARING ON THE MERITS/OPEN MEETING

WEDNESDAY, FEBRUARY 2, 2005

BE IT REMEMBERED THAT at 9:00 a.m., on Wednesday, the 2nd day of February 2005, the above-entitled matter came on for hearing at the Public Utility Commission of Texas, 1701 Congress Avenue, Austin, Texas 78701, Commissioners' Hearing Room, before CHAIRMAN PAUL HUDSON, JULIE PARSLEY AND BARRY SMITHERMAN, COMMISSIONERS, AND IRENE MONTELONGO, ADMINISTRATIVE LAW JUDGE, and the following proceedings were reported by Kim Pence, Janis Simon and Patricia Gonzalez, a Certified Shorthand Reporters of:

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P R O C E E D I N G S

WEDNESDAY, FEBRUARY 2, 2005

(9:00 a.m.)

(Staff Exhibit No. 4 marked)

JUDGE MONTELONGO: Okay. Mr. Pender, go ahead.

MR. PENDER: Thank you, Your Honor. Yesterday when Mr. Tietjen was giving his testimony he created a flip chart up there on the board, and I believe Commissioner Parsley and Commissioner Smitherman agreed that we could have it admitted as an exhibit, and it was marked as Exhibit 3 yesterday. I've handed out a copy to everybody, and I don't know if I might have missed somebody, but I've handed out a copy of that marked Exhibit 3. And at this time also I'd like to offer what's been marked Staff Exhibit 4, which is a summary or the correction to Mr. Tietjen's testimony with respect to the depreciation deduction on his Exhibit DT-3. So at this time, I would offer that.

JUDGE MONTELONGO: Can I see it?

MR. PENDER: Sure.

JUDGE MONTELONGO: Any objection to Staff Exhibit 4?

MR. GOLUB: Your Honor, Exhibit 4 is actually a -- it reflects a change to his testimony, not a correction to the testimony. And we won't have any objection to its being admitted as long as Mr. Brian will have an opportunity to respond when he gets on the stand.

MR. PENDER: Well, if Mr. Brian has an objection, he can make it now.

JUDGE MONTELONGO: What's the different on this than what was in the testimony?

MR. PENDER: Well, on the stand, Mr. Tietjen had testified under cross-examination that he didn't have a problem with or actually agreed with intervenors on adding back the depreciation adjustment of 378 million, and so this is nothing more than an embodiment of his testimony, which is in the record and is admitted. And the purpose of this exhibit is to clarify that. Clarification has always been a bit of a problem in these true-up proceedings, and all staff is trying to do here is clarify what Mr. Tietjen said so that when Commission staff goes back and drafts this order, they have a clear presentation of what his testimony meant and its effect on the bottom calculation.

MR. HALL: Your Honor?

MR. GOLUB: And again --

MR. HALL: Excuse me, Mr. Golub. Your

Honor, I was the one who asked those questions. And all that this exhibit does, as I understand it, is to reflect his answers to the questions that I asked him about depreciation, how it should be treated, and I think that's something that the Commission would want because it affects his recommendation.

Furthermore, to respond to Mr. Golub's request, I think that's totally unreasonable and unsupported why Mr. Brian would get an opportunity to respond to this. I was the first person to cross-examination Mr. Tietjen. He had an opportunity to cross-examine on these very issues after me. So he's had his opportunity to address this. So I would strongly object to allowing Mr. Brian to come up just to respond to something that's already been addressed.

MR. MENDIOLA: Your Honor, I would also note that this issue is not a new one. It's one that was addressed initially. It relates to the discrete consideration of the $378 million adjustment that some intervenors treated one way and staff treated another way and Mr. Brian treated a different way. It's addressed in Mr. Brian's rebuttal testimony.

If the policy becomes that every time a witness on cross-examination decides that there's a better approach and then there's live rebuttal after that, that's a bad policy. I strongly object to that request to bring Mr. Brian back to do live rebuttal.

JUDGE MONTELONGO: Okay. Mr. Golub, one more time.

MR. GOLUB: Okay. Mr. Tietjen testified, prepared direct testimony, filed that testimony taking one position. Mr. Brian prepared rebuttal testimony responding to the positions that Mr. Tietjen had set out in his testimony. He didn't respond to -- directly to what Mr. Tietjen said other than to comment that Mr. Tietjen agreed with him.

Now, Mr. Tietjen, when he got on the stand yesterday, said, "Oh, no, I've changed my mind." I think Mr. Brian should have an opportunity to address directly what Mr. Tietjen said.

MR. MENDIOLA: Your Honor, Mr. Golub should have done that on cross of Mr. Tietjen after Mr. Hall asked those questions.

MR. GOLUB: There's a difference between addressing --

MR. HALL: The critical point is simply -- the critical point is that Mr. Tietjen didn't just get there on direct and change his testimony. It was cross-examination that elicited that.

MR. PENDER: I agree.

MR. HALL: That's very different. You don't rebut cross-examination. You rebut direct testimony.

JUDGE MONTELONGO: Okay.

MR. PENDER: And, Your Honor, this is going to be in the record one way or the other, either in my initial brief or however. It's just that by doing it this way the Commission and the Commission staff will have a much clearer presentation of Mr. Tietjen's testimony, and I would say it's only two pages.

JUDGE MONTELONGO: I understand. Okay. The document is admitted in the record.

(Staff Exhibit No. 4 admitted)

JUDGE MONTELONGO: Mr. Golub, when you bring your witness up -- I mean, you can refer to whatever the testimony was yesterday when he -- when Mr. Tietjen was being cross-examined, but not to this document per say to try to make your point.

MR. GOLUB: Thank you.

MR. HALL: Your Honor, may I ask a question -- a clarifying question?

JUDGE MONTELONGO: Okay.

MR. HALL: You've said that cross is limited to -- I mean, I'm sorry -- redirect is limited to cross. Are you saying that he could address these issues even if there's no cross on that issue?

JUDGE MONTELONGO: Well, if there is.

MR. HALL: Okay.

JUDGE MONTELONGO: Let me clarify that.

MR. GOLUB: Wait -- okay.

JUDGE MONTELONGO: Okay. Any other exhibits.

MR. KROGER: Your Honor, if I may, Mr. Golub has already explained how we have been effectively -- by Mr. Tietjen coming in and changing his opinion and now saying that the ADFIT benefit is a couple hundred million more, that now Mr. Brian has never had an opportunity to clarify his testimony just like Mr. Tietjen has now on what his view is on that. He's been completely denied that. And whether or not there's an ADFIT benefit, how you measure it, how much it is, that shouldn't be decided by gamesmanship. It should be decided by getting out the information so the Commission can make a decision. And all we want to have an opportunity to do is have Mr. Brian comment on this change by Mr. Tietjen in his testimony, which is a totally new opinion that he has never had a chance to rebut.

MR. PENDER: Your Honor, I'm getting a

little disturbed by a pattern that I'm seeing here, and that is, every time Your Honor rules on an evidentiary point, counsel for CenterPoint doesn't seem to hear you say that. You've ruled on this, and I request that we just move on now.

JUDGE MONTELONGO: I agree; let's move on. Any other exhibits that we need to take up this morning?

(No response)

JUDGE MONTELONGO: Okay. We're off the record -- and we'll start with Ms. Elvey. Is that correct? Mr. Pender?

MR. PENDER: Thank you.

JUDGE MONTELONGO: No. When the Commissioners come in, she'll be up first. Right?

MR. PENDER: Yes.

JUDGE MONTELONGO: Okay.

MR. PENDER: I'm just moving my stuff over.

JUDGE MONTELONGO: Okay. We'll go off the record for that.

(Recess: 9:07 a.m. to 9:16 a.m.)

JUDGE MONTELONGO: Okay. I'm going to go ahead and swear Ms. Elvey in while we're waiting for the Commissioners. Can you raise your right hand, please?

(Witness sworn)

JUDGE MONTELONGO: Thank you. Let's go off the record.

(Recess: 9:17 a.m. to 9:25 a.m.)

CHAIRMAN HUDSON: This meeting of the Public Utility Commission of Texas will come to order to consider matters that have been duly posted with the secretary of the state of Texas for February 2, 2005.

I think where we left off -- and of course I had to go over to the legislature for a little while yesterday afternoon. I was with Martha. And so, Jeff, I don't know if you've presented Martha as a witness or not.

MR. PENDER: Yes, Chairman. She's been sworn in and has indicated her testimony would be the same as if it was given today. So I would tender Ms. Elvey for cross-examination.

JUDGE MONTELONGO: Mr. Hall, do you have any questions?

MR. HALL: No questions, Your Honor. Thank you.

JUDGE MONTELONGO: Ms. Hodgins?

MS. HODGINS: Thank you, Your Honor. No questions.

JUDGE MONTELONGO: Mr. Wiseman?
MR. WISEMAN: No questions, Your Honor.
JUDGE MONTELONGO: Mr. Brocato is not here. Any other intervenors have questions?
(Simultaneous discussion)
JUDGE MONTELONGO: All right. Then CenterPoint, I guess. Mr. Kroger or Mr. Golub?
MR. GOLUB: Mr. Golub. Thank you, Your Honor.

PRESENTATION ON BEHALF OF PUC STAFF (CONTINUED)

MARTHA ELVEY,

having been first duly sworn, testified as follows:

CROSS-EXAMINATION

BY MR. GOLUB:

Q Ms. Elvey, I just wanted to make sure that we're on the same page with respect to one of your recommendations.
A Okay.
Q And if you would turn to Bates Page 25 of your testimony, it's a recommendation for an order in Paragraph No. 2. It will be ME-2, Page 2 of 2.
A Okay. I'm not looking at a Bates stamped copy, sir.
Q Okay.
A Okay. Thank you.

Q As I understand, you're not suggesting with this recommendation that it is generally possible for people to bypass the system and avoid the transition charges, are you?

A No, I was not trying to rewrite PURA. The statute does allow limited circumstances for certain customers that have self-generation to avoid transition charges, but that is -- I wasn't trying to change that language in the law.

Q Yes. And would you agree with me that at the end of the transition bonds after all the bonds have been paid off, there are likely to be some dollars left over in various of the accounts?

A Yes, it's quite possible because we're always using estimates, and even though there will be an attempt in the last true-up to use up the reserve account and the different accounts, there will always be some -- some monies left if we do it right. We don't want to run out of money even on the last payment.

Q Okay. And the intent of this, if I'm reading it correctly or understand it correctly now after actually talking with you off the record, is to be certain that whatever dollars are left over in that amount go to whatever customers that are left at the end of the process, whether they are still within the service territory as it exists right now -- excuse me -- are still being served by CenterPoint or because of some new T&D provider coming in are now being served by someone else?

A Well, when I wrote my testimony, it was really unclear to me who was going to get the refund, if it would be necessarily just the customers remaining paying transition charges at the time or whether there would be some look back to whose been paying this over the whole 15 years. So that's where this issue first came up was in this discussion of if there was a large customer group that for some reason did leave the system and continued to pay transition charges, left the T&D system, I didn't want -- I wanted to be sure that they weren't going to get less transition charges just by virtue of the fact that they changed T&D providers but they're still paying transition charges. That's kind of -- it was kind of a fairness issue here.

Q Okay.

A Are we going to give this refund to just the customers on the system at the very end of the day, that's one issue. And I guess if we are, then maybe -- maybe this is moot, we don't need to worry about it, but the other issue was if there's some customers that did change T&D providers but are still paying transition charges, I didn't want them to get less just by virtue of the fact that they were on CenterPoint's system for part of the system and somebody else's system for part of the time. If we're going to give credit for how many years people were on the system, I want them to be -- get credit for both. So that's the second issue.

Q Now, you're not suggesting that when these dollars are disbursed 15 years from now that the company would need to go back and try to trace individual customers over 15 years and pay it back?

A I'm saying that issue is not -- has never been discussed as far as I know. I know that typically we do, you know, give refunds to customers that happened to be on the system at the time the refunds are made, and I think that's -- but I'm not making any recommendation on how we do this. I'm just saying we need to discuss this issue now because if we want to do it differently than that, we probably need to discuss it now and flesh this out a little bit and get language in the order because maybe some records need to be kept here. That's kind of where I'm coming from. I don't know. If we're just going to give this refund to the customers there at the end of the day, then we don't have a problem, and maybe this is a moot issue.

Q Okay. And that -- giving it to the customers who are still here at the end is consistent with what is normally done in rate proceedings?

A I'm not actually an expert on how refunds are done here at the Commission. I'm not a rate person, but that's my understanding of how it usually happens.

MR. GOLUB: Okay. Your Honor, I have no further questions.

JUDGE MONTELONGO: Mr. Pender, do you have any redirect?

MR. PENDER: Just one follow-up question.

REDIRECT EXAMINATION

BY MR. PENDER:

Q Ms. Elvey, in response to a question that was asked you, you said that you -- that we needed to make sure that we flesh this out now while the issue is before the Commission. What exactly did you mean "we need to flesh this out now"? Did you mean that we need to have some provision in this order that requires, for instance, CenterPoint to address this problem in a later proceeding, say, if they sell part of their T&D system, or did you mean something else?

A Well, that would be -- if a large group of customers were going to leave because they sold some T&D, then there would probably be some agreement of -- that would take place at that time, but there could be something in this order that tells them "address this credit issue, you know, in that order -- in that agreement at that time," just to -- if we need to. And I don't know if we need to or not, and I guess that's why I raised the issue. There's just this fairness issue of who is going to get this refund, and I think we need to discuss it, and we might need a placeholder in this order that says, "If a large group of customers are going to leave your T&D system, you might need to address this issue in that agreement of how that's going to work, how the refund is going to work."

Q Okay.

A I don't know that we need to get into excruciating detail, but I just wanted to raise the issue because it may be too late to raise it later.

MR. PENDER: Okay. Thank you. I don't have any other questions.

JUDGE MONTELONGO: Commissioners?

CHAIRMAN HUDSON: Come on up, Stephen.

CLARIFYING EXAMINATION

BY COMMISSION STAFF:

Q (Journeay) Good morning, Martha.

A Good morning.

Q (Journeay) Let's stay on this provision because that's the one I was looking at. When I read it, I understood it to be CenterPoint giving up some of their service area to someone else, but I heard you just say that you're also intending to address perhaps individual customers that leave -- stop taking service from CenterPoint for some reason where we don't have a change in the service area. Did I hear that correctly?

A I think my primary concern is a large change of customers from one T&D to another, that's my main concern, but I did, I think, mention early on that there's some -- customers are allowed to escape the T&D charges.

Q (Journeay) Okay. Well, if that's our primary concern, then at that time there would need to be a CCN proceeding to transfer this from one certificate to another. Would it seem reasonable to you to include a provision here that would require CenterPoint, at the time of making any such CCN amendment filing, to also file a petition to deal with this issue?

A That seems reasonable to me. That would be a good proceeding to do that in.

Q (Journeay) In your proposed order in Paragraph No. 1 right above that, you're talking about dealing -- as I understand it, dealing with the reserve accounts?

A Right, and the balance that will be left at the end of the day.

Q (Journeay) And we're focused upon the special purpose entity there, and what's caught my intention is using the difference between the fair market value and the utility's initial capital contribution. Is the use of fair market value going to be an easily discernible item? I mean, basically what we're talking about here is the amount of money in the reserve accounts. Right?

A Yes, including any earnings. And the reason I used the term "fair market value" was that that balance can change on a daily basis because of earnings or withdrawals. And so that's the only reason I used that term whereas it just gives that -- I want the balances at the time we make this refund to be used as compared to the initial capital contribution which was a historic amount --

Q (Journeay) Right. I guess I'm just concerned --

A -- which we know today what that will be.

Q (Journeay) Right. Is there any other things that can get involved in calculating the fair market value that can complicate that determination?

A I don't think so. And I just -- in conversations with the company and taking them up on their invitation in the opening statement, we're going to try to clarify this language a little bit so there is no vagueness to what's meant by "fair market value."

Q (Journeay) So you would envision proposing some alternative language sometime in this proceeding?

A Right.

Q (Journeay) Okay.

A We're going to work on that.

Q (Journeay) Let me go back towards your proposed findings of fact on Page 1 of ME-2 that we're looking at.

A Okay.

Q (Journeay) In Finding of Fact No. 4, that finding talks about the financial advisor may require a certificate from the bookrunning underwriter. It seems to leave it in the advisor's unfettered discretion. Are there any kind of standards that should be applied in making that decision? Are there circumstances when the Commission would absolutely want that certificate and other times when we might not?

A No. In all the transactions to date, the financial advisor has required that, and there's been, as I mentioned in my testimony, some reluctance on the part of some bookrunners to provide that because it's not required by the financing order. So although I put "may," I would have no problem with the Commission -- if the Commission wants to make that that they "shall require." I don't have a problem with that.

Q (Journeay) Well, if we did "shall," it would then be a Commission order, and would that be better to resolve these types of disputes?

A Yes, I do think that would be -- the stronger language would help resolve the dispute. With the "may" in there, they're still probably going to argue it, but at least there is -- they won't dispute the total authority of the financial advisor with -- even with the "may" language.

Q (Journeay) Okay. On Finding of Fact 5, we're talking about staff review of the issuance advice letter, and it provides that if staff believes it's incomplete or inaccurate staff files a notice of deficiency and then -- within two days. And then once the errors or deficiencies are cured, a two-day time limit would run. What are you envisioning the cure to be, a revised letter being filed by the company?

A Yes. And in fact we've -- in every transaction I think we've had revised issuance advice letters filed. And all I'm trying to accomplish with this recommendation is to try to memorialize what we're already doing, but to maybe give more time, if needed, into the process. And again, I've had some discussion with the company on this issue. They have some concern that we not go too many days past pricing. The standard is sort of five days -- close within five days, but there does seem to be a little -- a little bit of room to -- I'll allow another day or two for a revised issuance advice letter and staff to look at it in time. We're going to try to work on fleshing this out even a little bit more than it is in my testimony and propose some revised language.

Q (Journeay) Okay. But would you not think that instead of running a two-day time period off when it is cured to be more specific and say "two days after an amended or revised issuance advice letter is filed" so that there's an event certain that we can then run a time off of, so there can be no argument, for instance, was it cured, was it not cured?

A Right. Yes, they send the issuance advice letter with the final pricing in it hopefully by then because we've had the draft, we've already caught all the errors, but it's possible there could still be one. That's where the notice might come in. It would probably depend on the materiality of the error, but you're right. I mean, we wanted to -- as soon as the revised issuance advice letter comes in, that's when the clock can start running again.

Q (Journeay) Well, I'll maybe suggest that if you're going to work on this language and propose something, that you look at a specific triggering event --

A Okay.

Q (Journeay) -- that's not open to people's varying opinions.

A Right. And I guess what my hope is that we won't have, as we've had in some of the other transactions, three revised issuance advice letters, that maybe we can cut it down to one. And then if there's a problem, you know, as long as it's an agreed-upon change, I don't mind one even being filed after the bonds are issued, the final/final, so long as everybody is in agreement that the benefits are there and all the tests are met.

Q (Journeay) On your Finding of Fact No. 6, you talk about the certification statement, and you state that it shall be worded precisely as the other certification statement, the applicant's certification. I was curious. I would have -- is your intent there that these two certifications be identical, or are you envisioning by using the word "precisely" there that something other than the two being identical?

A This only pertains to the company's certification, and I guess it's about a two- or three-page document, and I got the impression from the company's testimony that they wanted us to adopt the whole two or three pages, and they would submit it exactly like that it. And my testimony is that I want this to be a form for them to follow, and the bullet points where they say "Here is what happened in this transaction" may change from the form. I mean, we've suggested some things they could talk about, but those bullet points in the letter may change about what happened during the transaction.

What I want not to change is the actual sentence where they say, "The statute has been met." That's the sentence that I don't want to change. Let me see if I can find that language in my testimony real quick.

(Brief pause)

A But this particular recommendation is only talking about the company's certification and not anybody else's. It's not talking about any -- the bookrunner's certification, but I would recommend that the bookrunner's certification have that same sentence in it also that the statute has been met.

Q (Journeay) Okay. I don't recall your testimony. Does your testimony have the specific wording right there that you're interested in --

A Yes.
Q (Journeay) -- in preserving? Okay.
A Yes, it's on Page 15 and 16.
Q (Journeay) And I know you get into this in your testimony, but just for clarification, all of these findings of facts, you provided reasons where you believe it's appropriate for this Commission to include these types of requirements in the financing order?
A Yes.
MR. JOURNEAY: Okay. Thank you. That's all.
JUDGE MONTELONGO: Commissioners?
CHAIRMAN HUDSON: Barry, I've got a question actually perhaps directed better to you because you mentioned something that I had not heard you say before yesterday. Sorry for my voice, folks.
MR. PENDER: That's easy for you to say.
CHAIRMAN HUDSON: Yesterday you asked the question of some of the folks here -- maybe it was day before yesterday -- about whether there was a legal requirement that the Commission hire a financial advisor, and I asked that purely in the context of perhaps wondering what you're thinking a little bit, but also Finding of Fact No. 4 says, "The Commission's financial advisor shall require." If we end up making

that modification, we perhaps are boxing ourselves into a financial advisor, if you will, and I just -- I'd like to hear what you were thinking when asking that question if you're prepared to talk about that now. Or if now is not a good time to talk about it, we can do it later.

COMM. SMITHERMAN: No, I appreciate that, and I think it is a good time to talk about it. Let me first ask Martha a few questions, and then I think maybe that will help us flesh out what I'm thinking, but I think that's a good -- that's a good catch.

Q (Smitherman) Good morning. How are you?

A Good morning. Good.

Q First let me follow up on two of Stephen's questions before I get to this question of fees.

Your proposal would add an additional period of time wherein which the advice letter could be amended or, I suppose, changed or reviewed by staff. Is that correct?

A That's correct.

Q What do you think -- based upon your experience, what do you think the longest period of time that might be? Are we talking about a day, a week, more than a week? Give me your best guesstimate.

A Well, in discussions with the company, they suggested five days. I'm not really qualified to say if that's -- if it could be longer than that.

Q (Smitherman) Well, the only thing that worries me -- and we ought to all think about this some. I don't know if Mr. Olson is here today or not -- there he is -- and I don't know if he's going to be up on rebuttal, but I just know that after pricing there is a high degree of urgency for the investors and underwriters to have a high level of assurance that the deal is going to happen, for the Commission and the company to accept the interest rates and make either a written or verbal commitment. And so I want us to be careful, and I think you raise a very good point. I think that we need to have the appropriate amount of time, but I would want to keep that to an absolute minimum because I know people, particularly investors, start getting very weird, especially if it's a volatile market and rates start moving around because buyers who have said they want to buy and then the market goes against them might decide they want to change their mind before their commitment. So think about that.

A Right. As I said, in the past transactions we've closed about five days after pricing. So there would be no change there, but the way -- it's been hard because the issuance advice letter comes in, and I have essentially 24 hours to look at it because the Commission has to act by the end of the second day.

Q (Smitherman) Right.

A But generally what I find is the first thing I have to do is call them and ask them for their spreadsheets, and I have to ask them for their workpapers, and then I have to -- I tell them there's errors, and then they send me another one. So it's just -- it's been pretty difficult to do that all in 24 hours.

Q (Smitherman) Well, we ought to figure out some mechanism because it's been my experience that we normally get this done by the close of the same day that you price, and that's what we'll -- I know that's what you want to shoot for, and that's what we ought to shoot for. So let's think about that one a little bit more. I under and your issue.

A Right. It's just really essential, and we've been doing this. I put, you know, let's get the draft one in here, you know, two weeks before. That's a minimum. The truth is we usually start four to six weeks ahead and start looking at the draft, but I'm just trying to memorialize --

Q (Smitherman) Right.

A -- and make it a little more structured than what we've had in the past to make sure that at the end of the day the bonds get issued, but we also have a good solid issuance advice letter that doesn't have any errors in it.

Q (Smitherman) Now, this issuance advice letter, this comes from the company --

A Yes.

Q (Smitherman) -- or the underwriters?

A The company.

Q (Smitherman) Okay. What does the financial advisor provide in writing that either underscores that or adds to the issuance advice letter?

A By noon on the second day after pricing, we get a no-veto letter, and they of course help -- they also look at the issuance advice letter and look for errors also. So they provide some informal feedback to me on that. And then it's after the no-veto letter but before closing we get the advisor's certification letter.

Q (Smitherman) And what does that say, that in their opinion the deal was priced appropriately, we obtained interest rates that were the best in that market? Tell me what it says. Paraphrase.

A Yeah, both the no-veto letter and the certification letter say that the statute was met. They both say that. I think the second letter just goes into a lot more detail about the transaction. The no-veto letter is just a quicker --

Q (Hudson) Martha, I'm not familiar with the term "no-veto letter." Can you explain that to me, please?

A Yes, it's required by one of the ordering paragraphs in the financing orders, and it just says by the noon of the second business day after pricing the financial advisors will, I think, inform the Commission if they recommend that the transaction be vetoed.

Q (Hudson) Oh, so it's not one word "noveto." It's "no veto." I thought you were throwing some Latin term at me or something.

(Simultaneous discussion)

Q (Hudson) No veto?

A No veto.

Q (Hudson) Thank you.

Q (Smitherman) So to put that another way, what the financial advisor is saying is that they agree with the issuance advice letter that the pricing of the transaction is in compliance with the statute?

A Yes, and with the financing order.

Q (Smitherman) Now, the statute says -- I'm trying to find the exact language because I think this is important.

A It's 39.301.
Q (Smitherman) Can you refer me to that, 39 --
A "The Commission shall ensure" language?
Q (Smitherman) Yes, 39 --
A 301, "The Commission shall ensure that the structuring and pricing of the transition bonds result in the lowest transition bonds charges consistent with market conditions in the terms of the financing order."
Q (Smitherman) Now, is that what the issuance advice letter says?
A Well, it's the applicant's certification letter and the financial advisor's certification letter use that language.
Q (Smitherman) Okay. So I'm just trying to make sure I understand what everybody is doing here. The company provides us with something called an issuance advice letter, and does that basically say that in their opinion the pricing of the bonds is in compliance with this section of PURA?
A It has an attachment that is a certification letter that has this language in it.
Q (Smitherman) Okay. And then the financial advisor sends a letter, which you-all call a no-veto letter, which basically says that they agree with the company or they agree that the statute has been met?

A I don't think it says they agree with the company. It says that we got the lowest -- it has this exact language in it, "We've got the lowest transition bond charges consistent with market conditions and the terms of the financing order." So it says they've complied with the financing order, and that we also got the lowest transition bond charges. But, no, as far as I know, it doesn't say they agree with the company. I don't have that with me. I can certainly --

Q (Smitherman) Okay.

A -- provide that.

Q (Smitherman) Now, what else does the financial advisor do other than providing this belt and suspenders, if you will, to the company's assertion that PURA has been met, that the deal has been priced at the lowest bond charges consistent with market conditions? What else do they --

A They are involved in every aspect of the marketing of the bonds, from the selection of underwriters on the team. They do an RFP separate from the company to interview underwriters. They're virtually involved in every aspect of the transaction, from selection of underwriters to pricing, and every decision that's made, all the marketing materials, they review all the legal documents, their counsel does.

It's a very long list of duties. You might -- I don't have the list in front of me, but it's of course in our RFP that's pending on the website, the list of duties.
Q (Smitherman) Well, let me refer you back to Mr. Brian's testimony, which I think is CNP No. 5, Bates Page 139.
A I don't have Mr. Brian's testimony.
Q (Smitherman) Okay. Let me describe it for you.
A Okay.
Q (Smitherman) If you were in the room, I asked him about the various fees, underwriter's fees, legal fees for company's issuer, underwriter's counsel, Item No. 4, fee for Commission's financial advisor --
A Uh-huh.
Q (Smitherman) -- 1.6 million. And I asked him where that number came from, and he said that was what was charged on the first deal that they did.
A Right.
Q (Smitherman) Do you agree with that?
A Yes.
Q (Smitherman) Okay. Now, how many deals have we done total?
A Four.
Q (Smitherman) We did the first deal for this

company --

A Yes.

Q (Smitherman) -- or I guess it was called Reliant --

A Reliant at the time.

Q (Smitherman) -- is 6 million. What did our financial advisor charge for the succeeding deals?

A I have a chart of that. I didn't bring it with me, but all four deals, I believe it was 5.75 million. Two of the deals were about the same as this one. There was a 1.6 and a 1.7, and then the TXU deal must have been the difference between 5.75 and 3.3. I just don't recall the exact number for the TXU one.

Q (Smitherman) 5.75 million?

A Yes, for four transactions; $2.8 billion in bonds and four transactions --

Q (Smitherman) Well, you know, I'm just trying to figure out --

A -- and over several years.

Q (Smitherman) -- what we're getting for our almost $6 million. Or what are the ratepayers getting?

A We're getting savings. We're getting a lower pricing.

Q (Smitherman) Well, how are we getting savings?

A Through a lower yield spread.

Q (Smitherman) And why does the financial advisor -- how are they an integral part of that? Tell me how their role results in better interest rates.

A Because they have a different -- they look at the marketing plan differently than perhaps the underwriters would if they didn't have a lowest-cost perspective on. What we get is a broader distribution. We get somebody there caring about what the ratepayers are paying for these bonds that don't normally happen in these transactions; making -- help to make all these decisions that are critical to how many investors are approached, what protections are in the documents for ratepayers, if the BondCo defaults for instance -- I'm sorry -- I said BondCo. I meant the service company -- defaults and all of a sudden our servicing fee goes from a small amount to $12 million, it goes up 12 times because we have to hire an outside servicer for that. You know, we get a lot of protections in the documents and savings on the interest rate that is ultimately paid by ratepayers.

And we get a certification that is not -- that is not indemnified by the company that we have met the statute. That's the primary thing I would say that we're paying for is this certification letter, that and the savings from the pricing, the things that a financial advisor is able to achieve through his input into the process.

Q (Smitherman) I don't know if you were here for my discussion with Mr. Olson, but I think he agreed with me that these are extremely secure securities.

A Yes, they're AAA. I would say that even though they're AAA, they have been mispriced since the very first issuance. There's been like 20 issuances now, and we are still not getting the lowest pricing that we should be getting for these bonds because --

Q (Smitherman) Well, I thought that's that the financial advisor's job was?

A And he's made a drastic improvement on the spreads that these bonds have been issued at, especially, you know, when you compare them to what other commissions' issuances have gotten.

Q (Smitherman) Now, this no-veto letter, does that carry with it any indemnity? I mean, what if we found out later on that in reality a better interest rate could have been achieved, do we have the ability to go after our financial advisor?

A Yes, we do.

Q (Smitherman) And do they have any capital? Are they like these firms that are underwriting like First Boston and J.P. Morgan, Citigroup, the world's largest financial services company?

A No, they are a small firm. I don't know -- I don't recall. That is an issue we looked into at the time they were hired, but I don't remember what financial assurance they provided in their application. That was a long time ago.

Q (Smitherman) You know, there are four of these deals out trading in the market right now.

A Uh-huh.

Q (Smitherman) And I guess it just seems to me that with a Bloomberg screen and the ability to talk to other market participants that we could get a fairly good indication of whether we had achieved the lowest transition bond charge consistent with market conditions on our own. Do you disagree with that?

A Well, these bonds are fairly thinly traded. Most people that buy them buy and hold. So the secondary market doesn't give you the full picture of what a new issue might go for. You would, like you say, have to talk to market participants. I would be very reluctant to play that role at the Commission. I would not want that responsibility to talk to these underwriters and be able to question them why that's the right pricing. They would not accept my credentials. They might accept yours, but they certainly wouldn't accept mine, and I certainly don't -- would not want that responsibility.

Q (Smitherman) Well, if we receive the issuance advice letter from the company and we disagreed with its finding, then don't we have the ultimate leverage to not approve the deal?

A If you disagree with the financial advisor?

Q (Smitherman) No, if we disagree with -- as I understand the procedure, first we get the issuance advice letter from the company.

A That's right, and their certification.

Q (Smitherman) And then the financial advisor reviews that and says that basically they agree -- is that right -- or go forward, or no veto?

A It says, "Don't stop the transaction, the statute has been met, and we did get lowest-cost transition bonds for our charges."

Q (Smitherman) Now, in any of these four deals that have happened, have we received a recommendation from our financial advisor to not go forward?

A No. There has been no reason to. All the transactions have resulted in significantly more savings than were projected because interest rates were significantly lower when the bonds were issued than when the -- than when the financing order was issued. I'm getting all my documents mixed up.

Q (Smitherman) Now, in any of these transactions that have happened before, have swaps been employed?

A The Texas transactions?

Q (Smitherman) Yes.

A We have offered -- no. We created a swap package in TXU One, and the bids came in at a very wide range so that in TXU Two we did some serious negotiations with the ratings agencies to provide less risk to the swap counterparties, but still at the end of the day, the swap was not used. When the bids still came in, they were not economical.

Q (Smitherman) I asked this question earlier to somebody, maybe it was Mr. Olson. Do you think that PURA or our rules require us to explore whether a swap transaction is cost effective? Do you think we're required to do that?

A The statute does not say "reasonable cost" or a fair -- that we got a fair price. It says "lowest cost." That has been interpreted to mean we need to turn over every rock, explore every possibility to create demand for these bonds and get the price down. And one way to do that -- and as you know, you know market conditions can change suddenly. When you start off on a transaction that's going to take several months, it may not look like a swap is a good idea. Well, three months from then when you get all the documents ready, a swap could be a good idea. Something may have changed in the market, and it was considered a -- we obviously didn't feel like it was required because we didn't do it in all the transactions. But while interest rates were low, we thought it was prudent to investigate and prepare a swap package so that if market conditions changed suddenly, we could use one to lower the cost of the funds.

Q (Smitherman) When Mr. Olson testified, he said that -- I asked him about this specifically, and he said out of approximately the 30 deals that have happened nationally, only two have used swaps.

A Yes, but another reason --

Q (Smitherman) Does that sound right to you?

A Yes, I believe that is about right. However, as you know, he got the lower risk rate to go to -- that allows us to market in Europe now, and European investors do like a variable rate instead of a fixed rate. So it's quite possible if market conditions are right that a swap package could be very useful in marketing in Europe.

Q (Smitherman) Do you agree with Mr. Olson when he said -- I think he said in excess of 90 percent of this would be sold domestically?

A I'm not qualified to have an opinion on that. I would hope that we would have a goal of something more than that, a goal of maybe 75 percent and 25 percent foreign, but that's certainly an area for the financial advisor to opine on and not me. I'm a regulator.

Q (Smitherman) How complicated -- just based upon your experience with these deals, how complicated is it to determine whether or not swaps are cost-effective?

A Once you have a swap package ready, it's very -- it's easy to get information on current market conditions whether a swap makes sense. That part is easy, checking -- you know, checking with the right people and asking the right questions. What took a long time in the TXU transaction was getting the package ready and addressing these rating agency concerns and reducing the risk to the swap counterparties. That's what took so long was the negotiations with the rating agencies.

Q (Smitherman) And you're referring to the last TXU transaction?

A Yes.

Q (Smitherman) And when you say it took so long, this transaction came to market later than had originally been expected. Is that an accurate statement?

A It came to market as soon as it was ready to come to market.

Q (Smitherman) Well, I read in the financial press that the expectation was that this transaction would be in the market in late February or early March, and it came the Thursday before Memorial Day. Do you disagree with that?

A Well, there was an article that said that, but I can tell you that all the transactions that we have done to date have been issued --

CHAIRMAN HUDSON: We're going to take five.

A Okay.

(Recess: 10:09 a.m. to 10:25 a.m.)

CHAIRMAN HUDSON: We're going to go back on the record.

Mr. Olson, could I ask you to join us up here, and Mr. Brian as well? The line of questioning, I think, has tended toward looking at the issue of financial advice and the value of it, and I know that we have a gentleman here who is providing financial advice to CenterPoint right now under contract and -- yes, Mr. Golub?

MR. GOLUB: Your Honor, you might want -- I'm obviously not going to -- well, you may also want to visit with Mr. Kilbride. Mr. Kilbride, if you're talking about roles of financial advisors, he lives the process.

CHAIRMAN HUDSON: Mr. Kilbride, please --

COMM. SMITHERMAN: Come on down.

CHAIRMAN HUDSON: Thank you for the suggestion, Mr. Golub.

MR. MENDIOLA: Your Honor, on a legal point, may I be heard very briefly?

JUDGE MONTELONGO: Go ahead.

MR. MENDIOLA: Just in response to Commissioner Smitherman's question about requirements under PURA, I was just looking at that issue and noted that on Finding of Fact No. 93 in the Commission's prior financing order for Reliant 21665, it notes that in regard to a financial advisor, "In order to ensure as required by PURA that the structuring and pricing of the transition bonds result in the lowest transition bond charges consistent with market conditions and the terms of the financing order, the Commission finds it necessary for the Commission, acting through it's designated personnel or financial advisor, to have a decision making role co-equal with applicant," et cetera, et cetera. I just note that because I think it's responsive to your question.

COMM. SMITHERMAN: You know, thank you very much. And, you know, I don't -- I apologize for belaboring this point, but I think it only fair since we were inquisitor about the legal fees yesterday that I just want to know what I'm getting for my money. And if we are required by PURA to have a financial advisor, that's one issue. If we're not but we think that we don't have the necessary resources to do it, that's another issue.

So, Paul, I think you raise a very good suggestion to bring these other gentlemen up who are experienced in the financial markets, and let's -- you know, let's talk about it.

COMM. PARSLEY: Barry, can I ask you a question? Because I know in the past you did municipal bond issues. So you have experience with bond issues. I mean, is there any similarity?

COMM. SMITHERMAN: You know, there's lots of similarities. I don't want to try to project my experience on this because the muni market is different from the asset-backed market. I mean, the muni market works on the theory that I'm not making very much money on any deal, but I make it up in volume. That's a joke.

(Laughter)

COMM. SMITHERMAN: And so as a result of that, I'm not a very good -- I don't have a very good frame of reference as to what the right fees would be. Now, Alton knows this, in a billion-dollar city of Houston water and sewer deal, the financial advisor might make a hundred grand. So that's why -- that's why I'm questioning.

COMM. PARSLEY: Are the interest rates similar between this type of a bond -- of an asset-backed bond and a municipal bond?

COMM. SMITHERMAN: Well, the big difference is that with municipal bonds the bondholder does not have to pay federal income tax on the interest that they receive. That's the big difference. Asset-backs obviously are paid off by this revenue stream that's going to come from the ratepayers. In this transaction, you know, they're AAA, they're produced -- they're a pretty good security. I mean, it would be something you'd be comfortable with putting your children's educational fund in, for example.

So that's sort of my -- you know, I did six billion dollar's worth of municipal deals over 16 years, but this is not the muni market. I understand that, and I don't -- I don't want to drive this discussion just because of my experience. What I want to drive the discussion on is just like -- just like we did with the lawyers yesterday, what are we getting for our money, and is there any way that we can lower that?

COMM. PARSLEY: And I appreciate that, but I also know that having been a lawyer and worked for a large law firm and billed time, that gives me a certain perspective on the legal fees that I think you wouldn't have if you hadn't had that experience. I'm not saying that it's going to make or break the decision here, but it certainly gives me a context. I think that your experience gives you a similar context that I don't have. You know, I got married so I wouldn't have to do my taxes by myself any more.

(Laughter)

COMM. PARSLEY: That isn't really true, but it's a nice benefit.

So, you know, if I hold a calculator, I'm in trouble. So I really do appreciate the context you bring to it.

CHAIRMAN HUDSON: Barry, I know you've got a series of questions that you've been posing, and why don't you, you know, continue and perhaps you can get some advice from some of the other gentlemen up there that have had other experiences besides what Martha is bringing to the table here as well. So they might be able to provide you some additional perspective on the appropriateness of the fees to date, that type of thing.

COMM. SMITHERMAN: Well, I appreciate that, and let's -- let's be cognizant of the fact that Mr. Olson may find himself in a bit of a difficult situation because any of these people who might be our financial advisor, he will have to work with in the future. So I recognize that this is probably not a normal role for him. Mr. Kilbride, I think, can provide us with some historical context. And oh, by the way, he's the client. So he probably has the ability to speak perhaps more freely.

MARTHA ELVEY, JAMES S. BRIAN,
MARC KILBRIDE AND WAYNE OLSON,

having been previously sworn, continued to testify as follows:

CLARIFYING EXAMINATION

BY THE COMMISSION:

Q (Smitherman) But you guys both heard this line of questioning. Who wants to comment?

A (Kilbride) Well, I'll be glad to start off. I mean, I think it's probably important for me to say that the company, with respect to the issue as to whether or not the Commission hires a financial advisor or if they've decided to do that who that financial advisor is, the company has scrupulously staked out no position. We feel this is completely in the discretion of the PUC as to whether or not they see value in whatever process they go through to make that determination, both as to whether or not they have one and who that should be. We respect that. We're fully prepared to work with whoever is representing the PUC on this transaction.

Having said that, you know, I've been involved in one transaction where there was a financial advisor. I think some of what Martha has said is, in fact, correct. I wanted to jump in -- I already told Martha I was going to do this so I don't have to apologize to her here.

She had made the reference to the fact that there would be one person looking out for the interest of ratepayers. I mean, I accept her meaning. We're trying to look out for the interest of the ratepayers, too. I mean, I take that responsibility very seriously. And the other thing is by virtue of the certification requirement, I have to take it very seriously because it's my name that's probably going to be the one that signs the certification letter. So I have to be able to represent that this is the lowest -- this results in the lowest transition charges consistent with the terms of the financing order.

Q (Smitherman) You know, let me stop you right there. Are there any Sarbanes-Oxley entanglements with this?

MR. KROGER: Are you looking at me?

(Laughter)

COMM. SMITHERMAN: I'm looking to your lawyer.

Q (Smitherman) I mean, does this certification fall within the confines of something that might bring it in that particular overlay? And the only reason I'm raising it is because it sounds like -- and I think now given Sarbanes-Oxley -- signing your name to a certificate like this is a big deal.

A (Kilbride) Absolutely.

Q (Smitherman) Right.

A (Kilbride) I'm cognizant of that.

Q (Smitherman) You know, with Sarbanes-Oxley, I think you can go to jail for signing something that turns out later on not to be true. That's just a question.

A (Kilbride) Mr. Brian is our expert on Sarbanes-Oxley.

A (Brian) If I may address that part, Commissioner? And I personally sign the 10Ks and the 10Qs for the company. It's a very serious obligation and requirement, and we take it very seriously.

I don't think either myself or Mr. Kilbride personally have the potential criminal liability like the CEO and CFO do, but they've told me, you know, if I go, I'm going with them.

(Laughter)

A (Brian) In a jokingly way a year or so ago, my wife told some friends that she was already working on getting the visiting list ready.

But seriously, it is -- I don't think it's directly related to Sarbanes-Oxley. It's tied to representation on financial reporting that are filed with investors or the SEC in our annual reports on 10K and 10Q and other filings. But it's certainly part of our controls and part of our controls that we're financially reporting that includes obligations, liabilities. It's not just the income statement and the balance sheet. It's all the disclosure that we make to investors that is covered by Sarbanes-Oxley.

So it would be -- although perhaps not directly a Sarbanes-Oxley issue, I think it could very well be indirectly a part of our certification process.

Q (Smitherman) I'm sorry. I didn't mean to -- I'm sorry to interrupt you, Mr. Kilbride.

A (Kilbride) No, no. It's an interesting question.

You know, with respect to the experience of the financial advisor, I guess based upon that, do I think that it's necessary to have a financial advisor represent the Commission? No. I think the deal would get done, and I believe there are protections that would exist for the ratepayers through the certification process, and I hope some faith that others in the room have that the company would go out and try to get the best possible deal for the ratepayers, particularly given the legal requirement.

Could it be helpful? You know, I think any transaction that you do, you know, if you have somebody else there, somebody is going to come up with an idea that the other party perhaps didn't, have a different way of analyzing something, approaching it. So yeah, I mean, teams are typically good things to have. What the value is? I mean, I think that's something that you-all have to decide whether or not -- and I don't know what you're seeing in the way of proposals. I understand there's an RFP.

Q (Smitherman) I'm not involved.

A (Kilbride) Okay. Well, whoever -- I'm sorry. I'm not that familiar with the process. I just saw there was an RFP posted on the website.

Somebody is going to have to make that determination as to whether or not the benefits, either from the standpoint of the perceived protection of the ratepayers that may be generated by retaining a financial advisor or the other services that the advisor can provide, are worth whatever the cost is.

We do certainly expect to recover as a qualified cost anything we pay to the financial advisor that serves the Commission, but beyond that, we look upon it as being the choice of the Commission, whatever, that decision ultimately resides within the Commission.

Q (Hudson) Martha, I think I cut you off in my need to take a quick brake. You were describing some of the activities that the financial advisor had undertaken on behalf of the Commission over the last couple of years and your perception of the value that they brought. Would you mind walking us through that line of the perceived value that you think the Commission got over the last few years?

A (Elvey) Just in summary, I think I stated these points. We get savings associated with a lower yield. There was an analysis performed that showed that we saved -- when we compare our Texas transactions to the other transactions that are out there, I think all together there's been 20-something transactions, that we've saved on a present value basis $26 million in basis point savings, basis point yield reduction. And that number is a ratio of 1 to 5 of what we spent. We spent 5.75. We got 26 million. I don't know the exact number, but it looks like a 5 to 1 ratio.

In addition to that, we got the protections into documents that kept certain additional costs from being flowed through to ratepayers through the waterfall or in certain events like a servicer default, I mentioned that. As you can see from the application, if the servicer defaults and they have to hire a third-party servicer, it costs a lot more money, but into the documents we have -- we got it written -- and I believe that's in my testimony -- that if -- I've forgotten how I worded it -- that that cost would not -- the companies indemnifying, if the default was -- that they would indemnify and pay that extra cost if the third-party servicer was needed, if it was due to their negligence or -- I forget the exact wording -- but that that they would have to pay that additional cost.

So there's some costs that aren't in that 26 million that we got also just from having a pair of eyes looking at all these documents -- these are very intensive document transactions -- and looking at it from a ratepayer perspective, "Well, this is going to cost more for ratepayers if we do it this way," and just ensuring that in every case -- another example was that the documents can't be revised without the advisor or the Commission looking at them without there being some chance to say no, because we could put a protection in the documents, and they could revise it next month and say, "Well, that protection is gone."

So there's certain language, you know, that has value, but we haven't quantified that in that $26 million. But most of all, I guess, you know, we're buying an opinion. What is an opinion worth? Well, we're buying a professional opinion that is not indemnified by the company. When we set these fees, Saver Partners provided evidence of what fairness opinions are in merger analysis cases, and then we compared what certification would be in there, that that would be -- you know, the price is fair, the price is reasonable to what he has to certify to in this case, which is lowest cost. And we made a judgment of whether or not it was worth that much money.

You also have to set these fees high enough to attract somebody to do it. In general, you want somebody with some underwriting experience so that they know the market, they can't get the wool pulled over their eyes. So in order to attract people that are used to being paid well, you have to pay them well, and we've had that experience with other consultants that we've hired also for other reasons.

At the time we did this transaction, I think this was our first one to hire. So we really didn't have a history. It's certainly up to the financial advisor, whoever that is, to provide evidence of the reasonableness of their requested fee, and I'm sure the RFP requires them to do that. And it will be negotiated. Just because they ask for a lot of money doesn't mean we necessarily have to agree to it.

Q (Parsley) Can I ask Mr. Olson a question? I think you're probably the right one because -- I guess this is a question about the market generally. Is there sort of an intangible benefit to the financial advisor either because it creates a presumption -- it creates -- it's not just the company saying it's okay, it's the financial advisor saying it's okay? Is there some fairness type of -- just having the blessing, does that create any value?

A (Olson) I don't think investors place any value on that particular aspect of the transaction. I think the value from the Commission's perspective comes from exerting a certain discipline in the marketing process. There is -- you know, there's always a potential that the bonds being so attractive from a credit perspective that you could get these bonds in and out of the market in a day and not really push for -- well, two things: One is you can show these bonds to the same old/same old accounts that have been buying them for -- you know, forever, and without really focusing on what other segments of the marketplace would find them attractive. I mentioned in my prior testimony Asia right now is a very hot market for fixed rate U.S-dollar bonds. You want to make sure you show them there.

In other types of markets, long-dated fixed-rate dollar bonds might not be so attractive relative to floaters as Ms. Elvey testified. The European market is very receptive to high-grade U.S-dollar floaters. And so in certain markets, you're going to want to examine that. In today's market I wouldn't bother very much. You could sell a few bonds over there. We do have the 20 percent risk-weight advantage in the European banks, which has been developed over the last few years --

So you want to make sure from the

Commission's perspective that the marketing goes to all segments that today are going to find the bonds attractive and not just the same old people, and that the marketing materials reflect, you know, the relative value analysis that would attract.

I'll give one more example. In the first TXU transaction, it turned out that these -- these bonds actually traded close to even yield with TXU first mortgage bonds, which are, I think, low A or high BBB roughly. And so you could actually literally trade out of TXU first mortgage bonds and into these bonds of like maturity for roughly even yield. And in that particular transaction, we're told a number of bonds did go to corporate buyers.

The second TXU transaction we tried that, and the spread was quite different. Okay? I mean, TXU was trading roughly 35 wide of where the transition bonds traded, and we didn't get a lot of investor interest from that segment, but it's important to focus on what segments are going to find these bonds attractive on a relative value basis.

The other is that there's always a temptation to fill the book quickly, to oversubscribe the transaction and just price it and get it done, and so you want to make sure that whether it's the designated representative or the financial advisor is focused on the quality of the book that's being built, you know, where the bonds are being shown, what's the quality of the book. If the book is getting oversubscribed, you want to tighten the spreads.

Q (Parsley) Without a financial advisor, who would be looking at that on the part of the Commission or the ratepayers? Would that be something that Mr. Kilbride would have to -- is that part of the certification or --

A (Kilbride) I would think it would be something that we'd have to think about and look at in order to make the certification, that's correct. So we would look at a number of things, such as the different markets that have been approached, have we sought out additional investors, have we analyzed whether or not it would be more economically attractive from the standpoint of the ratepayers to do some tranche of this on a swapped basis or to do it all fixed. So, yes, we would do that, and we would also expect the underwriters to develop a marketing plan that contemplated that as well.

You know, I'm not going to say that there's anything that the financial advisor would do, you know, that Wayne has already talked about that we wouldn't do or wouldn't try to do, but I think I can stand by my comment before. I mean, if you have somebody else there, they may have a different approach. Maybe that's useful to look at. They may have ideas that haven't occurred to me quite frankly. So I guess that's what you have to evaluate in terms of whether or not that particular value is being added at the price that is being charged.

Q (Parsley) Well, I'm pretty -- as I've stated before -- pretty simplistic on these sorts of things, but let me see if I get the motives right. "Motives" is really probably not the right word, but what you're really -- what it seems to me the financial advisor is there to do is to provide the right motives for the company when even if the company thinks it has the right motives may not be squeezing the last bit out of a particular transaction because they have an incentive to do something else. And I just want to make sure I've got those incentives right. The company wants to get good financing, but it wants to also move the bonds quickly and make sure they sell effectively. Right?

A (Kilbride) (Nodded)

Q (Parsley) The real squeeze that we end up with is the interest rate. Is that correct? I mean, I'm not impugning anybody. I'm just trying to make sure I've got all the players where they really belong because it's in your best -- it's in the company's best financial interest to market these effectively and make sure they're not oversubscribed, and that they are moving and being sold appropriately. It's in the company's best interest also to make sure this happens very quickly, and if there's a pushback on the spread in terms of the interest rate, there might be a little bit of -- I mean, I think that's where we've seen the savings is in the interest rate spread.

A (Kilbride) Uh-huh.

Q (Parsley) But still you're certifying that -- but with respect to that issue, you have to certify that it is the best interest rate. Is that correct?

A (Kilbride) That results in the lowest possible transition charges consistent with the terms of the financing order, that is correct.

Q (Parsley) Okay. So what we really have in terms of what the Commission is looking for is another -- is someone that's also looking at this in terms of the marketing and making sure the bonds are sold appropriately but is also watching the interest rate, but then there are also protections for that here in the statutes?

A (Kilbride) Yeah. I mean, I think I follow what you're saying, and I think that generally encompasses probably what the concern is. You know, on the one hand, we have a duty imposed upon us to go out and actually get -- let's just reduce it down to the interest rate -- the best possible interest rate. On the other hand, I suspect some people could say, "Yes, the company has a real incentive to try to get the bonds sold as quickly as possible."

So is there tension between those two objectives? You know, I don't think we're going to do anything that, you know, does not allow me to make the representation that I have to make, but I can understand why the people would say that's why the Commission either directly or indirectly needs to be involved in this process because the company does have at least one other consideration, and I freely admit that. You know, all other things being equal, as long as I can make that representation, I'm going to sell the bonds as soon as possible.

Q (Smitherman) You know, Julie, this is sort of where the art rather that the science comes in because in every transaction, even those that Mr. Kilbride does for his company, it's that tension between getting the bonds sold quickly with interest rates that are high, which is what the investors want, and those that are low, which is what the borrower wants, and that happens in every transaction. And that's where very -- that's where it's important to have very good underwriters, you know, firms that do this all the time, every day, that know what they're doing and people like Mr. Kilbride. So that's an art in many ways. I think you guys would agree with me --

A (Kilbride) Would agree, Commissioner.

Q (Smitherman) -- more than a science.

Secondly, one of the great things about Wall Street is there are no secrets. If these bonds are sold at inappropriate interest rates, we will know about it, and CenterPoint -- this will not be the last time that Mr. Kilbride and Mr. Brian will be sitting here in front of us. Right?

A (Kilbride) Yes.

Q (Smitherman) You remain a regulated industry.

A (Kilbride) That's correct.

Q (Smitherman) So if these bonds are priced incorrectly, it will be all over Wall Street in 48 hours. We'll know about it, and so it's not like anybody is going to get away with anything. I think it boils down to what is the value of this extra set of eyes perhaps.

A (Elvey) And the pressure that they could put to bear in the negotiations at every stage. I've witnessed the pressure. It's a lot.

Q (Smitherman) Maybe Martha and I disagree on this, but I think the reason we get such low interest rates is because of our pledge, I mean, our security feature, which is articulated this way: "The broad base nature of the true-up mechanism in the state pledge will serve to effectively eliminate for all practical purposes and circumstances any credit risk."

A (Elvey) I think almost all the states have that though.

Q (Smitherman) Martha, this has been characterized to me as a bold statement.

A (Elvey) The state pledge?

Q (Smitherman) This particular language. Now, I see Mr. Kilbride shaking his head yes.

A (Kilbride) I'm sorry. I'm not much of a poker player here.

A (Elvey) I'm sorry. Are you talking the state pledge or the credit risk language?

Q (Smitherman) I'm talking about this language I just read, "will serve to effectively eliminate."

A (Elvey) Oh, the credit risk language. Okay. I'm sorry.

Q (Smitherman) I've been told that's a bold statement. I think it's a bold statement. Mr. Kilbride is shaking his head yes it's a bold statement.

A (Kilbride) When I had heard about it, yes, I thought it was a bold statement, and I understand it took a long time to get everybody involved in the transaction comfortable.

Q (Smitherman) Mr. Olson?

A (Olson) It's a bold statement that you rarely see in a prospectus.

A (Elvey) It's my understanding that some other states have now also put that language in their prospectus. Have you seen that, Mr. Olson?

A (Olson) I have not seen that.

A (Elvey) Okay.

Q (Smitherman) So in other words, what that says is these are solid -- this is rock solid, these are solid gold. So I think that's -- in my opinion, that is a bigger contributor to low interest rates than the role that any of these parties play that says -- it basically says that we will do whatever is necessary to cause enough money to be collected to pay this off.

COMM. SMITHERMAN: So, Paul, I'm not sure -- we've probably beat this horse to death at this point in time, but, you know, there's perhaps more to come.

CHAIRMAN HUDSON: We still have -- we still have rebuttal witnesses, I think; four if I'm remembering.

JUDGE MONTELONGO: That's correct.

COMM. PARSLEY: Are there any questions of these guys at all?

CHAIRMAN HUDSON: Stephen, do you-all have any questions of any of the rest of these folks?

MR. JOURNEAY: No.

CHAIRMAN HUDSON: Why don't we -- the rebuttal witnesses are next. Right?

JUDGE MONTELONGO: That's right.

CHAIRMAN HUDSON: Why don't we go ahead and shift and --

(Simultaneous discussion)

JUDGE MONTELONGO: -- or singularly like we did the direct?

CHAIRMAN HUDSON: I'm sorry?

JUDGE MONTELONGO: Should we bring them up all together or --

CHAIRMAN HUDSON: I don't have a good sense of how much these folks -- I know they held back on some of the questions in the prior rounds. So why don't we start one at a time, and if there's very limited questions, we'll bring up more.

JUDGE MONTELONGO: Okay. Let's bring up Mr. Brian then, I guess. Let's start with him.

(Discussion off the record)

CHAIRMAN HUDSON: What's the order of things?

JUDGE MONTELONGO: We'll start cross-examination. I have city of Houston listed first.

MR. HALL: We have no questions of Mr. Brian.

JUDGE MONTELONGO: Okay. Maybe instead of going down the list, why don't you tell me who does have questions for Mr. Brain?

(Simultaneous discussion)

THE REPORTER: I can't get you all at the same time. I'm sorry.

MR. MENDIOLA: No questions, Your Honor.

JUDGE MONTELONGO: Mr. Wiseman?

MR. WISEMAN: No questions, Your Honor.

JUDGE MONTELONGO: Okay. Mr. Rourke?

MR. ROURKE: No questions.

JUDGE MONTELONGO: Ms. Hodgins?

MS. HODGINS: No questions, Your Honor.

JUDGE MONTELONGO: Staff?

MR. PENDER: No questions.

JUDGE MONTELONGO: Mr. Davis?

MR. DAVIS: None.

JUDGE MONTELONGO: Mr. Burns?

MR. BURNS: No questions.

JUDGE MONTELONGO: Ms. LaValle?

MS. LaVALLE: No questions, Your Honor.

JUDGE MONTELONGO: I think that's everybody.

MR. GOLUB: Your Honor, before the parties waive so quickly, there were two things -- actually there were three things -- we discussed one of them at the prehearing conference -- but two things that came up late in yesterday's session. Mr. Tietjen put an exhibit on the board after cross-examination was completed. Mr. Brian has some comments about that that I would like to go through with him, and Mr. Tietjen and Mr. Journeay had a discussion about the AFUDC in which Mr. Tietjen, I believe, expressed probably some frustration that he didn't quite understand the company position fully.

In any event, Mr. Brain can address those two issues, and I would ask for the opportunity to ask him those questions and then the parties can cross-examine him about those things if they would like.

MR. PENDER: Your Honor?

JUDGE MONTELONGO: Okay. First, Commissioners, obviously they've all stated they've waived their right to cross. So ordinarily then CenterPoint would not be entitled to redirect, but would you have any interest in hearing that discussion? That would really be the only opportunity to bring it up.

COMM. PARSLEY: As long as the discussion will be subject to cross. I mean, the waiver wouldn't go to that discussion.

JUDGE MONTELONGO: Okay.

COMM. PARSLEY: I think Mr. Golub already said that, but I don't know -- I don't feel strongly one way or the other.

COMM. SMITHERMAN: Let me tell you what my questions were and maybe they capture this. One of them was the last part you brought up, Mr. Golub, about the conversation between Darryl and Stephen on the AFUDC. I had a question about that as well.

I also have a question about -- I wanted to get Mr. Brian to comment on Mr. Tietjen's methodology for calculating ADFIT, and I wanted to get Mr. Brian's comments on this whole discussion we had about the appropriate interest rate, opportunity costs versus avoided costs. Maybe that covers the waterfront. I don't know. I mean, I don't care how we do this.

MR. ROURKE: Well, Your Honor, if I may -- Jim Rourke for OPC. If I may say in order to preserve the procedure that's been established and not change the procedure in the middle of the hearing, I think the appropriate procedure would be to allow the Commissioners to ask the witness the questions they would like to. It sounds like Mr. Smitherman knows exactly what he wants to obtain from the witness, and I think that will be the appropriate procedure rather than to have Mr. Golub redirect when there is no cross. And so I would object to Mr. Golub's redirect without the cross.

JUDGE MONTELONGO: Okay. We'll just go to Commissioner questions at this point.

CHAIRMAN HUDSON: Sounds like you're up, Barry.

REBUTTAL PRESENTATION ON BEHALF OF

CENTERPOINT ENERGY HOUSTON ELECTRIC

JAMES S. BRIAN,

having been previously sworn, continued to testify as follows:

CLARIFYING EXAMINATION

BY COMMISSION STAFF:

Q (Smitherman) Let me start first with JSB-1R, Page 5 of 6, which was this discussion yesterday on AFUDC.

A Yes, sir.

Q (Smitherman) I've got tell you I don't know if it was because it was the end of the day or what it was, but I just got completely lost on this, and I just would appreciate it if you would walk me back through this.

A I'd be happy to, Commissioner. In fact I didn't come in at three in the morning like Mr. Tietjen did, but we did prepare a graphic that I think will demonstrate exactly how it was calculated and why it's appropriate. If I may?

(Discussion off the record)

A I'd like to start off by saying this is very complicated. I understand that, and that's one of the reasons that I chose, in my direct testimony, to take the total deferred taxes, determine how much related to generation plant, that's the 741 million as of

August 31, 2004, and then allocate that between stranded costs and market value. That's my 26 percent number, and then I add back the deferred taxes related to AFUDC or to regulatory assets.

You can also do it the way Mr. Tietjen did, but again, there was some problems with the way he did it. The first thing that I had in my rebuttal was that included in his $4.8 billion of net book value that he started with is $620 million of book value that relates to equity AFUDC and debt AFUDC, and those amounts you can see on Figure JSB-1 or Page 6 of 6. At the very top left, you'll see temporary differences, equity AFUDC 440, debt AFUDC 180, that's the 620. The ADFIT related to that is 217 million. That's just 35 percent. That's also on my Figure JSB-1R.

We had said that there's double counting. He's double counted the 217 because he did not reduce his 4.8 billion by the 620, and I wanted to show you why. The AFUDC -- excuse me -- the deferred taxes related to this 620 is 217, and it's made up of two pieces. In this docket -- excuse me -- the true-up Docket 29526, the Commission found appropriate $88 million of ADFIT related to this asset. It was part of the deferred taxes that should be considered in this proceeding to be shared with customers.

That 88 million -- let me go back to the top of this chart. This 88 million is part of the 141 million of deferred taxes on the regulatory assets that's in your order, and it's actually -- it's the 141 that's on Page 5, and it was in your final order that that is the amount that should go to -- go back to customers.

The 141 million is made up of two components. One of them is the 88 million of AFUDC, as I've described here. The other piece of that is 53 million, which is simply the 35 percent of this regulatory asset of 150, which the Commission also found in 29526 was recoverable by the company.

So the 53 million is the 35 percent of the 150. The rest of this 141, 88 million, is an amount of AFUDC relating to this part of the asset. So you'll ask, "Well, what happened to the rest of this, the 129 million?" This 129 million has already been given back to customers in Docket 21665, the first securitization we did. This tied to -- back at that time we had about 570 some-odd million of regulatory assets. We securitized -- in the settlement in that case securitized about 400 million of that amount leaving 175. That 175 was litigated in the true-up case, and the Commission -- and we requested that through a couple of adjustments, that ended up being 150. The Commission found that that was appropriate, and that's been -- that's been determined.

So part of the -- because we had securitized in 21665 about 400 some-odd million of the regulatory assets that tied to that AFUDC, we also took a portion of the deferred taxes and gave that benefit to customers in determining that amount. It was in the settlement, and I refer to that in my -- I refer to that in my rebuttal testimony on Bates Page 15. It's Page 7 of my testimony where we refer to the specific -- we quote out of the settlement agreement. It says, "Specific generation-related regulatory assets which comprises the billion dollars and change and the associated accumulated deferred income taxes as of December 31, '98 are listed on Exhibit B and referred to as covered regulatory assets, covered ADFIT respectively. The 740 million" -- which is the amount we securitized -- "is a final resolution of all potential issues regarding recovery of covered regulatory assets and covered ADIT."

This 129 million was the covered -- part of the covered ADIT that was in 21665. So what's left is 88, and in my schedule -- in my direct case, it's also in the rebuttal case -- well, it's Figure JSB-1 in my direct case, Schedule 3, Line 10, is the 141 million, which includes the 88 million that was not subject to securitization last time.

So what Mr. Tietjen did in his analysis -- he essentially overstated $217 million in the amount of deferred taxes. You can avoid all that if you just take -- do the analysis that I did. I know that was long-winded, but I'll be happy to answer any questions you have, Commissioners.

Q (Parsley) And how was that cured -- how was that cured in your analysis?

A I hope it clears up the -- the questions for Mr. Tietjen. I'm sorry?

Q (Parsley) How specifically is that cured in your analysis?

A Well, you don't have to go -- you don't have to go through this analysis if you just take the -- the total deferred taxes that the Commission found related to -- to the stranded costs and the regulatory assets and do it as I did to my direct testimony. When I corrected Mr. Tietjen's analysis for this and the -- some other things that I identified in my rebuttal testimony, you get almost the same number.

I -- I came up with 336 million in deferred tax benefit that should go back to customers --

I'm sorry, not the benefit. 336 that you have to take the PV of that to get -- to get the benefit to customers -- PV of the benefit, I'm sorry. His number, when I correct for that, is like 355 million. It's -- it's not the wide range that others in this proceeding have -- have identified, you know, up to 700 or 800. I mean, some people have said we should deduct at least 800 million, which is more than -- more than the total that we even have to start with.

So, you can do it this way. You can do it Mr. Tietjen's way, as long as you correct for this. But you get, essentially, the same answer doing it the way I did in my direct case.

Q (Parsley) The Company's tax rate is 35 percent. Is that -- that's correct?

A Yes, that's the statute corporate rate.

Q (Parsley) Why -- can you explain to -- why you used the 26 percent interest rate to me one more time?

A Okay. The 26 percent is -- is -- is an allocation of -- of -- if you -- and if I may refer you to my direct testimony on Page 9 of 26, which is Bates Page 136, the 26 percent is simply the -- the ratio of the stranded cost, the non -- "Net, Verifiable Non-mitigable Stranded Cost" that the Commission found in -- in the last docket, 29526, was $1.2 billion.

That's how much we said we were entitled to recover.

The market value, the Commission found, was 3,417,000,000. This is the bottom of the -- of that page. So your total net book value of generation assets is 4.64 billion.

Stranded cost is 26 percent of that total. So it would make sense that you would take 26 percent of the deferred taxes, and that's the benefit that relates to stranded costs. The rest of it relates to the market value.

And Mr. -- Commissioner Smitherman asked of me a couple days ago about paying the taxes on that market value. I did get a verification from my tax people yesterday that the amount we expect to pay, the tax bill on the sale of the fossil plant, is about $545 million. We -- if we have 741, as you see on Line 5, that relates to the generation assets, we're going to pay $545 million in tax. That leaves you just under 200.

Amazingly my calculation is 195 million. The -- the 26 percent would produce 195 million. That's extremely close to what the actual turned out to be.

Q (Parsley) But I think you testified -- although I didn't catch the full number -- that you actually sold the fossil plants for more than we gave you in stranded costs.

A That's right.

Q (Parsley) In other words, was it by -- what -- you said 5 -- you said -- sorry. You said 4 point something but -- in terms of the sales price.

A Well, no. The -- the total -- the total sales price that -- was -- was 3.65 billion, but that is -- is for -- well -- and that sort of relates -- would be related to the 3.4 billion market value.

Q (Parsley) But it seems that if you sold the -- if you sold it for more than the numbers that we produced in the hearing, then the tax bill is going to be higher. Right?

A Correct. That's right, Commissioner.

Q (Parsley) So are you taking that into account and then --

A Well --

Q (Parsley) So -- so it seems like actually the actual bill -- the tax bill you paid is sort of irrelevant to determining in this proceeding what the ADFIT is.

A Well, I -- I -- I agree that it's not relevant, because your determination has -- this market value is -- is what's relevant. Now, the -- the 545 million only is related to the fossil sale. We still -- the nuclear part hasn't closed. We'll pay additional tax, and we don't know how much it will be --

Q (Parsley) Right.

A -- when -- when that is -- when that closes. So it will be more than 545. But what is -- what should be relevant to -- to this proceeding is -- is the tax bill related to the market value, which would be 35 percent of -- of the 3.4 minus whatever the -- the -- the basis is in that -- in those assets.

But it also follows that the -- you sort of look at a sanity check, I think, if you look at the results that my method gives that where we're saying 26 percent of the deferred taxes should go to the customers, the stranded cost. The way other people have done it -- I think Mr. Tietjen, before he increased it by 150 million or so yesterday, would have given like 65 percent, I believe, of the ADFIT benefit to the stranded cost and only 35 percent to the market value when the relationship between the market value and the stranded cost is almost 180 degrees opposite of that.

Market value is 75 percent of the -- of the -- in your finding, market value is 75 percent of the net book value of generation assets, and it ought -- the tax ought to be roughly that same -- same percentage.

(Brief pause)

A (Laughter)

MR. JOURNEAY: Commissioners, could I jump in here for a second?

COMM. SMITHERMAN: Please.

(Laughter)

Q (Journeay) Mr. Brian, what -- what I am confused on, I think right now, is I -- I understand what you're saying about the 88 million being included in the 141 million. And so that's reflected as a line item in your correction to Mr. Tietjen's methodology. But what -- what I am confused on is the 620 million of the AFUDC, part of which was dealt with in the securitization proceeding.

Why would you then pull out the entire 620 million in your corrections to Darryl's? It would -- in my head the part that was already securitized should not be in the 4.8 billion of book value because it's already been dealt with.

A You're -- you're exactly right, Mr. Journeay. The 620 million of asset, the 620 million of -- of equity AFUDC and debt AFUDC was not dealt with in the -- in the prior securitization. What was dealt with was the deferred tax benefit that related to the regulatory asset, which was $570 million, that was associated with the equity AFUDC.

And I'll say -- I will say back in 1998 the -- this 620 million was about 966 million. So, I mean, it's been depreciated. But the -- but the -- the AFUDC part of the book value was not dealt with in the securitization. All we securitized was regulatory assets, because this is part of book value, which will become part of the stranded costs.

Q (Journeay) Then -- then, when you subtract it out -- and I'm going to call it above the line -- before you multiply -- and I'm -- and I'm looking here on your Page 18 of your rebuttal where you're doing corrections to Mr. Tietjen's methodology, you have the AFUDC asset itself in there. But you've already dealt with part of the associated ADFIT. But I would -- it would seem to me that, by pulling out the entire 620 million here and coming up with a number that you then multiply with 35 percent, is -- you are overadjusting the AFDIT (sic) balance -- ADFIT balance, because the -- the AFUDC assets that -- that we're dealing with here in part has no ADFIT associated with it because it was dealt with in securitization.

A Correct. To -- to a certain degree, but the part that was dealt with in securitization was the -- was 59 percent of the -- ADFIT was dealt with back in

'98. And in Docket 29526, when we presented that case, we said, "Okay. How do we deal with the -- what was left?" And what we used and what the Commission found appropriate, was that we took the -- the fact that 59 percent had been dealt with in -- in Docket 20665, the remaining 41 percent became part of -- well, became the 88 million. And, of course, that's been updated, because 41 percent of the 123101 balance, not the '98 balance. It's been brought forward to the current day, and that's part of the 141 that was litigated.

We had tons of RFIs, as you could imagine, because it is very complicated. We -- we -- you know, we -- we addressed that, answered those questions. And it was litigated, and the Commission found appropriate -- the 141 was appropriate which, in effect, is saying, "Yes, the 41 percent of -- of ADFIT related to the equity AFUDC and the debt AFUDC should be part of deferred taxes going back to customers." And we agree with that. We're not -- what Mr. Tietjen did was took out 217 and 88, because he took the whole four -- 141, which is correct, including the 141 is the 88.

What he overstated was, was taking out an additional 217 by not subtracting the 620 from the book value of 4.8 billion. And I can show you where that -- the 620 million is a component of the 4.8 billion is in -- I'm not sure if it's in the record, but it was in an RFI response. I think it was City of Houston -- yeah, City of Houston 4-1c, Attachment 2, Page 3 and 4. You will see the -- the 440 and the 180 as part of the book basis for the 4.8 billion.

MR. GOLUB: Your Honor, I -- for the record, I believe that the RFI response he just referred to is attached to Mr. -- Mr. Brian's rebuttal testimony. So, it is correct.

COMM. PARSLEY: Okay.

A Okay. It's -- thank you, Mr. Golub. It's on Bates Page 82 and 83 in my

rebuttal testimony.

Q (Journeay) Y'all just keep leading me deeper and deeper into the forest here.

(Laughter)

A We're trying to get -- we're trying to have sunlight, Mr. Journeay.

Q (Journeay) Okay. Okay. Then, I understand. You're basically, by subtracting the 620 million out, that's an attempt to remove the entire 217. And then you come back in and add the -- the 88 in because it's a component of the 141 million that -- that's added in back at the bottom.

A Exactly. That's precisely correct.

Q (Journeay) And then -- and then the other adjustment you made to pull out the ITCs and whatnot --

A Yes, because those were reductions of stranded costs that the Company is not going to recover those -- those costs.

Q (Journeay) I -- I guess what's really bothering me now is the fact that I've heard both you and Darryl say that either method should come up with the same number. And, yet, we're 20-something-million dollars apart, which is not quite 10 percent. It bothers me that there's that big a difference between these two methods. And what would you attribute that to?

A I've struggled with that as well, Mr. Journeay. But I -- I think getting within $15 million, when -- when some parties have said it's 800 million, is a -- I think that's pretty close. Darryl did talk about government work yesterday. We -- we -- we try do as well, and I think that's pretty close.

It's -- it's that -- it's that order of magnitude. I mean, we -- my lawyers may not agree with this. But, you know, if the Commission found that 355, the corrected number that I used -- Darryl's, I -- I think that would be acceptable. The 800s are just -- just crazy.

I think 336 is the right number. But, you know, 355 is -- I won't say close enough for government work, but I guess I did say that.

Q (Journeay) Do you think if you took your original methodology and -- and divided it out based upon the tax basis, as opposed to the book value basis that Mr. Tietjen suggested, do you think that would bring these two numbers closer together?

A You know, I really don't know, because the -- again, the tax basis is as of -- again, as of -- would be as of December 31, '01. And we could try to do that. We -- we -- we have tried to do that and -- and couldn't come up with anything that made -- that made any sense.

Q (Journeay) Well, we could add it to the stack here.

(Laughter)

A Hopefully you're not saying -- hopefully you're agreeing this does make sense here.

(Indicating)

Q (Journeay) Well, I -- I can follow those numbers. What I -- what I don't know is the tracking of the ADFIT balance through time. I -- I don't know that I can do that, but you've got background or material provided for those numbers.

And if we can't come up with a tax basis and perform that other calculation, then I guess there's no way to know if -- if that, in fact, is -- would bring these two numbers together.

A I could give you an order of magnitude. I mean, the tax basis as of now -- and I don't know what it was back at -- at the end of '01, because there's obviously been transactions since then, but it's on the order of magnitude of $1.3 billion.

Q (Journeay) I read his testimony. I'm not sure I can do that calculation, but (laughter) maybe I can think about that.

A Well, I -- the simple thing is -- I kind of do it in my head here. The market value is 3 -- if you're trying to get an actual, the market value the Commission determined was 3.4 billion. The tax basis is 1.3, and then the tax is, you know, essentially 35 percent of -- of, what, 2.1, about $700 million, if I'm doing the -- I'm doing that in my head. I guess I shouldn't do that.

Q (Journeay) It sounds roughly correct to me.

A But -- but -- I mean, Darryl can do that calculation.

MR. JOURNEAY: Commissioner, that's all I think I had on this particular area. I had some other areas I'd like to touch on if --

CHAIRMAN HUDSON: Why don't you just keep

going, Stephen?
MR. JOURNEAY: Okay.
Q (Journeay) You -- you proposed in your rebuttal making adjustments to reflect adjustments to excess mitigation credits and -- and interest up to, I forget the exact date, but --
A Is it through --
Q (Journeay) -- sometime --
A -- the rebuttal testimony reflects the calculation of those two items. The principal amount of EMCs paid through May 31st.
Q (Journeay) May thirty -- right.
A And the interest on the stranded cost balance -- or the interest on the true-up balance, I should say --
Q (Journeay) And I guess --
A -- up -- also through that same date. That was on Mr. Golub's opening remark slide.
Q (Journeay) Right. And I -- I guess this is reflected on your Figure JSB-7R.
A Yes.
Q (Journeay) And on -- on Line 1 you have six items listed there, the sixth item being an adjustment due to EMC update. And my question on that is -- and let me preface my question, in that in 29526 the excess

mitigation credits that were paid back to the REPs, if my recollection is correct, after February or maybe it was March, were projections by the Company, were not the actual amounts.

A That -- that is correct.

Q And my question is, is this update an adjustment to reflect a change from projections in that case to actual amounts, or -- or what is this?

A Yes. Actually, if you look at the -- the second line of -- of Line 1, the 661,621,000, that is the amount that was in the -- that was the -- the assumption that was in the final order. And we took that out, and we substituted for that what the projection -- the actuals through December of '04 plus the projections through May of '05. And that is the next line, the 501 million. If we continue to pay, the 501 is the projected unpaid balance at the end of May.

The $111,000 in the -- that you referred to is the correction for the interest through August to the fact that we estimated 661, and it was a little bit different from that. And if you see the reference to Workpaper JSB-7.5R, Page 1, which is Bates 89, shows the calculation to be 111,000 due to the EMC update through August 31. So we were correcting the amount up to August 31 to take out the -- the estimate and put in the actuals, and so there was a slight interest adjustment there.

The -- the Commission had provided for interest on the stranded costs, again, and back to 12/31 or 1/1/02. And that was in the final order. That's part of the billion 493, because we had refunded a different amount than what was in the estimate. That number -- the -- the stranded cost number was different in Workpaper -- this Workpaper, Bates 89, is calculating that difference. So, it should -- it is reducing the amount to be securitized by $111,000.

Q (Journeay) So, now, the interest calculation reflects actual EMCs paid out up through December 17th, and then we have projections after that date?

A Actually, I think we went through the calendar year. I believe we went through Calendar Year December, and that is on -- let's see. That's on Bates 85. You see it now, this fine print.

At the very bottom you'll see "Remaining principal in May 2005, 501 million 805 -- or 605,464." That's the remaining balance at May, which includes actuals through December. See the heading at the very top of this says, "Excess mitigation credits, actuals through December 2004, and forecasted remaining months."

And -- and we would propose that this

further be adjusted up to whenever we do the financing, whenever the TC is sold or the -- excuse me, the bonds are sold. And so we will continue to update this, provide this to staff and -- you know, so that you -- we have the proper size of the securitization bonds.

Q (Journeay) There were a couple of other items on our -- on the Commission's Schedule 2 in calculating that interest that -- that needed updating, one of them being the environmental costs. Why did you choose not to update that -- that number?

A I'm -- I'm not sure I follow. The -- the environmental --

Q I mean, I -- if I -- I recall in 29526, there were projections to expend funds for environmental cleanup or --

A I'm with you.

Q -- and -- and we only had a number up to a specific date. But I would assume the Company has continued to spend money in that category that would impact that interest calculation. I was just curious why y'all didn't also update that.

A My -- my understanding of the final order was that the Commission found the -- the 698 million, 699 million plus the AFUDC of 18 million -- or roughly 718 million is in the stranded cost calculation. And we agreed, and -- and the Commission then, of course, followed up that with an order. But I think by December -- January of '07 we are to report back to the Commission what was spent.

It's been sold, so we -- we have a -- we have a commitment from who we sold it to to tell us, you know, what's been spent through December 2006. And we will report that to you at that time. The amount was deemed to have been spent at, I think, August 31 was the -- the full amount was -- the amount we hadn't spent as of August was deemed to have been spent in August for purposes of the -- of the final order.

And that was -- I don't believe was asked to be updated monthly. It was -- said, "Okay. At the end of '06, you know, what -- what did you spend? If you didn't spend it all, then we" -- we were obligated to, you know, refund that money to customers. And, of course, we will do that.

Q (Journeay) Okay. Evidently we can improve our order writing yet more. (Laughter) I -- I had thought that -- that we would have updated that number and that y'all would have wanted to. That provision was to ensure that it was all actually spent, I think, but neither here nor there at this time, I guess.

In your calculation of -- once -- once you make the split and calculate the amount of -- of -- I guess we're calling it the allocated ADFIT for stranded costs, there's a calculation then of -- of the benefit. And as I understand it, Mr. Tietjen's prospective calculation and your calculation are -- are following the same methodology.

Mr. Tietjen also has what he called his retrospected method that you don't have a corresponding component in your calculation. But as far as his prospect calculation, it -- it's correct that your two methodologies are the same, except for the discount rate. Is that true?

A I -- I would agree with that.

Q (Journeay) In calculating that you have basically estimated your tax liability in the out years based upon payment of transition charges and then discounted each of those yearly amounts back to the projected issuance date of the bonds, I think.

A Yes.

Q (Journeay) When I look at that, what it makes me think is that we have then calculated an amount of money that the Company needs that, along with earning interest at whatever discount rate you're using, would then be sufficient to pay those projected tax liabilities in the future. Is that correct?

A   Yes. We differ on the rate. In fact, I'm -- I'm glad he put that chart up yesterday, because I -- it proved my point, although I don't think he -- he under -- he believes that. I can show you why his chart proved my point. I'd be happy to do that if you like.

Q   (Journeay) Maybe in a minute. I guess then the focus on -- if -- if

You look at this, as -- as given the Company -- or ensuring the Company has a sum certain with -- along with whatever earnings that are sufficient to pay the tax liability that will come due on these transition charges, the Commission, it seems to me, must assume that that -- that amount of earnings is going to be available to the Company so that -- that you can pay those taxes. And, therefore, it's making me think about "What is available to the Company to have a sum of money like this and invest it and obtain a return on it so that they can pay these tax?".

And so, you know, I -- I'm curious -- well, let me get this out. I guess, in fact, we don't really have the money there. We just a have an accounting entry. That's correct, isn't it?

A   Well, the -- the fact -- I guess, yes and no. This -- let -- let's say we start with a securitization balance and -- and, just for the sake of argument, referring to my Figure JSB-7R, Page 60, assume it's -- it's -- that it would be on Line -- I guess it's the line right above Line 2, a billion 774, and then if you had to add the qualified costs, estimated 18 million -- but whatever that number is, so you would have a billion 792. And then that's how much of the -- should be securitized, except for the deferred tax benefits we were talking about.

We then subtract that. In this analysis I've got 130 million, which is bigger than my earlier number, because we continue to -- as we continue to pay these EMCs out, that deferred tax balance goes up. So there we're giving that appropriate share again back to customers. But, nevertheless, we're -- we're not going to get a billion 792 to pay off debt in bonds. We're only going to get, in this example, a billion 662.

And we're required by the financing order in the -- in the statute to use all that money to pay off debt and equity. We -- we -- we can't keep some of it over here to -- to pay those taxes in the future. We've got to -- you've got to pay it out, pay it -- so, you know, where does the money come from to pay the taxes in the future? It would come from the existing balance that we might have that we haven't already invested in plant.

I mean, part of the -- the assumption of deferred taxes is that, as Mr. Tietjen and others have said, which I certainly agree with, you take that money -- it's cost-free capital -- and you invest it in plant, which -- which if it's in -- would earn whatever the rate of return the Commission deems appropriate. Whatever you earn on that plant you've got to pay taxes on, contrary to what Ms. Blumenthal said yesterday. You invest in plants, you earn on it. Yeah, and you got to pay tax on what you earn.

So you -- you only get an after-tax return is what you have cash left over to pay these taxes when they come due, which is, again, why Mr. Tietjen's schedule yesterday proves the point that 7.2 would be the right discount rate, after tax rate, not the pretax rate. But we would, otherwise, have to go borrow money. If we hadn't -- assuming we had spent all our -- the -- the savings and deferred taxes invested in plant, we don't have cash sitting around to -- to pay taxes as they come do. So we would have to go borrow the money.

And, you know, one scenario, which we -- I -- I didn't put in my testimony would -- you know, we'd have to go borrow the money. And, you know, what would it cost us to borrow that money to -- to -- to pay the taxes? In today's market, it's -- it's pretty low.

Who knows what it will be over the next 15 years. Even Mr. Olson doesn't know what that will be.

But it would seem like a reasonable surrogate would be the -- the cost of capital for the Company. But it should be the after-tax cost of capital, because that's the only amount of money that we have left, you know, to -- to pay those bills as they come due.

Q (Journeay) An alternative would just be to pay it out of revenues. But, there again, you have the same tax problem. You would have to pay taxes on those revenues.

A Yes. Whatever -- whatever we earn, you know, unless it's a -- in a municipal bond, and Commissioner Smitherman is familiar with, would be subject to tax. And you don't get real high yields. You certainly -- I don't think we could find an 11 percent municipal bond these days.

Q (Journeay) Thank you, Mr. Brian. I think you could talk forever, and I still couldn't relieve all my ignorance.

(Laughter)

CHAIRMAN HUDSON: We've got three additional folks -- Mr. Olson, Mr. Kilbride and Mr. Purdue -- to work -- work through this morning, I think.

And, I guess, Barry, do you have additional questions for Mr. Brian?

Or, J.P., do you have additional questions?

COMM. PARSLEY: No.

COMM. SMITHERMAN: I -- I think Stephen covered -- covered what I had on my list and more. So, no.

CHAIRMAN HUDSON: Okay.

JUDGE MONTELONGO: Do you want to bring up Mr. Kilbride?

CHAIRMAN HUDSON: I had Mr. Olson next on my list, but whoever you have on your list next.

JUDGE MONTELONGO: Okay. Yeah, we have Kilbride.

Do we have any questions from Intervenors?

MR. HALL: I have some questions.

JUDGE MONTELONGO: Kilbride?

MR. HALL: Are we bringing up Kilbride or Olson?

JUDGE MONTELONGO: Kilbride.

MR. HALL: No questions for Kilbride.

MR. MENDIOLA: I have just one follow-up -- a couple of follow-up questions from my direct. Yes, questions for Mr. Kilbride.

MR. HALL: Kilbride.

JUDGE MONTELONGO: Okay. Go ahead. No, we're -- we're -- you're

next.

MR. GOLUB: Your Honor, I would like to have the -- the chart that Mr. Brian was speaking from marked as an exhibit, and I move it into evidence.

JUDGE MONTELONGO: Okay. I guess that would be CNP-56.

MR. GOLUB: I believe so, Your Honor.

JUDGE MONTELONGO: Any objection?

(No response)

JUDGE MONTELONGO: Okay. Well, I'll need you to have that reduced, also, and make copies for the parties. Thank you.

(CNP Exhibit No. 56 marked and admitted)

MR. MENDIOLA: Good morning --

(Brief pause)

JUDGE MONTELONGO: Okay. Let's go back. Okay.

So, Mr. Mendiola, you're the only one that -- with cross-examination for Mr. Kilbride, is that correct, of the Intervenors?

MR. HALL: I think that's correct, Your

Honor.

JUDGE MONTELONGO: Okay. Go ahead, then.

MARC KILBRIDE,

having been previously duly sworn, testified as follows:

CROSS-EXAMINATION

BY MR. MENDIOLA:

Q Good morning, Mr. Kilbride. I just wanted to follow up. Did -- were you able to confirm what the other qualified costs, that you were referring to in your testimony that I asked you about earlier, were referring to, if not the ongoing and the upfront qualified costs on Bates Page 69?

A Yes, I did look at that.

Q Okay. And the answer is?

A May I explain?

Q (Indicating)

A When I was looking at that, I have two references to relative costs in my testimony, one in the original testimony and one in the rebuttal testimony. In both cases, I had made the comment that either it was de minimus or small, and I thought we were referring to the comment in the -- even though I was handed the document and should have recognized it, I thought we were referring to a comment about the estimated stranded costs as we got -- the estimated other qualified costs as we got to the point of pricing, because there was a discussion in there about "Would you know all the prices?" And, no, there's some additional -- or costs. There's some additional legal fees, things of that nature.

So, that's what I was referring to. But I went back to look at my original testimony and saw other qualified costs does basically pick up all of the cost of issuance. I was asked if the 18 million was a de minimus number. And, no, I don't think -- that's a stand-alone. It is a de minimus number.

But I think what I said was that the costs were de minimus relative to the benefits that the ratepayers would achieve from the securitization. And now that you've let me say that, I think I can stand by everything that I've said previously, including what's in that testimony.

Q Okay. So, just to be clear, when you said that "The potential costs in the 'other qualified costs' category are immaterial or de minimus compared to the projected cost savings from securitization," you were talking about roughly the $18 million of costs that were on the schedule presented by Mr. Golub?

A Against the present value benefits that we have seen presented, say, for the various tests that have to be met. Yes.

Q Thank you.

MR. MENDIOLA: No further questions.

JUDGE MONTELONGO: Okay. Mr. Golub, any redirect, or Mr. Kroger?

MR. GOLUB: No, Your Honor. I have -- I have no redirect for Mr. Kilbride. I -- I will let the Commissioners know that Mr. Kilbride does have some sense of -- of what the cost would be to go out and borrow money, which was one of the questions asked a few minutes ago -- or I don't know whether it was actually asked a few minutes ago. But if that's something the Commissioners are interested in, Mr. Kilbride is the one to ask those questions.

JUDGE MONTELONGO: Okay. Commissioners?

COMM. PARSLEY: I'm good at the moment, but I bet Barry has got a question.

CLARIFYING EXAMINATION

BY THE COMMISSION:

Q (Smitherman) Just -- maybe this is -- maybe this is the same one. But yesterday, in talking about what the appropriate interest rate ought to be on the ADFIT -- and we -- Mr. Brian talked about it a little bit, one concept was this opportunity cost. And --

A Right.

Q -- and maybe, Mr. Kilbride, you're the right one for this. I -- I actually meant to ask Mr. Brian. What -- what do you think -- these are two questions, I guess.

What do you think CenterPoint's opportunity cost is on -- on money that it's either given or it receives or generates? And then the second question would be, what do you think it would cost to borrow?

A Okay. And I actually -- I don't do much work with deferred income taxes. So I'm not much help in terms of deriving kind of like what numbers go where and this, that and the other.

But I was interested in the discussion yesterday about the -- the appropriate carrying costs. And -- and I think a lot of different terms have been used for this: Opportunity costs, carrying costs, maybe cost of capital. But I was struck by the fact that the -- you know, the basic issues -- because so many things are so complicated in this case, the basic issues here are about the benefits to the Company or how to value the ability to have deferred taxes. That, to me, seems very straightforward.

Now, there may be legal issues and things of that nature. But if I were presented with a case where you're either paying the taxes now or you're going to pay those same taxes at some point in the future, so you know there's a benefit, because it's much better to be able to pay a dollar in the future than it is to have to pay today. Well, how do we go about computing that?

From the standpoint of corporate finance -- and I think this is true, is generally practiced everywhere; it was certainly in my text. I mean, the appropriate discount rate to use in that case is the after -- weighted average after-tax cost of capital. And the one thing that didn't seem -- well, how should I put this? I guess I disagree, unless there's some reason for, you know, my -- I should have a better understanding. But you would not use the pretax cost of capital, because it really overstates the case for the Company.

I hadn't planned to do this. Can I use the board for a minute?

Q (Smitherman) (Indicating)

A And I just want to keep this very, very simple if I can. Obviously, it's an oversimplification.

But all I'm really talking about here (writing) -- I mean, this is even simpler than Mr. Tietjen's. I looked at this, and I said, "Well, what does this look like from a capital budgeting standpoint?" Or any other sort of decision that you would make from an economic perspective within a company.

You basically have two choices -- all right, possibly you have two choices. You're either going to pay the taxes up front, or you're going to pay the taxes at the end of Year 1. In either case, you're going to pay the same amount of the taxes over time. You had, I thought appropriately referred to this as basically a loan -- an interest-free loan from the government. That's what it turned out to be.

Well, how do we determine what the benefit to the Company is of being able to pay that out later? Well, you have to have some way to equate this value to what you're not going to have to pay up front. And in our case what we would say is you would take that and express it in terms of a present day cost. So $100 that you pay in the future is going to equal some lesser amount today, because it really only has a cost to you in today's dollars of something less than a hundred.

So, then the big question is, "Well, what rate do you use?" All financial textbooks, in a case like this -- and let me say that these -- these are already quote/unquote tax adjusted, because there's no deduction. I mean, we're talking about tax payments themselves. You can't deduct tax payments to arrive at a tax liability.

So, what do you look at? Well, typically, what you would do is look at weighted average cost of capital. But if I can make it even easier, let's just assume that the appropriate thing to use is the debt rate, because you get the same issue presented, whether or not it's the after-tax cost of debt or the pretax cost of debt.

So, let's say the Company can go to the bank and borrow money at 7 percent. This is a completely made up number, and it bears no relation to any of the numbers that have been presented here. How would you look at that as an opportunity cost in assigning sort of a benefit here? (Indicating)

Well, there's a number of ways you could do it. The one hand you say, "Okay. My 7 percent that I go to the bank or to your Uncle Tex, and I borrow at 7 percent, that's great. Now I've got a hundred that I can borrow today, and I can actually put that to work or let's say I've got the hundred and I -- I just put it in the bank and I earn 7 percent. Well, that's great, because at the end of a year I've got $107. I borrowed the 100, put it in the bank. I've got $107.

So, that's fine, except there's one problem with that. I'm a corporation, and I guess in terms of anybody borrowing -- I'm sorry, investing, the issue here is I've got to pay tax on that. So I don't really get the 7 percent. I get 7 percent less whatever the tax rate is, and in our case it would be, I guess, one minus the marginal tax rate, because this is out of that 7 percent that I earned. Or in this case out of that $7 I've got to send some of that to the government.

So I don't really get that. To say that I'm getting 7 percent, which a pretax rate overstates the benefit to me. And then you can use that same logic on the go back and say, "Okay. Well, what's the cost here?" How do I discount that back so that I'm expressing, you know, dollars for dollars or apples to apples here? Well, I'd go ahead and I'd say, "Well, I'm going to discount that not at 7 percent but at the after-tax rate," because that's my benefit.

I want to be able to move from present-day dollars to forward dollars and back and forth. And you do that by translating them at the Company's cost of capital. So, whether you call it an opportunity cost or whether you talk about it in terms of a -- what was some of the other things, avoided costs, it basically comes down to the same number.

From a standpoint of the corporation to analyze these types at alternatives, you're looking at using the weighted average cost of capital. Now, I use the debt rate, because it's easier to see, the pretax versus the after-tax. But it works the same way if you use the weighted average cost of capital. It's just easier to think of it in the terms of the -- the debt rate.

So, the answer to the question, if the question is, we're trying to measure this in terms of the benefit to CenterPoint, the weighted average cost of capital. I think there's an argument to be made -- I'm not making it -- that you would look at. I think Jim made this in his testimony. You look at the debt rate to the ratepayers, because they're benefiting based upon this lower cost. Obviously, that would give you a number that's lower than a -- excuse me, lower than a weighted average cost of capital.

I also thought your idea was interesting, but I haven't thought through that, whether or not it's somehow related to the debt rate.

But the point is to move back and forth. To determine what the value of future dollars are to the Company, you have to look at the weighted average cost of capital on an after-tax basis. I mean, I don't know any textbook in Introductory Finance that tells you differently.

Q (Parsley) But, you know, I don't disagree with that from a financial standpoint. But we're talking from a regulatory standpoint, and -- and -- and --

A If I'm only -- I'm sorry.

Q (Parsley) -- and this is, I think, part of the -- Barry's -- Barry has been in the real financial world, so he looks at it that way. But, you know, when you're in a regulated world, it's -- it's different, and we're still operating under that standpoint. And the 11.075 is the -- is the average weighted cost of capital for the Company.

A Uh-huh.

Q (Parsley) And I don't -- I just don't think that the after-tax rate is the appropriate one because of the way that these -- these funds have traditionally been treated, because what you're talking about is taking -- is -- is having the use of a set of funds that, if you wanted to use that and you would go out and borrow it, then you would have -- that's what your -- and it's not borrowing at the financial rate; it's borrowing at the average -- it's at -- at the average weighted cost of capital rate. And you're not having to go do that; you're just using the money.

And so for the use of the money, for which there is not going to be any tax implication, because you're paying the taxes to the government --

A Uh-huh?

Q (Parsley) -- I mean, it's eventually all going to be paid to the government. So there's no additional tax.

I think you're the one that said -- maybe Mr. Brian said, if you pay taxes to the government, you don't pay taxes on the taxes. So, there's no tax implication there. So, why wouldn't it be the average weighted cost of capital, the 11.075?

A You're -- you're speaking in terms of, you know, perhaps the regulatory requirement. I -- I don't know that I'm qualified to talk about that. I was listening to people talk about the benefit that the Company got from being able to defer the payment of federal income taxes and how you equate, you know, the value to that.

And we saw these long tables that go out 14 years that show what the taxes are going to be. And I was looking at that and saying, "This looks no different from any other sort of capital budgeting decision that we have to make as a corporation." And if you're trying to decide what that value is of the ability to forgo paying those taxes, you would use the weighted average incremental cost of capital.

Q (Parsley) After-tax --

A After-tax.

Q (Parsley) -- for your -- in your situation.

A Absolutely.

Q (Parsley) But, see, I guess my problem is the only reason we're here looking at ADFIT is because that's a regulatory concept. If you start mixing regulatory concepts with real, live financial concepts, I'm not sure what you end up with.

A Yeah, but if I can --

Q (Parsley) You either kind of -- be all in the financial world or all in the regulatory world. And if we start doing this, I'm not sure that it works.

A From the -- the standpoint of the Company, I think if you're using the pretax rate, you are greatly overstating the benefit to the Company, in fact. Now, you can say, "Well, that's how the regulation works, or that's what PURA requires." I back off. I say, "You're probably right. I'm not an expert at all in this."

But I know that if you try to present, just from an economic standpoint, the future value of these tax payments, you've overstated the benefit to the Company. We will never get that kind of a benefit.

Q (Parsley) I -- I understand your point. I think the -- I think it's coming at it from two different perspectives, and we just have to figure out what those are.

A Okay. But thanks for giving me your time.

CHAIRMAN HUDSON: Thanks, Mr. Kilbride.

COMM. SMITHERMAN: Well, I think -- I think Julie has hit the nail on the head, and -- and that's sort of where we find ourselves in this transition period, right, where the rules are not particularly clear.

(Laughter)

COMM. SMITHERMAN: Yeah. I mean, one way -- let me just throw this out, Julie.

One way that -- Stephen and I were talking this this morning, and this is probably completely off -- off the planet, is if you -- if you look at all -- the Company's -- all of their sources of capital -- equity, bank debt, bonds and ADFIT -- you know, it would be an interesting exercise to assign a cost to each of those. You know, equity is 10 percent and bank debt is 7 percent and bonds are 6 percent and ADFIT is zero and then figure out the percentages and then do a weighted, excuse me, average cost of capital with that, would be, you know, kind of an interesting exercise.

I think it's probably completely outside the bounds of --

(Laughter)

COMM. SMITHERMAN: -- of regulatory analyses. But it's kind of an interesting number.

The zero is going to obviously bring it down some, but you have to sort of agree that it's a loan from the government. So -- I mean, I think that that's why we're grappling with this, is we -- we're not -- in my mind, we're not completely in a regulated environment. And we are transitioning to a completely deregulated environment, so there's not a play book.

CHAIRMAN HUDSON: We've got, I think, two additional folks, Mr. Olson and Mr. Purdue. And, I guess, I don't know if you want to poll these folks and find out what kind of questions they may have.

MR. MENDIOLA: No questions, Your Honor.

MR. HALL: I only have about 10 to 15 minutes for Mr. Olson, nothing for Mr. Purdue.

JUDGE MONTELONGO: Okay.

MR. ROURKE: No questions, Your Honor.

MS. HODGINS: No questions, Your Honor.

JUDGE MONTELONGO: Mr. Pender?

MR. PENDER: (Shaking head)

MR. WISEMAN: No questions, Your Honor.

JUDGE MONTELONGO: So, just Mr. Olson and then --

CHAIRMAN HUDSON: You said Mr. Olson, not Mr. Purdue?

MR. HALL: That's correct, Your Honor.

CHAIRMAN HUDSON: Mr. Olson, please come join us.

Thank you, Mr. Kilbride.

WITNESS KILBRIDE: Thank you very much.

(Brief pause)

JUDGE MONTELONGO: Go ahead, Mr. Hall.

MR. HALL: Thank you, Your Honor.

WAYNE OLSON,

having been previously duly sworn, testified as follows:

CROSS-EXAMINATION

BY MR. HALL:

Q Mr. Olson, we meet again. Mr. Olson, I just want to make sure I'm clear on one point before I proceed. Did I understand correctly that, when you were answering questions -- I believe it was from Commissioner Smitherman during the -- your direct presentation, that you stated that the additional costs associated with -- I think you were talking about the

Company's phase-in plan, but you said a phase-in plan was only about four basis points?
A That's -- that's correct.
Q Okay. And you consider that a small concession. I think those were your words.
A In -- by historical standards, it's remarkable that you can employ that type of structure and have only a small concession.
Q Okay. You had some rebuttal testimony regarding Mr. Daniel's phase-in, as you understood it at the time. Were you in the room when Mr. Daniel clarified that?
A Yes, I was.
Q Okay. What I'd like to do is just compare -- well, let me back up for a second.
As I read your rebuttal testimony, the -- the critical factor in determining the marketability of a particular structure relates to the cash collection. Is that -- is that a fact?
A Correct. That's correct.
Q And so, when you're looking at a phase-in, you're looking at what the task -- excuse me, cash collection will be during the period of the phase-in.
A Exactly.
Q Okay. Well, let's compare the Company's

levelized, the Company's two-year phase-in, and then Mr. Daniel's. I think probably the best thing to do is to put this on a flip chart.

(Brief pause)

Q (By Mr. Hall) I'll put this in a way that you don't get a crick in your neck and, at the same time, the Commissioners can see it. (Writing) Okay. What -- what I want to go over with you is the difference in the cash collections for Years 1, 2, 3 and 4 under the CNP levelized structure, the CNP two-year phase-in and then Mr. Daniel's, City of Houston, four-year phase-in.

Now, am I correct that in Years 1, 2, 3, 4 -- and, actually, throughout the 14-year period -- under CNP's levelized structure, the cash collections would be roughly 130 million?

A That's correct. It's 120 in the first year, because we -- we only have get 11-and-a-half months of the payments. But it's -- but it's kind of -- 130 in a steady state.

Q Would you think it's reasonable if we just used 130 for consistency purposes?

A Yes.

Q And I'm just going to put 130, but we'll agree that -- that this is in millions. Is that okay?

A Uh-huh.

Q Okay. (Writing)
A It -- it does rise slightly over time over the 15 years because, if you keep a levelized rate, of course, as loads go up, you get more collections. But that's roughly -- that's roughly correct.
Q Well, the -- the same will be true with all of these?
A Exactly.
Q Okay. But for purposes of this illustration, are you comfortable with using an approximation of 130?
A Yes.
Q Okay. Then, under the Company's two-year phase-in, you would have roughly $50 million in Year 1, $50 million in Year 2, and then it would go up to what amount in Years 3 and 4?
A Roughly 150, might be 140. I'm relying on memory.
Q Okay. Well, what number are you comfortable with?
A Well, let me -- let me think for a moment. So, we -- we would have roughly $80 million a year for two years of reduction. And then over the remaining time period, I think it's 10 million a year additional collection. I would say 140 is more like it.
JUDGE MONTELONGO: Mr. Olson, can you

pull the -- the microphone up towards you?

WITNESS OLSON: I beg your pardon.

A The exact figures are in the Workpapers, obviously.

Q (By Mr. Hall) Okay. And we're just doing this for -- for demonstrative purposes. Now, as you understand Mr. Daniel's proposal, as clarified yesterday, he would have in Year 1 --

A 90.

Q 90 million. Correct?

A Yes, exactly.

Q And the same thing would be through Year 4?

A Correct.

Q Now, I didn't really leave myself much room, so I'll have to write it in here. If -- if we just take the cash collections under the levelized plan for the four-year period, would you agree with me that that adds up to about 520 million?

A Uh-huh, yes.

Q (Writing) And under your two-year plan, that adds up to about 380?

A Correct.

Q (Writing) And under Mr. Daniel's four-year, that would up add up to 360?

A Yes.

Q So, in essence, over that four-year plan, Mr. Daniel's phase-in is -- yields only $20 million less in cash collection than the Company's two-year plan.

A That's right.

Q And actually in Years 1 and 2, yields a greater cash collection than the Company's two-year plan.

A That's right. And if -- if I may say, the most -- more -- the additional consideration to look at is in -- in the example we've been working on, the $1.4 billion transaction, the interest cost of the bonds in the fist year is around $63 million. It's around 400 percent or 1.4 billion.

So, that in Mr. Daniel's amended -- or the plan he meant, you were actually covering current interest on all the bonds from Day 1. And that's significant.

Q I'm sorry. I didn't mean to cut you off. So, in the first two years, Mr. Daniel's phase-in is actually more attractive than the Company's?

A It's more attractive in two respects, okay. One is it's a more traditional structure, and so as I -- as I mentioned the -- and we would quote tighter spreads on Mr. -- a current pay structure than one which involves an accrual. That's the primary way in which it's more attractive. It is -- it is slightly longer in

an average life, that's accounted in there. So --
Q Okay. Given your testimony about the -- the additional costs associated with the CNP plan, two-year plan, I believe you said four basis points, with this now clarified understanding of Mr. Daniel's plan, would you expect any increased costs associated with that phase-in structure to be much different from the -- the four basis points?
A Well, I asked my folks to -- to run the -- Mr. Daniel's structure, as I now understand it. And -- and the cost -- the cost of funds associated with this more gradual phase-in or the -- the -- the third item on this chart here, Mr. Daniel's plan, is intermediate between the -- the levelized structure originally presented and the phase-in structure as presented by CenterPoint originally.
Q So you would actually expect it to be less costly than the four basis points that you would attribute to the CNP two-year plan?
A It would. As I said, there are countervening affects because it's also a longer -- it has more bonds further out on a yield curve, but it turns out that the -- the -- the tighter spreads that we would assign to these more traditional types of transition bonds outweigh that affect. And in -- in -- in that way, it

turns out to be intermediate.

I -- I would also say in -- as Commissioner Smitherman pointed out during my original testimony, there's -- there's a much -- there's a greater degree of uncertainty around pricing with respect to the phase-in bonds than there is with respect to, you know, what we call plain-vanilla transition bonds. Talking to the traders, you get very exact responses around transition bonds than when you say, "What would happen if you had an accrual feature that say, 'Well, maybe it's around 3 to 5 basis point?'."

Q Okay. So -- so just to conclude your point, if -- if you took four basis points and you said this was less costly, can you give us a magnitude? You think it's half, two basis points?

A It's -- it's -- it's rough -- it's intermediate, roughly half.

Q (Writing)

A The differ -- the differential.

Q Excuse me?

A The differential is roughly -- and it was relative to the levelized structure.

Q Yes.

A The -- the CenterPoint plan was three to four basis points more expensive. And the City of Houston plan is in between those two. It's roughly one or two higher than the levelized structure.

Q You said one to two?

A Yeah.

Q Okay. All right.

(Brief pause)

A Can I just mention one thing quick about cost of funds? By "cost of funds," I mean, the internal rate of return on the -- the cash flows to bond holders. The -- the results are really driven by what happens in the longer maturity bonds, because they're outstanding for such a long period of time.

Well, how you structure the bonds in the first two to four years don't -- doesn't have a lot of affect on the ultimate cost of funds defined as the internal rate of return over the entire time frame. So, a lot of these structures look very similar in the 7, 10 and 15-year traunches. And that's why the cost of funds comes out pretty similar.

Q (By Mr. Hall) So, in conclusion, if the Commission were going to adopt a phase-in plan, would you agree with me that the most attractive plan to potential investors would be the City of Houston's four-year plan?

A Yes.

Q Thank you.

MR. HALL: No further questions. Your Honor, I would like to mark this -- these numbers on -- on this as a demonstrative to demonstrate the discussion that I had with Mr. Olson. And I'll figure out which City of Houston exhibit we're up to and mark it, have it reduced and offer it into evidence.

JUDGE MONTELONGO: Any objections?

(No response)

JUDGE MONTELONGO: Okay.

(COH/COC Exhibit No. 13 marked and admitted)

MS. HODGINS: Your Honor, I do have a question. I didn't think I did, but I -- if I could, based upon what Mr. --

JUDGE MONTELONGO: You have a question for Mr. Olson?

MS. HODGINS: Mr. Olson, yes.

JUDGE MONTELONGO: Okay, but no objection to the --

MS. HODGINS: No. No objection to the document.

JUDGE MONTELONGO: Okay. So, we'll find out what number that is and --

MR. HALL: Would you like to move down

here?

MS. HODGINS: No, I'm fine. Thank you. I just have one question.

JUDGE MONTELONGO: Go ahead, Ms. Hodgins.

CROSS-EXAMINATION

BY MS. HODGINS:

Q Good morning, Mr. --

A Good morning.

Q -- how are you? I just have one question. I -- I keep thinking I'm mishearing what you're saying.

When you -- when the Company compared the levelized plan with the two-year phase-in plan, are you saying that the only difference on a basis-point perspective, was the four basis points. It would cost four basis points more?

A It's roughly three or four basis points in cost of funds. Correct.

Q Okay. What interest level did you apply to the phase-in, as opposed to the levelized?

A The phased-in bonds in -- in that case there were, I believe, three traunches, which had -- where we could not pay current interest during the first two years. And those classes were assigned interest rates which were three basis points higher in the case of the two-year traunch, four higher in the case of the five-year traunch, and -- and five higher in the case than the seven-year traunch.

That's the, sort of, penalty that -- or yield concession that I spoke of that -- our desk estimated that the market would charge for that unusual feature. So, the coupons on those bonds are higher. But as I said, when you calculate cost of funds, what drives that calculation, for the most part, is what happens with the 10- and 13-year classes, which bore identical interest rates as between the two structures.

MS. HODGINS: May I have a moment, Your Honor?

JUDGE MONTELONGO: Okay.

(Discussion off the record)

JUDGE MONTELONGO: Getting back to the -- the -- the chart, I believe that's going to be City of Houston 13.

MR. HALL: I was just checking. Thank you, Your Honor. And I wasn't sure, was it already admitted?

JUDGE MONTELONGO: It's admitted.

MR. HALL: I'll mark it.

JUDGE MONTELONGO: Thank you.

Q (By Ms. Hodgins) When you calculated the payment stream, did you use the 4.36 and the 4.52

interest rates?

A Those -- yes, those are weighted average interest rates. But the differential, as -- as I stated -- of course, after the first three bonds are retired, those two securities will have the identical weighted average coupons. The -- the difference in weighted average coupon is -- is entirely attributable to the shorter traunches, and they have less effect in -- in generating internal rate of return than the longer ones do.

COMM. SMITHERMAN: Let me --

A I asked myself the same question.

COMM. SMITHERMAN: Let -- let me interject here.

CLARIFYING EXAMINATION

BY THE COMMISSION:

Q (Smitherman) Mr. Olson, did you have an opportunity to calculate -- not on a PB basis but, cumulatively, the difference in interest that would be paid under the various scenarios?

A I -- it's -- it's in the -- the runs that I had run for me, and I could calculate it easily.

Q (Smitherman) Yeah, I don't think it's totaled, though. I'm looking at your rebuttal. Because, as I follow your testimony, while -- while the -- the -- the

IR might be similar. Because we're going to put more principal out in later years, that's going to necessarily generate more interest associated with those longer principal bonds. Right?

A Well, what I did -- what I did summarize for myself was the -- the total amount of transition charges that would be collected in -- in each of these runs, assuming that, you know, life transpired exactly --

Q (Smitherman) Right.

A -- as projected --

Q (Smitherman) Right.

A -- by CenterPoint.

Q (Smitherman) Could you put those numbers up on the board?

A I sure can.

Q (Smitherman) Maybe you can just write them in red up there associated with each scenario, and -- and these are on a nonPV basis?

A Exactly.

Q (Smitherman) Okay?

A Which is the total at the bottom --

Q (Smitherman) Right?

A -- of that column of collections. This is the levelized structure (writing), and then the two-year phase-in structure (writing), and the City of Houston structure is -- (writing)

Q (Smitherman) So, to paraphrase, those amounts in red are the amount that would be taken from ratepayers over those -- over the life of the bonds on a nondiscounted basis?

A Correct.

Q (Smitherman) And if you -- if you discounted each of those scenarios at the same discount rate, then can we project that the level would have a lower PV and then two-year would be next and then four-year would be last?

A I don't believe so.

Q (Smitherman) No?

A I believe level would be first, the City of Houston would be second --

Q (Smitherman) Okay.

A -- because these are further out into the future. City of Houston second and -- and CenterPoint phase-in third.

MR. WISEMAN: Your Honor, I wonder if I might ask one follow-up question.

JUDGE MONTELONGO: Go ahead.

MR. WISEMAN: Thank you.

CROSS-EXAMINATION

BY MR. WISEMAN:

Q I just had one question, Mr. Olson. Do you calculate what the net cost would be to ratepayers after taking into consideration the ADFIT benefit as it would be apply to the levelized approach, the two-year approach, the four-year approach and the five-year approach?

A That's an excellent point. The -- the only place where I made such an adjustment was in my original direct testimony. You'll note that the -- there's a difference in the principal amount of the levelized structure and the phase-in structure. I did not make any such adjustment when I looked at the other alternatives.

MR. WISEMAN: Thank you.

JUDGE MONTELONGO: Okay. Any other Intervenors have questions for Mr. Olson?

(No response)

JUDGE MONTELONGO: Mr. Golub, any redirect?

MR. BURNS: Your Honor, I'm sorry. I just have a clarification in response to Commissioner Smitherman's question. I believe the witness referenced "that" would -- would be the -- in describing the -- the present value. For the sake of the record, could we ask the witness to clarify what "that" --

A Yeah. Certainly, I apologize. I would expect that the least expensive in present value would be the levelized structure. The next least expensive would be the City of Houston proposal, and the -- the third -- and the third, or the -- the most expensive of these three, would be the original phase-in structure as proposed by CenterPoint.

MR. BURNS: Thank you.

CHAIRMAN HUDSON: Do either of you have any additional questions for Mr. Olson?

CLARIFYING EXAMINATION

BY THE COMMISSION:

Q (Parsley) Mr. Olson and I had had a discussion, and I think these are the numbers that we were talking -- are these, the numbers in red, what we had talked about you were going to do a number -- you were going to back go back and -- and look at some other numbers.

A No, that -- that was a separate issue.

Q (Parsley) That was a separate -- okay. Did -- do -- did you have -- oh, did -- oh, Mr. Golub, I'm sorry.

MR. GOLUB: Yeah, I -- I believe in my notes --

COMM. PARSLEY: I'm sorry. I thought he said he didn't have anything. I'm sorry.

(Laughter)

MR. GOLUB: There -- there was a question about the cost of the accelerated build-up of the overcollateralization account.

COMM. PARSLEY: Okay.

MR. GOLUB: And I believe he did go back and -- and -- and look at that so he can answer that question.

A Well, there -- there are two elements. Let me explain more fully what is going on there. The transition bonds are at -- at their -- their greatest jeopardy of missing a scheduled redemption payment in the early years. Traditional overcollaterilization subaccount buildup has always been, for reasons that are obscure to everyone, a straight-line buildup over the course of the entire life of the bonds to half a point on the original balance.

As a consequence there is nothing in the overcollateralization subaccount to begin with. There's a half a point in the capital subaccount.

The debt service requirements on these

bonds tends to be between 8 and 12 percent of the principal amount annually, so that if you have -- if you have a forecast variance, when you establish the rates, it's based on a forecast. If the forecast variance is -- is greater than 5 percent, you can actually get in a position where you can't make all the payments that are required or that are scheduled.

And as I mentioned, this actually happened in the state of Pennsylvania on a couple of bond issues when they had an unusually mild weather event following the issuance of bonds. To address that, we thought of an alternative structure for the overcollateralization subaccount, which would be sized based upon a relationship between the amount of cash in there and the -- and the debt service requirement and, furthermore, would be funded early in the transaction when -- when the deal is at its most -- it's greatest -- greatest danger of missing payments.

The intent there is to avoid interim true-ups which -- I mean, TXU has done two interim true-ups on their deals. That's right out of the box. You know, they set transition charges. And then six months later they had to do a true-up, an interim true-up which, as I understand, is -- is somewhat distressing to -- to the REPs, particularly, but it's also -- it creates a certain volatility in transition charges.

So that was the purpose. And -- and so it was sized at 10 percent of the annual debt service requirement, and it was designed to be collected right up front. The combination of those two -- I looked at the cost to ratepayers in the following way: I made the assumption that amounts in the overcollateralization subaccount, they -- they must be invested in high-quality assets that mature no later than the next payment date, so six months. So I took three months as it is today, 275, as the -- the reinvestment rate for funds that are in that account. And I took 4-and-a-half percent, roughly, the -- the bond rate as my discount rate, and I -- and I just ran the two scenarios.

And in the -- in the case of -- there's not much difference between the two-year phase-in and the levelized structure. But in the case of the level payment structure, the difference in present value of those two scenarios, you know, where -- in the CenterPoint structure ratepayers have to fund a higher amount and they have to fund -- fund it sooner, and then they get it back at the end of the transaction, is roughly between 1.5 and 1.6 million dollars on that kind of present value analysis, which is approximately eleven-hundredths of a percent of the principal -- of the principal amount of 1.4 billion. Or in yield terms, it's -- it's equivalent to roughly one-and-a-half -- one-and-a-half basis point increment in the all-in cost of the bonds. As I said, the -- the benefit is primarily to avoid this volatility in transition charges and to avoid the disruption to the REPs that involves -- is involved when you make continuing true-ups every six months.

The other comment I'd make is in the -- in the bond market it's -- it's -- we -- we have saw transition bonds as being -- one of the most favorable characteristics of them is that they will meet their scheduled retired -- their -- their scheduled sinking funds, that there's no variability around those. And it's -- it's not a good thing when you miss your scheduled redemption. It's not a default from the perspective of the indenture, but it's not a good thing.

COMM. PARSLEY: Thank you.

JUDGE MONTELONGO: Mr. Golub, did you have anything else for Mr. Olson?

MR. GOLUB: No, Your Honor.

JUDGE MONTELONGO: Okay.

MR. HALL: Your Honor, before Mr. Olson is relieved, Commissioner Smitherman yesterday had asked for some number runs related to the -- the four-year phase-in for Mr. Daniel. And I just wanted to ask Commissioner Smitherman whether -- whether the discussion and the numbers that he received from Mr. Olson today satisfies that --

COMM. SMITHERMAN: Yes.

MR. HALL: --or if you need something additional.

COMM. SMITHERMAN: Thank you.

WITNESS OLSON: And I can provide workpapers if you -- if you like.

COMM. SMITHERMAN: Thank you.

MS. HODGINS: Your Honor, excuse me. But before we leave, we had this exhibit that Mr. Hall drew and that was admitted into evidence, but that, I believe, was admitted into evidence before Commissioner Smitherman's numbers were added on. I just want to move that we admit this exhibit with the answers to Commissioner Smitherman's questions included on that chart.

MR. HALL: Well, I think they're on there. So, once it's --

(Laughter)

MS. HODGINS: All right.

MR. HALL: But I certainly have no

objection.

(Laughter)

JUDGE MONTELONGO: So admitted. Mr. Chairman, that concludes our witnesses, unless you want to hear from any -- have any come back.

CHAIRMAN HUDSON: Any additional Barry?

COMM. SMITHERMAN: No thank you.

CHAIRMAN HUDSON: J.P.?

COMM. PARSLEY: I'm okay.

CHAIRMAN HUDSON: I had talked about yesterday having a panel, if you will, to talk about rate design. Frankly, I don't feel great today, and I've seen this and spent some additional time last night with this. I don't feel like I need to have a panel at this point.

Y'all may feel otherwise. So, you guys can tell me whether y'all want to bring up some of the witnesses to talk about some of these rate design issues or not.

COMM. SMITHERMAN: I don't think it's necessary.

CHAIRMAN HUDSON: Okay.

COMM. PARSLEY: Okay.

CHAIRMAN HUDSON: Okay. I think, then, at this point we could directly go into some discussion of some of these issues, or we can wait until the next Open Meeting. I'm going to express my preference. I'm hopped up on cold medicine and stuff --

(Laughter)

CHAIRMAN HUDSON: -- perhaps not as articulate as I need to be today to do that, that we approach this issue at the next Open Meeting, as opposed to -- to at the end of hearing, if that's okay with you guys.

COMM. PARSLEY: It's okay. I just am mindful of the request that we try to give them some guidance so that -- because, once we issue the financing order, I think settling is really going to be hard. So, it shortens the amount of time they might have any idea of what we're thinking.

But in order to get a good discussion of what we're all thinking, you probably -- we don't need to be -- I wouldn't use the word "impaired" but "hopped up" I think is a technical term.

(Laughter)

COMM. PARSLEY: So, I -- I don't know. I mean, I'm -- I am very mindful, though, of the fact that -- that they did suggest it --

CHAIRMAN HUDSON: Well -- yeah, of --

COMM. PARSLEY: -- you know, and I -- and

I want to do whatever we can to --
CHAIRMAN HUDSON: -- of particular -- sure. Of particular interest, I think amongst this group, was the ADFIT benefit, trying to get some certainty wrapped around that number. We heard that repeated over and over.
If you and Barry are of the mind to -- to sort of share where you are, I'll be happy to try to participate. And we can see if we can provide them some certainty today. Otherwise, we can fight it one more week. It's up to y'all.
COMM. SMITHERMAN: Well, I -- Julie, I -- I'd be more than happy for you to go ahead and --
COMM. PARSLEY: (Laughter)
COMM. SMITHERMAN: -- tell us how you feel about this issue, but -- (laughter)
COMM. PARSLEY: Well, I was actually hoping we would take a break and come back after lunch so that I could -- I could look at some of this --
COMM. SMITHERMAN: -- but I'm going to need to think about it a little bit more.
JUDGE MONTELONGO: Commissioners, the other point that we had -- had discussed with the -- some of the parties is that we had scheduled some dates, tentative dates, for written briefing if you

were wanting that. However, if this is going to be up for discussion next week, I don't know that there would be enough time to have any sort of briefing come in --

COMM. SMITHERMAN: When is our next meeting?

CHAIRMAN HUDSON: Next Thursday.

COMM. PARSLEY: Next Thursday.

COMM. SMITHERMAN: Next Thursday?

JUDGE MONTELONGO: We had set tentatively to file briefs by the 9th and reply briefs on the 14th, and we could adjust that if you needed briefs or just prefer to not have any briefs.

CHAIRMAN HUDSON: Stephen just popped up. He may have some --

MR. JOURNEAY: Well, Commissioners, we have an Open Meeting on -- on the 10th, which is next Thursday, and then again on February the 24th. I think the 90-day deadline on us issuing an order, if I remember correctly, is March 2nd. I may be off a day on that, but it -- so, unless we schedule a special Open Meeting to talk about this, we're going to have to have decisions made definitively at the 24th so we can get an order out and signed.

And so that leaves the 10th next week for a discussion along with the 24th, although we can do --

I mean, if your schedule allows, we could put an extra Open Meeting somewhere in there. I just wanted you to --

COMM. PARSLEY: That's, actually, the AEP hearing, isn't it? I mean, we could -- couldn't we post it if we needed to?

MR. JOURNEAY: I thought we were --

CHAIRMAN HUDSON: The AEP hearing is March 1st, 2nd and 3rd, I thought.

MR. JOURNEAY: Yeah. Now, I -- I don't know if we have another odd thing in February or not. I guess I'm not on top of those.

COMM. PARSLEY: Well, I guess maybe -- how about this? I -- can we -- let's think about it. I -- I don't think -- I'd really like to talk about the ADFIT number maybe at the next Open Meeting and we could maybe come up with at least some agreement on that. I don't know if we really need to come up with anything else, even necessarily the rate design or the -- or where it comes out or anything like that, although we might want to go ahead and talk about that a little bit.

But I'll try to come prepared to -- to come up with -- to talk definitively about at least a number, if -- if y'all feel like that would be possible.

COMM. SMITHERMAN: Excuse me. Why don't we do that, and why don't we also shoot for agreeing on an interest rate? Perhaps, if we can come up with those two, it will give the parties some meaningful direction.

CHAIRMAN HUDSON: All right. Then, I guess we'll adjourn the Open Meeting today with that understanding. Irene may have some clean-up issues she needs to do with the parties.

JUDGE MONTELONGO: Did y'all want the briefing or not?

COMM. PARSLEY: I'm okay with -- I don't think I -- I need it.

COMM. SMITHERMAN: I don't think it's necessary.

JUDGE MONTELONGO: Okay. Okay. Then, we won't do it. Thank you, Commissioners.

CHAIRMAN HUDSON: Thank you-all.

(Proceedings concluded at 12:32 p.m.)

C E R T I F I C A T E

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