

600	<p>1 COMMONWEALTH OF VIRGINIA</p> <p>2 STATE CORPORATION COMMISSION</p> <p>3</p> <p>4 COMMONWEALTH OF VIRGINIA</p> <p>5 At the relation of the</p> <p>6 STATE CORPORATION COMMISSION CASE NO. PUE-2011-00073</p> <p>7</p> <p>8 For approval and certification of the proposed</p> <p>9 biomass conversions of the Altavista, Hopewell,</p> <p>10 and Southampton Power Stations under</p> <p>11 Section 56-580 D and 56-46.1 of the Code of Virginia</p> <p>12 and for approval of a rate adjustment clause, designated</p> <p>13 as Rider B, under Section 56-585.1 A 6 of the Code of</p> <p>14 Virginia.</p> <p>15</p> <p>16</p> <p>17 The complete transcript of the testimony and</p> <p>18 other incidents of the above-captioned matter when</p> <p>19 heard on January 12, 2011,</p> <p>20 before State Corporation Commission members Judith</p> <p>21 Williams Jagdmann and Mark C.</p> <p>22 Christie.</p> <p>23</p> <p>24 Reported and transcribed</p> <p>25 by: Leslie A. Todd. RPR, and Notary Public</p>	602
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17 No. 57-ES	613	613
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<p>604</p> <p>1 well, but he will be reading the transcripts. And I 2 will not be here after noon today. but Judge Christie 3 will take over and I too will read the transcript. 4 Now, that being said, we have -- Ms. Scheller 5 is still here for her cross-examination. 6 And are we still in extremely sensitive -- I'm 7 trying to remember cross. 8 So we are going off the web for confidential 9 cross-examination. 10 (Whereupon, pages 605 through 11 636 were marked extraordinarily 12 sensitive and attached under 13 separate cover.) 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>638</p> <p>1 it? 2 A No, I do not. 3 Q If I were to ask you these same questions 4 again, would your answers be the same? 5 A Yes, they would. 6 Q And you would like to sponsor it as your 7 rebuttal testimony? 8 A Yes. 9 MR. McNAMEE: And at the appropriate time, 10 Your Honor, I would like to have it made an exhibit and 11 entered into evidence. 12 COMMISSIONER JAGDMANN: Okay. For the 13 benefit 14 of the court reporter, everything that Mr. McNamee said 15 with respect to Witness Kelly, it's in public version so 16 it can be in the public transcript. 17 Mr. Kelly's rebuttal testimony will be marked 18 as Exhibit 52 and 52-ES, and it is received into 19 evidence subject to cross-examination. 20 (Exhibit Nos. 52 and 52-ES were marked 21 for identification and received in 22 evidence.) 23 BY MR. McNAMEE: 24 Q Mr. Kelly, do you have some surrebuttal to 25 provide? A Yes.</p>
<p>637</p> <p>1 MR. McNAMEE: The company calls Glenn Kelly. 2 WHEREUPON. 3 GLENN KELLY. 4 called as a witness. and having previously been duly 5 sworn, was examined and testified as follows: 6 REBUTTAL DIRECT EXAMINATION 7 BY MR. McNAMEE: 8 Q Mr. Kelly, could you please give your name 9 again. and then we will go through the usual 10 introductions. 11 A Yes. My name is Glenn Kelly. I'm director 12 of Generation System Planning. 13 Q And do you have with you a document 14 consisting of 18 pages of questions and answers and one 15 exhibit consisting of two schedules collectively 16 entitled "The Rebuttal Testimony of Glenn A. Kelly" in 17 both a public and extraordinarily sensitive version? 18 A Yes, I do. 19 Q And was that document prepared by you or 20 under your direction? 21 A Yes. it was. 22 Q And that was the document filed on 23 December 26, 2011? 24 A Yes, it was. 25 Q Do you have any corrections or additions to</p>	<p>639</p> <p>1 Q And my understanding is you want to respond 2 to some of Judge Christie's questions. 3 MR. McNAMEE: If I may use the podium to 4 assist in that? 5 COMMISSIONER JAGDMANN: Yes, you may. 6 BY MR. McNAMEE: 7 Q Mr. Kelly -- I'm somewhat technology 8 challenged apparently, proving I'm a lawyer. 9 Do you recall yesterday discussing with Judge 10 Christie about how as you ran these sensitivities in 11 the base case, and this is the sensitivities from your 12 direct testimony, page 13, that for a no carbon 13 neutrality function that you represented how capacity 14 factors would change and you accounted for how that 15 would reduce RECs and PTCs and things of that nature? 16 A Yes. 17 Q All right. And then this is to update it for 18 today, this is Exhibit 10 from yesterday? 19 A Correct. This is the updated values. 20 Q And this is the updated values, and once 21 again, in the no carbon legislation sensitivity. just 22 as the others, you accounted for changes in dispatch 23 capacity factors and how that would impact or reduce 24 RECs, PTCs, or increase them, or however it would move: 25 is that correct?</p>

<p style="text-align: right;">640</p> <p>1 A Correct.</p> <p>2 Q And for this 2011 calculation, you have the</p> <p>3 phrase "no carbon legislation"; is that correct?</p> <p>4 A That's correct.</p> <p>5 Q And is that no carbon legislation, or is that</p> <p>6 shorthand for no carbon regime as Judge --</p> <p>7 A That is in fact no carbon impact whatsoever</p> <p>8 on any unit, biomass or coal or combined cycle or</p> <p>9 market prices.</p> <p>10 Q And does that mean also no activity by</p> <p>11 Congress and no activity by regulation, the EPA?</p> <p>12 A That means no activity in the carbon</p> <p>13 costs arena -- no impact whatsoever for carbon.</p> <p>14 Q Okay. Were you present yesterday when</p> <p>15 Mr. Norwood on behalf of Consumer Counsel was here?</p> <p>16 A Yes, I was.</p> <p>17 Q And were you present when he said this no</p> <p>18 carbon legislation sensitivity makes no sense?</p> <p>19 A Yes, I was.</p> <p>20 Q Do you have any comments about that?</p> <p>21 A Yes, what he is failing to understand, I</p> <p>22 suspect from the discussions he had, was -- as has been</p> <p>23 pointed out by opposing counsel that the REC prices go</p> <p>24 up when carbon is removed from the energy market. And</p> <p>25 similar to what Ms. Scheller explained, in order to get</p>	<p style="text-align: right;">642</p> <p>1 did in fact -- that's what I think he was expecting is</p> <p>2 a significant reduction for the overall benefit of the</p> <p>3 company.</p> <p>4 Q All right. And so --</p> <p>5 A Consumers, excuse me.</p> <p>6 Q So you didn't kind of modify this in order to</p> <p>7 change some fundamental assumption. You applied the</p> <p>8 same approach that you did when you did the base case?</p> <p>9 A Yes. And what we're trying to show with all</p> <p>10 this data is that we have a most likely case, which is</p> <p>11 the base case, and then we have positives and negatives</p> <p>12 that could happen. We agree that there is a</p> <p>13 significant amount of uncertainty, but there are</p> <p>14 positive uncertainties and there's negative</p> <p>15 uncertainties. We're trying to show the drivers to</p> <p>16 that uncertainty, and has been pointed out renewable</p> <p>17 energy credits are a significant driver to these</p> <p>18 projects and carbon neutrality is a significant driver.</p> <p>19 But on the flip side, under high power</p> <p>20 prices, these will even more beneficial -- if</p> <p>21 Mr. McKinley is able to save that \$10 million that he</p> <p>22 discussed in contingency, these will again be more</p> <p>23 beneficial. If wood continues to be at prices that</p> <p>24 we're seeing today, they will be even more beneficial.</p> <p>25 You shouldn't just look at the negatives, you</p>
<p style="text-align: right;">641</p> <p>1 the renewable energy units built, they're going to</p> <p>2 expect to get a fair return, and renewables would make</p> <p>3 up for the reduction in -- renewable energy credits</p> <p>4 would make up for the reduction in the energy revenue.</p> <p>5 COMMISSIONER JAGDMANN: Is that because the</p> <p>6 demand for the RECs will stay the same?</p> <p>7 THE WITNESS: That's correct. This all</p> <p>8 assumes that the demand -- that the state laws do not</p> <p>9 change.</p> <p>10 Likewise, in this updated forecast, we have</p> <p>11 updated for known information. That would be the ROE is</p> <p>12 now lower. It was reduced from 12.5 to 10.4, each with</p> <p>13 a 200-basis-point adder for this unit. We updated wood</p> <p>14 prices. The wood prices in fact -- Mr. Norwood had</p> <p>15 increased the wood prices. It turns out we had been</p> <p>16 very conservative --</p> <p>17 BY MR. McNAMEE:</p> <p>18 Q ES. I think everybody is aware of wood</p> <p>19 prices.</p> <p>20 A I'm just using generalities here. The wood</p> <p>21 prices are improved compared to our base case.</p> <p>22 And lastly, the ICF forecast was updated.</p> <p>23 That in fact did lower the total revenue for the units,</p> <p>24 and that had a \$150 million impact versus coal and</p> <p>25 \$180 million impact versus market. So the ICF forecast</p>	<p style="text-align: right;">643</p> <p>1 should look at the positives and the negatives, and</p> <p>2 that's what we're trying to show here.</p> <p>3 Q Thank you.</p> <p>4 Now, Mr. Norwood said yesterday that he asked</p> <p>5 for additional information after this document was</p> <p>6 provided, after the discovery request came between</p> <p>7 Christmas and New Years.</p> <p>8 Did you provide additional data to him on a</p> <p>9 disk?</p> <p>10 A We certainly did, and we've offered for him</p> <p>11 to come in and see the model. The model is</p> <p>12 proprietary. It has a tremendous amount of information</p> <p>13 as we've discussed. It has all our unit information.</p> <p>14 It would be very valuable to an outside marketer. We</p> <p>15 have offered for Mr. Norwood to come in and discuss it.</p> <p>16 He's welcome to see any part of that data.</p> <p>17 We did provide him with the ICF forecasts</p> <p>18 that went into that data so that he at least had the --</p> <p>19 that's something that we could provide him without</p> <p>20 having to come and see the model. But the model is a</p> <p>21 very integrated -- integral, a tremendous amount of</p> <p>22 data, and we welcomed him to come in and talk with us.</p> <p>23 Q All right. Now, switching gears a little</p> <p>24 bit. I know Judge Dimitri will be reading the</p> <p>25 transcript. He had a question yesterday about</p>

<p style="text-align: right;">644</p> <p>1 Mr. Norwood's adjustments, Mr. Norwood's test. 2 Do you have any comments about that test and 3 how Mr. Norwood did it? 4 A Well, what Mr. Norwood did was take our base 5 case and adjust arbitrarily -- he didn't really have 6 any fundamental -- or he didn't have any fundamental 7 reasons besides historical, which we believe history is 8 in this case no -- no direct bearing on the future 9 because of the future requirements of renewables. So 10 he arbitrarily took many reductions and didn't use an 11 integrated model approach, but he -- and he in fact 12 wrote -- he increased wood prices by 10 percent. 13 And in our -- in the time period from when we 14 filed the direct testimony to the time period when the 15 hearing has occurred, we have found out that we in fact 16 were too conservative, and the wood prices should have 17 been lower. Therefore, he certainly went in the wrong 18 direction there. Combining all the negatives, he still 19 came up with basically a break even. 20 MR. McNAMEE: All right. 21 And, Your Honor, for the rest of my questions 22 and for Mr. Kelly's surrebuttal, they are all in 23 extraordinarily sensitive. 24 COMMISSIONER JAGDMANN: Okay. We'll go off 25 the web for extraordinarily sensitive surrebuttal.</p>	<p style="text-align: right;">677</p> <p>1 MR. McNAMEE: The company calls David Faison, 2 please. 3 REBUTTAL DIRECT EXAMINATION 4 BY MR. McNAMEE: 5 Q Mr. Faison, did you provide a document 6 consisting of five typed pages of questions and answers 7 and we have a public version entitled "The Rebuttal 8 Testimony of David W. Faison"? 9 A Yes, I did. 10 Q Was that prepared by you or under your 11 supervision? 12 A Yes, it was. 13 Q And that is the document that was filed with 14 the Commission on December 22nd, 2011? 15 A Yes, it was. 16 Q Do you have any additions or corrections? 17 A No, sir. 18 Q If I were to ask you those same questions 19 again, would your answers be the same? 20 A Yes, they would. 21 MR. McNAMEE: Your Honor, at the appropriate 22 time, I would like his testimony to be made an exhibit 23 and entered into the record. 24 COMMISSIONER JAGDMANN: Mr. Faison's rebuttal 25 testimony is marked as Exhibit 56, and it is admitted</p>
<p style="text-align: right;">645</p> <p>1 If you have not signed the extraordinarily 2 sensitive agreement, you need to leave the courtroom. 3 (Whereupon, pages 646 through 4 676 were marked extraordinarily 5 sensitive and attached under 6 separate cover.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">678</p> <p>1 into the record subject to cross. 2 (Exhibit No. 56 was marked for 3 identification and received in 4 evidence.) 5 MR. McNAMEE: Thank you. Your Honor. 6 BY MR. McNAMEE: 7 Q Mr. Faison, were you in the room yesterday 8 when Mr. Norwood, Consumer Counsel's witness, was 9 testifying? 10 A Yes, I was. 11 Q And do you recall him saying that these three 12 coal units, the Altavista, Hopewell and Southampton 13 power plants, should remain on coal and that they could 14 serve as peaking units? 15 A Yes, I recall that. 16 Q Do you think that's reasonable for those 17 units to operate as peaking units? 18 A No, I do not, for a number of reasons. 19 Mr. Kelly mentioned this morning that these facilities 20 have high fixed costs, and that's due to the labor. I 21 believe he cited the staffing level is at around 30 22 comparable to Bear Garden, so the staffing levels are 23 very high for a small amount of megawatts. 24 These units are coal units, as we know, at 25 the moment. Their startup times are fairly long, 12</p>

<p>679</p> <p>1 hours plus, which is -- doesn't mean they can't peak, 2 but the peaking units are typically required to start 3 faster than that. You don't normally have a lot of 4 notice when the peak is going to occur, so you need to 5 have a unit that will respond quickly. These don't. 6 But because of the high fixed costs, if these 7 units aren't converted, I think we saw an exhibit maybe 8 the first day where Glenn had projected the capacity 9 factors for these units, absent the biomass conversion, 10 to decline in the order of 3, 4 percent, certainly low 11 single digits. With the high fixed costs, these units 12 will not survive as operating units outside of the 13 biomass conversion. They will be put into cold reserve 14 just like Altavista was a couple of years ago. 15 And cold reserve is not simply turning the 16 switch off and waiting to restart it. We put the units 17 into a state of preservation, much like the Navy would 18 do if they lay up a warship. The unit is partially 19 disassembled, corrosion inhibitors are installed, the 20 pressure boundaries are breached, dehumidification 21 equipment is installed. 22 In the case of Altavista, it took us about 23 from the middle of October, when we put the plant in 24 cold reserve, until Christmas, about two-and-a-half 25 months, to get the unit in a state of preservation. It</p>	<p>681</p> <p>1 under purchase power agreements and sales of steam. 2 And reliability was a paramount concern on the part of 3 the designers when these plants were built because 4 unavailability would negatively impact the revenue 5 significantly. 6 So these units were built to run long periods 7 of time without maintenance and with great reliability. 8 They are simple, rock solid, reliable units. The 9 technology chosen is not modern technology. These are 10 not pulverized coal units. They burn coal on a 11 great -- very simplified system compared to typical 12 utility unit. No utility unit has been built with this 13 technology for half a century. 14 And because of that, many of the failure 15 points simply do not exist on these units. There is no 16 pulverized coal equipment, there is no heavy machinery 17 involved or crushed coal, and all the safety systems 18 and control systems needed to operate on pulverized 19 coal. Flame scanners and the like, they are just not 20 present on these units. They are very simple, almost 21 like burning coal in a grate in your fireplace. 22 Additionally, the designers built in a 23 tremendous amount of redundancy in the critical pumps 24 to keep these units operating. There is no single pump 25 failure in any of these units that will require a unit</p>
<p>680</p> <p>1 will take just that long to get it back. Meanwhile, 2 the staff is gone. 3 So to restart these units as peaking units. 4 you have to have several months' notice and the expense 5 of bringing them back, plus you have to hire staff and 6 train them. which is not a practical thing to do. 7 Q Thank you, Mr. Faison. 8 Were you also present in the courtroom when 9 there were discussions by Mr. Norwood and the 10 Commission staff that raised concerns about the ability 11 of the three units to actually run at a 92 percent 12 capacity factor, and basically suggesting that they 13 wouldn't be available to run that much? 14 Can you provide some commentary on that? 15 A I can. Yes, I was in the room when he said 16 that. 17 As I mentioned in my rebuttal testimony, 18 these three units are very different in design and 19 construction from any of the other coal units that the 20 company operates. They were, as the Commission 21 probably recalls, were developed by others as NUG 22 units, PURPA units, qualifying facilities. They had 23 steam hosts. 24 And the original developers received their 25 revenue from a couple of sources, capacity payments</p>	<p>682</p> <p>1 to be shut down for maintenance. It enables us to do 2 planned maintenance while the unit is operating because 3 we can take a redundant component out of service to do 4 that. 5 The designers also chose, for the sake of 6 reliability, to split the units up into two boilers. I 7 think most people that are in the industry understand 8 that fossil unit is one of the greatest, if not the 9 greatest, cause of unavailability is tube failures. 10 Certainly true here, but a single tube failure will 11 only shut down half of the plant. I believe the staff 12 mentioned yesterday that indeed the unit is partially 13 unavailable, and I think I say that in my rebuttal 14 testimony. But a three-day tube leak repair outage in 15 one of these units has only half the effect on 16 equivalent availability as a comparable utility 17 coal-generating unit. So they're very, very reliable. 18 Also, post-conversion, because of the 19 additional physical volume of wood that has to be fed 20 into these units versus coal, the unit output is 21 decreased. I think we said it's 51 megawatts -- 50 22 megawatts versus 63 now, so the rate of heat release 23 inside these furnaces is 20 percent less than they were 24 designed to handle. So they're not galloping; they're 25 just loping under this conversion scenario.</p>

<p style="text-align: right;">683</p> <p>1 So even though we may run them at very high 2 availability, they're not being run as hard as they are 3 capable of being run by original design. Lots of 4 redundancy built into the units, lots of maintenance 5 flexibility. 6 Q Thank you, Mr. Faison. 7 One final question. The Consumer Counsel 8 asked the question in its seventh set, Question 99, as 9 to whether or not that the company was aware of 10 capacity factors at other biomass facilities around the 11 country. 12 Do you recall that question? 13 A Yes, I do. 14 Q And did you sponsor a response on behalf of 15 the company to that? 16 A I did. 17 MR. McNAMEE: All right. Your Honor, I would 18 like to just have entered as an exhibit without 19 discussion, unless one of the other parties does, this 20 document. If it may be marked as an exhibit. 21 COMMISSIONER JAGDMANN: Question and answer 22 to 23 the Office of the Attorney General, seventh set, 24 Question 99, will be marked as Exhibit 57 and admitted 25 into the record. 26 MR. McNAMEE: Thank you.</p>	<p style="text-align: right;">685</p> <p>1 not used in utility power generation applications. 2 It's been relegated more to the industrial boiler 3 requirement. 4 Your second question was, is it efficient or 5 as efficient, and the answer to that is no. The whole 6 reason for converting to pulverized coal many, many 7 decades ago was to increase thermal efficiency versus 8 burning on a grate. So it does not burn as 9 efficiently. 10 These units were designed not with thermal 11 efficiency in mind but with reliability in mind. For 12 instance, they are a non-heat recycle. No utility has 13 done that since the '50s. 14 It also reduces complexity. It does not help 15 efficiency, but there is a whole set of boiler 16 components, heat transfer surfaces, valving, controls 17 and so forth that are absent because of that decision 18 the designers and developers made. So they are less 19 efficient. 20 Have they dispatched at high reliability? 21 Yes, they have. They don't dispatch a lot, but the 22 equivalent availability records under the company's 23 ownership, and I think in my either original testimony 24 or rebuttal testimony at least show you the last three 25 or four years where they are in the 90s in equivalent</p>
<p style="text-align: right;">684</p> <p>1 COMMISSIONER JAGDMANN: Is it extraordinarily 2 sensitive? 3 MR. McNAMEE: It is not. Your Honor. 4 COMMISSIONER JAGDMANN: Okay. 5 (Exhibit No. 57 was marked for 6 identification and received in 7 evidence.) 8 MR. McNAMEE: The witness is available for 9 cross. 10 COMMISSIONER JAGDMANN: Mr. Rambo. 11 MR. RAMBO: No questions, Your Honor. 12 COMMISSIONER JAGDMANN: Mr. Monacell. 13 MR. MONACELL: Just a couple of questions. 14 REBUTTAL CROSS-EXAMINATION 15 BY MR. MONACELL: 16 Q Mr. Faison, you talked about the reliability 17 and the redundancy of the components of the units. But 18 you also mentioned that the technology was relatively 19 old, wasn't currently used. 20 What about the efficiency of the units; 21 are they particularly efficient in terms of having a -- 22 during the time that you've owned the units, have they 23 ever had a good dispatch rate? 24 A All right, you had several questions in one. 25 First of all, the technology is used. It's</p>	<p style="text-align: right;">686</p> <p>1 availability. 2 Q What about capacity factors? 3 A Capacity factors have been very low because 4 their thermal efficiency is low. 5 Q Have they ever -- has the capacity factor 6 since you've owned them ever been above 75? 7 A No, sir. They wouldn't clear the market that 8 many hours of the year. 9 Q So they've never been a base load unit? 10 A No, sir. 11 Q Now, isn't it true that your company had a 12 program that existed prior to the time you bought these 13 NUGs to buy out NUG contracts? 14 A I'm not aware of the company program. My 15 understanding is that -- and the Commission agreed with 16 the company's assertion back in 2001 -- it was in the 17 customer's interest to acquire these facilities and 18 terminate the power purchase agreements. The program, 19 I'm not -- wasn't a part of. 20 Q So the purpose of buying them from the NUGs 21 was to get out of the uneconomic NUG contract? 22 A I believe you could characterize it that way. 23 It was more economic to buy the facilities and 24 terminate them, those PPAs, than it was to continue 25 under the terms of the PPA.</p>

<p style="text-align: right;">687</p> <p>1 You have to remember those PPAs were not -- 2 they were signed under the PURPA law, which kind of put 3 its thumb on the scale of economics in favor of the 4 developer in the interest of energy efficiency for the 5 country. So when that act kind of went by the wayside 6 and the electricity markets deregulated, the capacity 7 and energy price we were paying out of these units was 8 out of market, and it was cheaper and in the best 9 interest of the customers to buy the PPAs out and own 10 the facilities, and the Commission agreed at that time. 11 Q When did the company first consider 12 converting any of these units to biomass? 13 A In the first part of 2010 is when the idea 14 had its genesis and we began to look at it. 15 MR. MONACELL: Nothing further. 16 MR. REISINGER: No questions. 17 MR. ROUSSY: No questions, Your Honor. 18 COMMISSIONER JAGDMANN: Any redirect? 19 MR. McNAMEE: No, Your Honor. 20 COMMISSIONER JAGDMANN: Thank you, Mr. Faison. 21 You may be excused. 22 MR. DAHL: The company would call Eric 23 Kingsley. 24 WHEREUPON, 25 ERIC KINGSLEY,</p>	<p style="text-align: right;">689</p> <p>1 A I do not. 2 Q And if you were asked the questions appearing 3 there today, would you provide the same answers? 4 A I would. 5 Q Do you wish to sponsor it as your prefiled 6 rebuttal testimony? 7 A I do. 8 MR. DAHL: Your Honor, I ask that the document 9 be marked and admitted at the appropriate time into the 10 record. 11 COMMISSIONER JAGDMANN: Mr. Kingsley's 12 rebuttal is marked as Exhibit 58 and 58-ES, and it is 13 admitted into the record subject to cross. 14 (Exhibit Nos. 58 and 58-ES were marked 15 for identification and received in 16 evidence.) 17 BY MR. DAHL: 18 Q I just have a few questions first. 19 Were you here two days ago when there was 20 a -- Ms. Leopold was on the stand and an EPA -- letter 21 from Dominion to EPA was discussed? 22 A I was. 23 Q It's been a couple of days. Why don't I put 24 it on the screen. 25 I believe this letter was attached to</p>
<p style="text-align: right;">688</p> <p>1 called as a witness, and having been first duly sworn, was 2 examined and testified as follows: 3 REBUTTAL DIRECT EXAMINATION 4 BY MR. DAHL: 5 Q Would you please state your name, position of 6 employment and business address. 7 A Yes. Eric Kingsley. I'm a principal in the 8 firm Innovative Natural Resource Solutions based in 9 Portland, Maine. 10 Q Do you have with you today a document 11 consisting of 11 typed pages of questions and answers 12 and an Appendix A entitled "The Rebuttal Testimony of 13 Eric Kingsley," and I believe that was filed in both a 14 public and extraordinarily sensitive version in this 15 proceeding? 16 A I do. 17 Q Was that document prepared by you or under 18 your direction? 19 A It was. 20 Q Was it filed with the Commission on 21 December 22nd -- 22 A It was. 23 Q -- 2011? Okay. 24 Do you have any corrections or additions to 25 that document?</p>	<p style="text-align: right;">690</p> <p>1 Mr. Norwood's testimony as his Exhibit SN-7, and it is 2 a September 13th. 2010 letter from Pam Faggart. 3 Dominion's chief environmental officer. to the EPA. 4 Were you here when this letter was discussed? 5 A I was. 6 Q I believe there was some discussion focused 7 in on page 5 about the statements of the economics of 8 biomass generation. 9 A Yes. 10 Q And it being favorable in a narrow range of 11 conditions. 12 In your opinion, do those statements on the 13 economics of biomass generation being marginal apply to 14 these units? 15 A I've worked on over a hundred biomass 16 projects throughout the country, and I'm not an 17 engineer and I don't work on the costing and capital 18 side. However, I always, as here, always see the 19 numbers. Not only for Greenfield, which costs 4 to 20 6 million per installed megawatt, but for conversions. 21 These are far and away the lowest capital costs I've 22 seen. Usually for coal conversions we're looking at 23 something, 1.5, 1.6 million per installed megawatt or 24 1500, 1600 per installed KW. These are I believe at 25 1100 per installed KW.</p>

<p>691</p> <p>1 So, clearly, these are unique units. The 2 fact that they're stoker units is very much in keeping 3 with how biomass has been approached over the years. 4 So these are, in my experience, unique situations. 5 Q Several witnesses at this hearing have 6 commented on the carbon neutrality of biomass. Have 7 you been present for those discussions at this hearing? 8 A I've been present, yes. 9 Q You have a resume and your background in your 10 testimony, but in short, what's your background in 11 biomass wood resources and resource economics? 12 A Sure. I'm a resource economist. I spend all 13 day every day worrying about wood, what it costs, how 14 to manage -- how to manage fuel supply or feedstock 15 supply for large wood users. Again, worked on over a 16 hundred projects, not only in the country but 17 internationally. And carbon neutrality in the last few 18 years has obviously become a more and more important 19 issue, so it's something I stay abreast of. 20 Q And from that perspective, what is your view 21 on biomass? And I guess for this proceeding we're 22 specifically talking about forest residue being carbon 23 neutral. 24 A Yes. There have been several questions, 25 including some important questions from the bench,</p>	<p>693</p> <p>1 Q I guess starting from the forest floor to the 2 realm of public policy, be it by legislation or 3 regulation, what in your opinion are the prospects for 4 the basis of biomass or, in this case, forest residue 5 being considered something other than carbon neutral? 6 A I have a high level of confidence that all 7 biomass will be considered carbon neutral. I have 8 complete confidence based on the science that forest 9 residue will be considered carbon neutral going 10 forward. 11 Q Now, turning to Dr. Abt's testimony -- 12 COMMISSIONER CHRISTIE: Before you leave that. 13 This has always fascinated me. Walk me through again -- 14 THE WITNESS: Yes. 15 COMMISSIONER CHRISTIE: -- why a commodity 16 that when you burn it produces twice as much carbon as 17 coal is considered carbon neutral. Just walk me through 18 that again. 19 THE WITNESS: Particularly for forest 20 residues, which is -- 21 COMMISSIONER CHRISTIE: Right, we're talking 22 hardwood standing trees. 23 THE WITNESS: So we're talking forest 24 residues, just so I'm answering your question correctly. 25 COMMISSIONER CHRISTIE: Okay.</p>
<p>692</p> <p>1 about carbon neutrality and biomass being considered 2 carbon neutral going forward. There's a longstanding 3 and very good case for all biomass, particularly all 4 forest biomass, to be carbon neutral, which we can 5 discuss if you want. 6 But the more important case is around forest 7 residues, and that is tops, branches, limbs, pieces of 8 the tree that don't have another use. When a piece 9 of -- when a tree is harvested as a saw log to become 10 lumber or for pulpwood, not just the lower 8 feet or 11 10 feet or 12 feet is harvested. The entire tree is 12 severed from the stump, and at that point is no longer 13 living, growing, sequestering carbon. The tops, 14 branches, anything not becoming lumber or another high 15 value product has at that point entered the carbon 16 cycle. 17 Every credible analysis of carbon cycling as 18 it relates to forest biomass recognizes forest residues 19 as carbon neutral. In fact, even the Manomet report 20 done in Massachusetts, which is a report that has been 21 widely criticized, has -- there are other reports out 22 taking another position, but even that report 23 recognizes that carbon -- I'm sorry, biomass from 24 forest residue has a positive carbon profile, in my 25 experience, universally recognized.</p>	<p>694</p> <p>1 THE WITNESS: That carbon, the carbon in those 2 tops and branches, has entered the carbon cycle. It 3 will enter the terrestrial carbon cycle through 4 decomposition or it will enter the carbon -- the 5 terrestrial cycle through combustion. The combustion is 6 obviously instant. The decomposition can take years. 7 But it is no longer growing and, for lack of a better 8 term, sequestered. It is back in the carbon rotation. 9 And, therefore, whether you make use of it as a fuel and 10 produce energy or whether you leave it in the forest to 11 decompose, it is in the carbon cycle, and -- 12 COMMISSIONER CHRISTIE: So the theory is, if 13 it's lying on the ground, it's decomposing and giving 14 off carbon. 15 THE WITNESS: Yes. 16 COMMISSIONER CHRISTIE: And if you burn it, 17 you just -- you just speed it up. 18 THE WITNESS: Speed it up and capture 19 benefits. 20 COMMISSIONER CHRISTIE: How long does it take 21 to decompose if it's lying on the ground? 22 THE WITNESS: Depends on the location, but for 23 smaller woody debris, 10, 15 years, and you can -- 20, 24 25 years for big old logs sitting on the ground. 25 COMMISSIONER CHRISTIE: So the difference with</p>

<p>695</p> <p>1 coal is at least coal's in the ground -- 2 THE WITNESS: Coal is in the ground and 3 staying in the ground. 4 COMMISSIONER CHRISTIE: -- decomposing but 5 it's taking several million years, right? 6 THE WITNESS: Yes, it's on a completely 7 different time scale. Well, on a time scale for humans, 8 and if you're concerned about carbon, the million-year 9 cycle doesn't matter; the 20-year cycle matters. 10 BY MR. DAHL: 11 Q Mr. Kingsley, were you present here for 12 Dr. Abt's testimony on Tuesday on behalf of Virginia 13 Forest Watch? 14 A I was. 15 Q Do you recall I asked Dr. Abt about what he 16 called a price analysis that he presented in his 17 testimony? 18 A Yes. 19 Q And he testified that the projected prices in 20 his analysis were based on roundwood stumpage. Do you 21 recall -- 22 A Yes. Roundwood stumpage, yes. 23 Q And he defined stumpage, he said landowners 24 paid for wood before it's cut hopefully, and that's 25 what would be called stumpage. And then once it's</p>	<p>697</p> <p>1 a rule of thumb, correct. But as that stumpage price 2 changes, it doesn't cost the logger more to fell the 3 tree, it doesn't cost more to skid the tree, it doesn't 4 cost more to transport that log to a final market. So 5 an increase in stumpage price isn't truly a third 6 because it doesn't go to all those other components 7 that end up in the final piece. 8 Q And do you have any other comments on 9 Dr. Abt's testimony as it pertained to wood supply? 10 A Dr. Abt's testimony -- my analysis work from 11 the Virginia Department of Forestry, all using forest 12 inventory -- FIA data, Forest Inventory and Analysis 13 data, consistently show that there's sufficient wood 14 supply in this region. 15 Q And were you also present for Mr. Norwood's 16 testimony yesterday where he discussed what he viewed 17 as various uncertainties in the company's case and he 18 included in those issues the issue of fuel or, in this 19 case, wood supply for the three conversions? 20 A I was here for that, yes. 21 Q And I believe Mr. Norwood specifically 22 discussed that he thought there were a number of small 23 producers out there in southside Virginia, et cetera, 24 that could go under, and that perhaps -- especially so 25 in tough economic times, and that was part of the</p>
<p>696</p> <p>1 felled and turned into a log, that's when you switch 2 over to delivered price, and he said the stumpage in 3 his estimate might be one-third of the delivered price. 4 Do you recall that exchange? 5 A Yes. 6 Q Do you have a response to Dr. Abt's price 7 analysis and it being based on stumpage prices? 8 A Well, his description of stumpage and its 9 pricing effect was I think largely accurate. The 10 analysis, leave it aside for a minute, but landowners 11 are paid for wood on the stump; thus, the term 12 "stumpage." It's standing there and you paid for a 13 standing tree, then the logger harvests it and all the 14 costs associated with that. 15 Dr. Abt's testimony, his analysis focused 16 entirely on stumpage. Not only stumpage but roundwood 17 stumpage, not residue. So not what a landowner would 18 be paid for any residue. 19 Therefore -- there's two pieces. One is 20 these facilities for a lot of reasons are focused very 21 heavily on residue. And, therefore, what does or 22 doesn't happen with roundwood stumpage prices is 23 largely irrelevant. 24 More importantly, the -- his statement that 25 roundwood stumpage makes up a third of the price is, as</p>	<p>698</p> <p>1 uncertainties in fuel supply. 2 Do you have any comments on that testimony? 3 A I was here for that, and Mr. Norwood viewed 4 many suppliers, so the many, many loggers that will 5 supply each of these facilities as a negative. The 6 biomass industry has traditionally viewed that, and I 7 view it very much, as a positive. It's a redundancy 8 and a hedge against any one particular supplier having 9 an issue. 10 Will there be loggers over the course of the 11 facilities' life that go out business, stop supplying, 12 move on to something else, retire, whatever else? Of 13 course, there will be. But when you have -- a biomass 14 facility typically has 40, 50 core suppliers. When you 15 lose one, you have another 49 that can slightly adjust 16 their volume while that is made up. 17 I think Mr. Workman will be able to discuss 18 Pennsylvania's experience with that. But very 19 typically in the biomass industry, the diversity of 20 supply is truly a redundancy of supply. 21 Q And both Mr. Norwood and the Virginia Forest 22 Watch witnesses raised this issue of a short-term high 23 demand for wood that might happen if these projects are 24 all completed, and I believe it was characterized as an 25 unprecedented surge in supply at one point.</p>

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<p>699</p> <p>1 Do you have any further comments on that 2 testimony? 3 A It's certainly not an unprecedented surge in 4 supply at large. These three facilities going on, as 5 well as other facilities in the marketplace going on at 6 the same time, is about the equivalent wood use of a 7 paper mill. And -- 8 MR. RAMBO: Excuse me. Just a correction. I 9 think it was unprecedented surge in demand, not supply. 10 THE WITNESS: I'm sorry. 11 MR. DAHL: That's right. 12 THE WITNESS: I believe that is correct, yes. 13 This is about the equivalent demand of a paper 14 mill, and it's spread over several geographic locations. 15 Further, then -- it was -- I think Dr. Abt 16 went on to say this is an unprecedented supply of 17 residual material, the tops, branches that we've been 18 discussing. That is true in this geographic area. And 19 it is true actually in much of the Southeast, which 20 hasn't had a long history of many biomass facilities, 21 and you were, from a ratepayer point of view, fortunate 22 to escape the biomass PURPA era. 23 In the Northeast, where I'm from, there were 24 many, many plants built 25 years ago, many coming on 25 line within years of each other. For example, the small</p>	<p>701</p> <p>1 that, and I understand that your position is that 2 there's an argument for all woody biomass to be 3 considered carbon neutral, but then you focus 4 particularly on residues. 5 And I think between maybe answering Judge 6 Christie's question, you got into this; that is 7 residuals as opposed to the argument about the carbon 8 neutrality of burning whole trees or cutting down 9 standing trees and burning those. I mean that's the 10 distinction. Is that the basic distinction -- 11 A That is the basic distinction, yes. 12 Q Okay. Good. 13 Turning to your rebuttal, I would like to 14 start on page 9. And your answer goes on to page 10 15 and page 11. You cover a few things in that answer 16 including you start discussing the best management 17 practices, the BMPs. 18 A Yes. 19 Q So do I have it right that one of the 20 positive attributes of using a BMP standard is that 21 it's flexible so that you could have a single standard, 22 BMP standard, but it's written in such a way that the 23 effect of complying with that standard is going to vary 24 from site to site depending on a number of factors 25 about that site?</p>
<p>700</p> <p>1 state of New Hampshire, 5 million acres, had seven 2 biomass plants turn on at one -- within one year of each 3 other. Total demand of about 1.7 million green tons: 4 all of those were supplied. 5 So is it unprecedented? It is unprecedented 6 in this geographic area. It is certainly not 7 unprecedented. 8 MR. DAHL: Your Honor, Mr. Kingsley is 9 available for cross-examination. 10 COMMISSIONER JAGDMANN: Okay. Mr. Rambo. 11 MR. RAMBO: I do have some questions, Your 12 Honor. Some go to public material, some get into 13 extraordinarily sensitive. I can start with the public. 14 COMMISSIONER JAGDMANN: That would be fine. 15 MR. RAMBO: May I use the podium? 16 COMMISSIONER JAGDMANN: Sure. 17 REBUTTAL CROSS-EXAMINATION 18 BY MR. RAMBO: 19 Q Good morning, Mr. Kingsley. 20 A Good morning. 21 Q My name is Frank Rambo, and I'm here 22 representing Virginia Forest Watch. 23 Just a -- it's a minor question to follow up 24 on your discussion with company's counsel about carbon 25 neutrality. I'm not going to get into the merits of</p>	<p>702</p> <p>1 A Yes. Soil conditions, slope, type of harvest 2 equipment used, will affect what an appropriate best 3 management practice is. 4 Q And to clarify, Virginia best management 5 practices are not mandated. Loggers don't have to 6 comply with them. 7 A It's my understanding that Virginia BMPs are 8 not mandated; however, the company through its two 9 selection procurement agents has selected organizations 10 that are third-party certified under the Sustainable 11 Forest Initiative, which was discussed. One of the 12 requirements under SFI participation is that the 13 suppliers and, therefore, the company be procuring wood 14 only through projects using BMPs. 15 Q Okay. Good. I was heading right there, so 16 that is good. 17 So do I have it right, then, that your 18 position is that adherence to the Virginia BMPs will 19 result in some amount of logging residue being left on 20 the tracts of land from which the company is going to 21 be getting its biomass fuel? 22 A Generally, yes. 23 Q Okay. So let's -- I would like to pose a 24 hypothetical. 25 Let's imagine two logging scenarios, and both</p>

703	<p>1 of these scenarios, let's say the logger has the</p> <p>2 technical capability, so it has the equipment he needs</p> <p>3 to gather all this residue, the chipper and whatnot.</p> <p>4 And he's got the economic incentive to pick up every</p> <p>5 scrap of -- not every twig, but let's say virtually</p> <p>6 every scrap.</p> <p>7 A That would be quite the economic incentive.</p> <p>8 Q Right, the logging residue.</p> <p>9 But let's say in one scenario the BMPs are</p> <p>10 not a factor. There are no BMPs, or if there are,</p> <p>11 they're ignored, they're sort of blown off. And in the</p> <p>12 other scenario the BMPs are faithfully and fully</p> <p>13 adhered to, despite this economic temptation to go out</p> <p>14 and grab them all. They leave them there to comply</p> <p>15 with whatever the BMP means for that site.</p> <p>16 So if you took a photograph of the no BMP</p> <p>17 scenario after the logger had left the site, gone on to</p> <p>18 log somewhere else, if you compare that to a photograph</p> <p>19 of the BMP site, you're going to see logging residue</p> <p>20 left on that BMP site, limbs and tops. But then in the</p> <p>21 no BMP photograph, the logger has the equipment, it's</p> <p>22 got the incentive to go out and grab everything or</p> <p>23 virtually everything, that site is going to be pretty</p> <p>24 clean. Correct? At least --</p> <p>25 A Generally, yes. Generally.</p>	705
704	<p>1 biomass boiler and they will also be using some level</p> <p>2 of biomass there. So they -- some --</p> <p>3 Q The residue --</p> <p>4 A So that is three hours away. The procurement</p> <p>5 circles overlap a little bit, but the core of your</p> <p>6 question is correct.</p> <p>7 Q Okay. Thank you.</p> <p>8 And I think you might have mentioned this</p> <p>9 just then in your answer. I have a particular question</p> <p>10 about Enviva. Enviva, the expectation is that they</p> <p>11 will take -- the portion they take, they're going to</p> <p>12 turn into pellets. They're one of these pellet makers.</p> <p>13 A Yes. They manufacture pellets, which at this</p> <p>14 point I believe are exclusively sold offshore to</p> <p>15 European utilities for use there. And to do so, they</p> <p>16 need what we term as white wood or debarked roundwood.</p> <p>17 When you think looking down the piece of a tree, you</p> <p>18 need the white part, not the brown part.</p> <p>19 Q And the brown part, is that more or less</p> <p>20 synonymous with residue?</p> <p>21 A That would be residue from a mill, which is</p> <p>22 different from forest residue. Yes.</p> <p>23 Q Thanks for clear -- thanks for correcting me</p> <p>24 on that.</p> <p>25 There's been I think a recognition in</p>	706

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<p>707</p> <p>1 testimony and -- in yours and for Virginia Forest 2 Watch's witnesses, at least Dr. Abt, that there's -- 3 the market -- there is some dynamic nature of the 4 market. There are companies coming in that are either 5 going to want to use roundwood or they're going to want 6 to come in and they're going to want to use residue. 7 We talked about the IP fluff mill, I think with 8 Dr. Abt, and I think you mentioned it in your 9 testimony -- 10 A Yes. 11 Q -- as one example of that. 12 A The forest products industry has always been 13 a dynamic marketplace. Companies come and go, by and 14 large, if the market is large, stable. 15 Q But within a particular geographic area that 16 we're looking at for these projects, there's fluidity; 17 people are -- companies are dropping out, companies are 18 coming in. 19 A There's fluidity, and when we get into ES, I 20 can point you to some -- a way to show that the 21 fluidity is actually relatively stable. Companies come 22 and go but the market remains stable. 23 Q Now, Dr. Abt mentioned when he was on the 24 stand that there is -- he's currently looking into the 25 reports or this development that it may be possible to</p>	<p>709</p> <p>1 wood stick together without an additive -- which is 2 what happens with pellets, it is forced together under 3 heat -- the silica going into those dyes basically acts 4 as sandpaper and destroys them and adds wildly to the 5 capital costs. 6 Would a pellet manufacturer like to use 7 residues? Yes. Has it been tried and tried and tried? 8 Yes. Wholly unsuccessful in every piece I've seen. 9 COMMISSIONER JAGDMANN: We're going to take a 10 break at this point until 1:15. And we will begin 11 again -- 12 MR. RAMBO: Right. And my next questions are 13 extraordinarily sensitive. That is all my public. 14 COMMISSIONER JAGDMANN: This is a good time 15 then. 16 COMMISSIONER CHRISTIE: Let's just say 1:05. 17 JUDGE JAGDMANN: Judge Christie will be 18 presiding, so you will start at 1:05. 19 (Whereupon, at 12:04 p.m., a luncheon 20 recess was taken.) 21 22 23 24 25</p>
<p>708</p> <p>1 make -- manufacture pellets from logging residue. 2 Do you remember when he said that? 3 A I remember him saying he had inferred that 4 from something he saw. 5 Q Well, I'm going to -- I'm not sure of the use 6 of the word "inferred," but you remember him mentioning 7 that? 8 A I remember him mentioning it, and then he 9 needed a place to call because he didn't really 10 understand what it particularly said. 11 Q So if that development follows through and it 12 does in fact happen that there's a technology to make 13 pellets from logging residue, that's going to change -- 14 that's sort of an example of how the market can change, 15 correct, that there would then be this new way to use 16 logging residue, this new demand for logging residue? 17 A Sure, that would be an example, but it's -- I 18 have a number of clients in the pellet industry. 19 Anyone would obviously like to use lower value products 20 for your feedstock, for your input. That's a natural 21 economic driver. 22 However, the outside of the tree, the bark, 23 the brown part, is what contains sand and dirt and 24 silica, and sand and dirt and silica in a pellet dye, 25 if you can imagine the force necessary to make that</p>	<p>710</p> <p>1 AFTERNOON SESSION 2 (1:05 p.m.) 3 WHEREUPON, 4 ERIC KINGSLEY 5 was called for continued examination, and having 6 been previously duly sworn was examined and 7 testified further as follows: 8 COMMISSIONER CHRISTIE: Mr. Rambo, you are 9 still up. 10 MR. RAMBO: Yes, Your Honor. At this time, 11 Your Honor, my questions go into extraordinarily 12 sensitive area. 13 COMMISSIONER CHRISTIE: Okay. We're going to 14 go off the web, and anyone who has not signed the 15 requisite agreement, please exit. 16 Okay. And web's off, right, Sherman? All 17 right. 18 (Whereupon, pages 711 through 19 723 were marked extraordinarily 20 sensitive and attached under 21 separate cover.) 22 23 24 25</p>

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1 COMMISSIONER CHRISTIE: All right.
2 We're back in public session.
3 REBUTTAL CROSS-EXAMINATION
4 BY MR. REISINGER:
5 Q Good afternoon, Mr. Kingsley.
6 A Good afternoon.
7 Q I want to start by asking you a few questions
8 about your surrebuttal comments before the lunch break.
9 A Yes.
10 Q I guess before we get to that, let me ask
11 you, you're based in Maine; is that correct?
12 A I live in -- my office is based in Maine,
13 yes. I work all over the country.
14 Q Just looking at Appendix A to your testimony,
15 INRS is based in Portland, Maine, or --
16 A INRS is based in Antrim, New Hampshire. My
17 office is in Portland, Maine.
18 And for biomass, you know, I guess I'd point
19 out that New England has a 25-year history of an awful
20 lot of biomass plants coming out of the PURPA era.
21 We're an area with a lot of experience about what works
22 and doesn't, and so I'm based in Maine. I worked
23 previously in New Hampshire, as this shows, but my work
24 takes me all over the country and internationally.
25 Q You said you've worked on over a hundred

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1 biomass units?
2 A Yes.
3 Q Most of those in --
4 A Not all of those end up getting built. but
5 I've done resource studies, and often those studies or
6 other factors tell someone to not proceed.
7 Q Are those studies mostly conducted in New
8 England?
9 A No. Certainly a percentage of them are.
10 There's really -- new development is not occurring in
11 New England. My studies there would be as part of due
12 diligence for existing units, but a great deal in the
13 Southeast, maritime Canada, and the Lake states.
14 Q But you're -- you're obviously -- you believe
15 that your analysis and your experience, you are
16 competent to do a resource study of the wood products
17 industry in southern Virginia?
18 A Absolutely.
19 Q Same general rules, economics apply in
20 Virginia as they do in --
21 A Same general rules. There are certainly
22 different underlying markets in each area, different
23 weather patterns that cause different logging
24 conditions, and sometimes those can affect residue
25 availability.

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1 Q Before the break Mr. McNamee asked you some
2 questions about CO2 neutrality of biomass.
3 Do you remember that discussion?
4 A I remember Mr. Dahl asking me those
5 questions.
6 Q Mr. Dahl, excuse me.
7 A Yes.
8 Q I wrote down a quote. I believe you said
9 that that question of whether biomass will be treated
10 as carbon neutral under a carbon regime, I believe you
11 said that that question has become more important over
12 the last few years. Is that correct?
13 A Yes.
14 Q You believe that -- that idea that biomass
15 should be treated as a carbon neutral is controversial
16 and it's become more controversial over the last few
17 years?
18 A For a whole tree -- for a whole harvest, it's
19 certainly become controversial. There are a number of
20 academic studies that support the position of carbon
21 neutrality, but there's no question it has become more
22 controversial. For forest residues, I do not believe
23 it has become controversial.
24 Q You referenced this Manomet report in --
25 A Actually, you --

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1 Q -- Massachusetts.
2 A You referenced the Manomet report yesterday.
3 Yes, that's the report that you put a piece
4 up, a press release about the State of Massachusetts.
5 which has a very, very different market.
6 The report covers this in some depth, but
7 they don't have a pulp mill within 300 miles, they
8 don't have local low grade markets, and they have very
9 little in the way of saw log markets. So they don't
10 have the forest residue base that Virginia has.
11 Q You agree that as a result of that report,
12 there have been some changes to Massachusetts --
13 A There have been --
14 Q (Inaudible)?
15 A There have been proposed changes. There have
16 actually been no changes adopted, and I confirmed that
17 yesterday evening. The proposed changes are still
18 pending.
19 Q Okay.
20 A And I was told they will be completed no
21 later than August 2011.
22 Q Okay. On -- also before the break, you
23 talked about -- about the EPA's deferral of the
24 question of whether biomass should be treated as carbon
25 neutral.

<p style="text-align: right;">728</p> <p>1 A I don't think I spoke specifically to the 2 deferral, but I know the conversation you're 3 referencing. 4 Q You're aware -- you're aware of the deferral? 5 A I'm aware of the deferral. 6 Q Are you aware that the original rules did not 7 treat biomass as carbon neutral? 8 A I'm aware that the original proposal did not 9 treat -- I don't believe they were adopted as rule. 10 Q I'm just going to ask you -- I apologize that 11 the type is so small here, but I just want to ask 12 you -- 13 A Can I ask what this is from? Is this the 14 Federal Register? 15 Q Sure. This is -- this is from the Federal 16 Register, and I just want to ask you if this -- this is 17 your understanding of what the EPA has done in 18 deferring this question. 19 It's your understanding that the EPA has 20 deferred for three years the question of whether -- of 21 how biogenic CO2 emissions will be treated? 22 A That is my understanding. 23 Q And EPA believes that that three-year period 24 will give it time to consider the results of detailed 25 examinations of the science of these emissions and</p>	<p style="text-align: right;">730</p> <p>1 signals is whether biomass will be treated as carbon 2 neutral? 3 A Did I write that? 4 Q I'm just asking you in general. 5 A Certainly for residues, I do not believe that 6 is an issue at all. 7 Q Okay. Now, actually, moving on to this 8 article, let me just ask you real quickly, am I correct 9 that you are telling the story of some biomass 10 operations in New Hampshire that are having a tough 11 time right now? 12 A They were on May 16th of last year. 13 Q They are having a tough time in part due to 14 recession-related drop in electricity demand? 15 A Correct. These would be merchant plants, 16 yes. 17 Q And in part due to low REC prices? 18 A And low REC prices are in fact related to the 19 drop in electricity demand because REC markets, as 20 discussed yesterday, are a percentage base of total 21 electricity sales, so when one drops the other drops. 22 Q You still agree with this statement on the 23 bottom here that wood fuel is the largest and most 24 variable cost for biomass plants? 25 A As a rule, yes. There can certainly be other</p>
<p style="text-align: right;">729</p> <p>1 undertake a rulemaking to determine the best way to 2 account for biogenic CO2 emissions? 3 A That appears to be what it says. 4 Q I want to ask you next about an article that 5 you wrote. I believe it was a publication called 6 Renewable Energy World. Are you familiar with that 7 article? 8 A Yes. 9 Q The title is "Biomass Energy: Mixed Signals 10 Abound." 11 A Yes. 12 Q Is that correct? 13 A Yes. 14 Q Is one of those mixed signals the question of 15 carbon neutrality? 16 A I would need to reread the article to see 17 that. I see certainly -- 18 Q Well, let me ask you -- 19 A I actually don't see -- maybe you have it 20 highlighted somewhere, but I don't see that I noted 21 carbon neutrality. 22 Q Well, I was just asking -- 23 A I see the ISO New England REC, which is 24 different than the PJM REC market. 25 Q So you don't believe that one of the mixed</p>	<p style="text-align: right;">731</p> <p>1 instances. 2 Q Now, do you recall in this article, you also 3 talk about some -- some facilities that might not get 4 through -- might not get through this without some 5 downtime, meaning they might -- might have to shut 6 down? 7 A Take seasonal downtime, yes. They ended up 8 not taking downtime. They all continued to run at very 9 much base load. But that was a possibility at that 10 point. 11 Q The concerns that you've seen in New 12 Hampshire, you don't believe that they will apply to 13 the company's -- the company's plants, do you? 14 A These plants have fundamentally different 15 capital costs, and they're 15- to 20-megawatt plants 16 which give you much higher O&M on a per unit output 17 basis. If any of these were 50-megawatt plants, this 18 statement, I don't believe, would have been written. 19 15 to 20. I don't know if I said just 15 megawatts, 20 but these are plants less than half the size of the -- 21 Q These are -- these are much smaller plants is 22 what -- 23 A Much smaller plants with roughly the same 24 size staff. 25 Q Okay. Let me ask you to turn to page 4 at</p>

732	<p>1 the top of your testimony. And the top of your 2 testimony does reference some -- correction -- I'm 3 sorry, the top of this page does reference some 4 extraordinarily sensitive information, but I'm going to 5 try to place it so we don't reveal any of that. 6 I'm looking at lines 7 and 8 here. You say 7 that you have a high degree of certainty -- 8 A That a sufficient sustainable supply of 9 biomass fuel will be available, yes. 10 Q Is that a high degree of certainty that 11 they'll not only be in sufficient supply but also at 12 the prices forecasted by the company? 13 A Biomass is an incredibly stable fuel price, 14 and through price discovery by going out and soliciting 15 competitive bids, I was actually surprised at where 16 they came in. They came in lower than I would have 17 expected. I have a high degree of certainty that 18 affordable -- just based on those few points, I have a 19 very high degree of certainty that affordable wood will 20 be available, yes. 21 Q You said biomass fuel is incredibly stable. 22 Didn't you say here that wood fuel is the largest and 23 most variable cost for biomass plants? 24 A Yes. But if you look at it compared to 25 other -- compared to any fossil fuels, it's far more</p>	734	<p>1 A It's my understanding that there are some 2 mechanisms around spot market, but that there is 3 significant incentives for meeting certain price goals 4 that are known at this time. 5 Q Turning back to page 4 -- 6 MR. DAHL: You got the ES up there. 7 MR. REISINGER: Thank you, sir. 8 BY MR. REISINGER: 9 Q Turning back to page 4 on line 7, your -- 10 lines 6 and 7, you refer to the Pittsylvania power 11 station, and you call it "until recently the largest 12 standalone biomass electric facility in the United 13 States." 14 A On a capacity basis, that's true. Yes. 15 Q Okay. 16 A There's a new facility in Texas that's 17 larger. 18 Q I want to ask you very quickly about 19 discovery response, which I believe you -- 20 A Yes. 21 Q -- you signed. 22 A That is my -- 23 Q Response to -- 24 A -- my response. 25 Q -- to the Attorney General's sixth set,</p>
733	<p>1 stable. It's certainly not a fixed cost or none of 2 these plants -- actually, that's an important point to 3 point out. None of the plants in that article and 4 really none of the plants in New England have anything 5 in terms of a long-term contract longer than tomorrow. 6 Dominion has five-year-out supply agreements for the 7 three facilities. 8 Q Okay. I believe that term of the contract 9 may be -- may be extraordinarily sensitive information, 10 so I won't ask you -- I won't ask you any specifics 11 about those contracts, but I do want to ask you a 12 question about another statement on page 5 of your 13 testimony. You say here that most biomass projects 14 operate on a spot market; is that correct? 15 A And that's referring to their wood supply 16 costs, yes. 17 Q But you on page -- on lines 11 through 14, 18 you seem to indicate that this risk of operating on a 19 spot market has been mitigated by what the company has 20 done. 21 A It's been significantly mitigated in a way 22 that in my experience is unprecedented. 23 Q So is it your understanding that the 24 company's contracts will not be tied to the spot 25 market?</p>	735	<p>1 No. 90. It's been marked as Exhibit 20. 2 And basically what you provided was a map of 3 the Commonwealth, and you depicted the existing and 4 proposed biomass facilities; is that correct? 5 A Well, existing and anticipated. I think 6 "proposed" is a very loose screen. 7 Q Now, you just said that the Pittsylvania 8 station, which I believe is indicated by this small 9 P -- 10 A Correct. 11 Q -- is that correct? 12 You just said that the Pittsylvania station 13 is one of, if not the largest standalone biomass energy 14 facilities in the country. 15 A On a capacity basis. On a wood use basis, 16 which is really what's important, it's about a 17 50-megawatt wood use, which is for me what's important, 18 and for wood supply analysis what's important. 19 Q So you agree that Pittsylvania would be -- it 20 would be rated at approximately 83 megawatts? 21 A I agree that that is the capacity. 22 Q Okay. But you believe that the more real 23 rating would be closer to 50? 24 A I believe the dispatch numbers at that and 25 the wood use numbers show it to be -- to have a wood</p>

<p>736</p> <p>1 use -- what would be comparable to a 50-megawatt base 2 load facility, yes. 3 Q And Altavista, would you say also around 4 50 megawatts? 5 A I believe 51 megawatts is the size. 6 Q Did you consider the proposed South Boston 7 Energy facility in your -- 8 A I did, yes. South Boston is an hour and 11 9 minutes away, by road 47 road miles away, so... 10 Q Would you agree also close to 50 megawatts? 11 A Close to 50 megawatts. But when you look at 12 their capacity factor, their expected capacity factor, 13 it -- if you will give me a moment, I know it's in this 14 study. They come in with a wood use that is lower. 15 They come in using what I would anticipate to be 16 350,000 tons of wood, so -- what's that? It's around a 17 30-megawatt base load equivalent. 18 Q Fair enough. 19 But you would agree that you're adding a lot 20 more megawatts to this same general area where you 21 already have one of the largest biomass energy 22 facilities in the country, correct? 23 A And there's a great infrastructure there to 24 build upon in terms of supply. And there -- 25 Q "Infrastructure to build upon," meaning it's</p>	<p>738</p> <p>1 got the largest -- 2 A That is correct that this is unprecedented 3 for central Virginia. This is not unprecedented. But 4 I have full faith and confidence that Virginia loggers 5 and North Carolina loggers can supply this as they have 6 in other parts of the country. 7 Q Thank you, sir, unless you have anything else 8 to add. 9 A Thank you. 10 Q I don't have any more questions for you. 11 COMMISSIONER CHRISTIE: All right. 12 Mr. Stogdale. 13 MR. STOGDALE: The staff has no questions, 14 Your Honor. 15 COMMISSIONER CHRISTIE: Redirect. 16 REBUTTAL REDIRECT EXAMINATION 17 BY MR. DAHL: 18 Q Just real quickly, this was covered in the ES 19 session, but it concerns Dr. Abt's testimony and the 20 questions you were asked on that, so it's not ES. 21 You were asked about objective 3 of Dr. Abt's 22 study on page 2 of his testimony. And there was 23 just -- 24 A Objective 3 is the price -- 25 Q Right.</p>
<p>737</p> <p>1 not there now? 2 A Oh, there's -- there's loggers and suppliers 3 there now, and there's -- there's more that can 4 obviously come into the market. That would be a very 5 good spot to set up a chipper dealership. 6 Q And were you in the courtroom yesterday when 7 Mr. Norwood testified? 8 A I was. 9 Q Do you remember he was criticized for 10 increasing fuel prices by 10 percent in his analysis? 11 A I'll accept that. 12 Q Do you think it's unreasonable for the 13 company or the Commission to consider that fuel prices 14 might go up in this region as demand increases? 15 A The price discovery engaged in by Dominion 16 actually showed that the price goes up a little bit 17 from existing Pennsylvania levels but down from their 18 earlier forecast levels. 19 So is it unreasonable? I suspect it's 20 reasonable for the Commission to consider anything they 21 want to consider. However, the facts show that the 22 price came in higher than today's market, lower than 23 anticipated. 24 Q Okay. But this is an unprecedented scenario 25 that's shaping up in central Virginia, right? You've</p>	<p>739</p> <p>1 A -- what he calls the price study. 2 Q I just wonder if you could just clarify 3 things for the non-foresters among us the difference 4 between roundwood/residue. some of the terms we've 5 talked about there. 6 A Roundwood is exactly as it's described. It's 7 actually cylindrical wood, but if you look down, it's 8 round; it can go cleanly through a debarker and be used 9 in a process that requires white wood. So that would 10 be veneer mills, saw mills, pulp mills, pellet mills. 11 Someone who needs a clean, white wood either in chip or 12 board form. 13 Residue is all of the tops, branches, sweep, 14 crook. If you go into the forest and you see a little 15 jagged spot, that is not going to go clearly through a 16 debarker, that ends up as residue. 17 Q Thank you. 18 And you were also asked a question about 19 page 8 of Dr. Abt's testimony, lines 18 through 20. 20 But the whole Q&A from lines 12 to 28 of page 8 of 21 Dr. Abt's testimony, do you have any further comments 22 on the whole Q&A there? 23 A I'm sorry, page 8, lines -- 24 Q Your question, you were only asked to focus 25 in on lines 18 through 20.</p>

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1 A Right. Well, I mean it becomes clear what is
2 most important for --
3 MR. RAMBO: Objection. You know, if he -- I
4 was asking him about lines 18 through 20, and that's the
5 scope of my cross, and that has to be the scope of the
6 redirect.
7 COMMISSIONER CHRISTIE: How does that fit
8 within that scope, Mr. Dahl?
9 MR. DAHL: I think he was -- he needs to -- he
10 was not allowed to put the statement that he was asked
11 about in context of the whole Q&A where it was.
12 COMMISSIONER CHRISTIE: Well, I overrule it,
13 but you know what he said in response to his question,
14 so stick to that.
15 Go ahead.
16 THE WITNESS: Well, I will just reread what
17 I -- what the next sentence is, and that is, it did not
18 consider the logistical and spacial distribution of the
19 resource demands within the basin. And I believe I did
20 read that to Mr. Rambo, and for any point-based study or
21 a facility-based study, that's a critical piece.
22 BY MR. DAHL:
23 Q Finally, Consumer Counsel asked you about the
24 article that you authored. You discussed the REC
25 markets, the New England states there (inaudible), and

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1 ISO New England?
2 A The New England states are in ISO New
3 England.
4 Q And I think you said there were some
5 differences between that REC market and here. What are
6 some of those differences?
7 A Well, as discussed earlier, each state has
8 different REC markets, different requirements,
9 different tiers. There is actually four tiers as
10 opposed to two. It's a completely different market.
11 MR. DAHL: Thank you. No further questions.
12 COMMISSIONER CHRISTIE: All right,
13 Mr. Kingsley, you can be excused.
14 THE WITNESS: Thank you, Your Honor.
15 MR. DAHL: The company would next call
16 Mr. Gregory Workman.
17 WHEREUPON,
18 GREGORY A. WORKMAN,
19 called as a witness, and having previously been duly
20 sworn, was examined and testified as follows:
21 REBUTTAL DIRECT EXAMINATION
22 BY MR. DAHL:
23 Q Good afternoon. Are you the same Gregory A.
24 Workman that previously filed -- previously testified
25 in this proceeding?

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1 A Yes, I am.
2 Q Do you have with you today a document of five
3 typed pages of questions and answers entitled "The
4 Rebuttal Testimony of Gregory A. Workman" filed in both
5 public and in an extraordinarily sensitive version in
6 this proceeding?
7 A Yes, I do.
8 Q And was that document prepared by you or
9 under your direction?
10 A Yes.
11 Q Was it filed with the Commission on
12 December 22nd, 2011?
13 A Yes.
14 Q Do you have any corrections or additions to
15 that testimony at this time?
16 A I do not.
17 Q And if you were asked the same questions
18 appearing there, would your answers be the same today?
19 A Yes, they would.
20 Q And do you wish to sponsor it as your
21 prefiled rebuttal testimony in this proceeding?
22 A Yes.
23 MR. DAHL: I would ask that both the public
24 and ES version be marked for identification and admitted
25 into the record.

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1 COMMISSIONER CHRISTIE: Okay. This will be
2 Exhibit 59 and 59-ES, and this will be Workman rebuttal.
3 (Exhibit Nos. 59 and 59-ES were marked
4 for identification.)
5 MR. DAHL: I just have one question, but I
6 think it will help to go up to the overhead.
7 BY MR. RAMBO:
8 Q Mr. Workman, during Mr. Norwood's time on the
9 stand yesterday, he referred several times to waste
10 wood prices being volatile due to economic cycles, and
11 we just heard further questions about the stability of
12 fuel price just now.
13 Do you recall that testimony?
14 A Yes, I do.
15 Q Do you have any comment on Mr. Norwood's view
16 that wood waste -- waste wood prices are volatile?
17 A Yes.
18 Could I -- to illustrate page 11 of my direct
19 testimony.
20 Q This is, yeah, Mr. Workman's direct, page 11.
21 A We've experienced --
22 Q This -- this is ES.
23 A Okay. Excuse me. We're in the ES right now.
24 I will reference the question to page 11 of
25 my direct testimony. Perhaps when we're in ES session.

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1 I can show the chart.
2 But what we've experienced over the past 10
3 years, quite a bit of volatility in the Pittsylvania,
4 Altavista wood markets. The chart merely depicts
5 through multiple cycles that we've been in both up and
6 down cycles over the past 10 years, the stability of
7 fuel prices during those different economic cycles.
8 MR. DAHL: Thank you.
9 No further questions. The witness is
10 available for cross.
11 COMMISSIONER CHRISTIE: Mr. Rambo.
12 MR. RAMBO: No questions, Your Honor.
13 COMMISSIONER CHRISTIE: Mr. Monacell -- oh, he
14 is not here.
15 Okay. Mr. Reisinger.
16 MR. REISINGER: No questions, Your Honor.
17 COMMISSIONER CHRISTIE: Mr. Stogdale?
18 MR. STOGDALE: No questions, Your Honor.
19 COMMISSIONER CHRISTIE: Okay. Well, there is
20 no redirect then.
21 MR. DAHL: No redirect.
22 COMMISSIONER CHRISTIE: Thank you,
23 Mr. Workman.
24 THE WITNESS: Thank you.
25 MR. DAHL: The company would next call

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1 Mr. Robert M. Bisha.
2 WHEREUPON.
3 ROBERT M. BISHA,
4 called as a witness, and having previously been duly
5 sworn, was examined and testified as follows:
6 REBUTTAL DIRECT EXAMINATION
7 BY MR. DAHL:
8 Q Good afternoon.
9 Are you the same Robert M. Bisha that
10 previously testified in this proceeding?
11 A Yes, I am.
12 Q And do you have with you a document
13 consisting of six typed pages of questions and answers
14 entitled "The Rebuttal Testimony of Robert M. Bisha"
15 filed in this proceeding. I believe only as a public
16 version?
17 A Yes, I do.
18 Q Was that document prepared by you or under
19 your direction?
20 A It was.
21 Q And was it filed with the Commission on
22 December 22nd of last year?
23 A Yes, it was.
24 Q Do you have any corrections or additions to
25 that testimony?

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1 A No, sir.
2 Q If you were asked the same questions today,
3 would you provide the same answers?
4 A Yes.
5 Q Do you wish to sponsor it as your rebuttal
6 testimony in this proceeding?
7 A Yes, I do.
8 MR. DAHL: All right. I would ask that this
9 document, and it's just a public version, be marked for
10 identification and admitted to the record subject to
11 cross-examination.
12 COMMISSIONER CHRISTIE: All right. This will
13 be marked as Exhibit 60, Bisha rebuttal, and there is no
14 ES version. Without objection, it will be admitted.
15 (Exhibit No. 60 was marked for
16 identification.)
17 COMMISSIONER JAGDMANN: And I didn't ask for
18 an objection on 59 and 59-ES. I didn't hear any, so I'm
19 going to assume there were no objections. So 59 --
20 MR. DAHL: It goes into the record as well.
21 COMMISSIONER CHRISTIE: -- and 60 are
22 admitted.
23 (Exhibit Nos. 59, 59-ES and 60 were
24 received into evidence.)
25 BY MR. DAHL:

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1 Q Mr. Bisha, on Tuesday afternoon here, the
2 first day, we had a discussion including among counsel
3 and the Commissioners on the various conditions
4 recommended by the Virginia Forest Watch witnesses how
5 much biomass to leave behind at logging sites, that
6 sort of thing, and this Commission's jurisdiction and
7 any current regulating done by, say, the Department of
8 Forestry or the DGIF.
9 Were you present for that discussion?
10 A Yes, I was.
11 Q And those questions included a discussion of
12 the DOF and DGIF in this case. Their review was part
13 of the DEQ's coordinated review, correct?
14 A That's correct.
15 Q And that's the subject of your testimony.
16 right?
17 A Yes, it is.
18 Q Do you have anything further to add to that
19 discussion?
20 A A couple of things.
21 I would like to add that the reviews
22 conducted by the Department of Forestry and the
23 Department of Game and Inland Fisheries were consistent
24 with the memorandum of agreement and the procedure used
25 for the coordination amongst the agencies and the

<p>748</p> <p>1 report back to the Commission.</p> <p>2 I also wanted to mention that the Department</p> <p>3 of Forestry did sponsor a letter that we had put in the</p> <p>4 environmental supplement, the Charlie Becker letter,</p> <p>5 that does support the position that there's adequate</p> <p>6 fuel for these -- for these projects, and does not go</p> <p>7 on to specify any specific limit or regulate any</p> <p>8 specific debris amount or management of the forest as</p> <p>9 it's harvested.</p> <p>10 I also wanted to mention that the Department</p> <p>11 of Forestry's best management practices that we have</p> <p>12 contracted with our fuel suppliers to follow do provide</p> <p>13 for environmental protections and forest resource</p> <p>14 sustainability, and that is an important factor, we</p> <p>15 believe, and that is one of the reason those provisions</p> <p>16 were sought after in the fuel contracts.</p> <p>17 Q There were also some questions on that first</p> <p>18 day of company witness Leopold about a Dominion letter</p> <p>19 signed by Ms. Faggart, dated September 13th, 2010. I</p> <p>20 had it up on the projector before lunch. I believe</p> <p>21 it's Mr. Norwood's Exhibit SN-7.</p> <p>22 Were you present when that letter was</p> <p>23 discussed on Tuesday?</p> <p>24 A Yes.</p> <p>25 Q And Ms. Faggart is chief environmental</p>	<p>750</p> <p>1 biomass conversion from coal, so they are different and</p> <p>2 unique from the broad brush approach that we had</p> <p>3 presented in the -- in the letter to EPA.</p> <p>4 Q What are some of those distinguishing</p> <p>5 factors?</p> <p>6 A Well, the assumptions on the deferral of</p> <p>7 carbon and the carbon neutrality that's had extensive</p> <p>8 discussions, the PTCs and the RECs have had extensive</p> <p>9 discussions, and the fuel availability. So these three</p> <p>10 projects are unique in the sense that they are in a</p> <p>11 setting that wasn't contemplated necessarily in a</p> <p>12 general set of comments to EPA.</p> <p>13 Q I guess, as you just noted, there's been a</p> <p>14 lot of discussion in this hearing on the EPA deferral</p> <p>15 and the tailoring rule and the NSPS, the New Source</p> <p>16 Performance Standards. Judge Jagdmann and Mr. Norwood</p> <p>17 engaged in several questions about that. Ms. Scheller</p> <p>18 was asked a number of questions from Mr. Rambo about</p> <p>19 that.</p> <p>20 Do you recall those discussions?</p> <p>21 A Yes, I do, and I agree with Ms. Scheller's</p> <p>22 responses with regard to Clean Air Act requirements and</p> <p>23 timing.</p> <p>24 Q A number of those questions focused on this</p> <p>25 notion of being grandfathered or otherwise exempted if</p>
<p>749</p> <p>1 officer of Dominion. Do you report to her?</p> <p>2 A Yes.</p> <p>3 Q And, Mr. Bisha, the questions, when the</p> <p>4 letter was put on the overhead, focused on a couple of</p> <p>5 sentences about the competitiveness of biomass, the</p> <p>6 economics of developing Greenfield biomass-generating</p> <p>7 facilities, that biomass is the only economically</p> <p>8 favorable under a narrow range of conditions.</p> <p>9 Do you have anything further to add about why</p> <p>10 that letter was written?</p> <p>11 A I would like to characterize the basis and</p> <p>12 genesis for that letter that was written in September</p> <p>13 of 2010. It was in response to an EPA call for input</p> <p>14 as they were preparing to implement the tailoring rule</p> <p>15 and they were seeking input on whether or not biomass</p> <p>16 should be treated as carbon neutral or just how it</p> <p>17 should be treated. So we prepared those comments as a</p> <p>18 general set of comments to the EPA. EPA did</p> <p>19 subsequently issue the deferral that we've all seen and</p> <p>20 talked about here for up to three years while they</p> <p>21 continue to figure that out.</p> <p>22 In the meantime, the three projects we're</p> <p>23 talking about here in this case have been further</p> <p>24 developed, and it's become obvious that for many</p> <p>25 reasons these facilities are well suited for the</p>	<p>751</p> <p>1 the EPA were ultimately to determine more stringent</p> <p>2 carbon regulations were to apply to biomass generation.</p> <p>3 What is your view on this grandfathering</p> <p>4 issue?</p> <p>5 A The grandfathering has to do with the</p> <p>6 permitting right now. We do expect to receive permits</p> <p>7 from the Virginia DEQ this year. If those permits are</p> <p>8 issued and EPA ultimately takes an action either way,</p> <p>9 but if they take an action to say that biomass</p> <p>10 emissions are not carbon neutral, these permits would</p> <p>11 stand, they would not go away. So in that sense, they</p> <p>12 would be grandfathered and a permit -- a future permit</p> <p>13 would not be required.</p> <p>14 Q And those discussions also at a broader level</p> <p>15 go to the treatment of biomass as carbon neutral that's</p> <p>16 also been discussed a great deal in this hearing. What</p> <p>17 is your view as the director of Environmental Business</p> <p>18 Support of carbon neutrality for these biomass</p> <p>19 facilities?</p> <p>20 A Well, it's important to know that at least</p> <p>21 right now EPA is obligated to regulate carbon, so we</p> <p>22 are going to expect to see some continued activity, and</p> <p>23 I know that's notwithstanding what might come out of</p> <p>24 some of the legal proceedings.</p> <p>25 With regard to the carbon neutrality, we've</p>

<p>752</p> <p>1 seen both national and international efforts that thus 2 far have considered biomass emissions at carbon 3 neutral. So I think from that standpoint when we see 4 future regulatory or legislative type mandates 5 regarding carbon emissions, I expect that they will 6 treat carbon -- biomass as carbon neutral. 7 MR. DAHL: Thank you. 8 No further questions. The witness is 9 available for cross-examination. 10 COMMISSIONER CHRISTIE: Okay, Mr. Rambo. 11 MR. RAMBO: Thank you, Your Honor. 12 REBUTTAL CROSS-EXAMINATION 13 BY MR. RAMBO: 14 Q Good afternoon, Mr. Bisha. 15 A Thank you. Good afternoon. 16 Q I've got some questions. 17 Going on -- sort of to continue the line of 18 questions I had for Ms. Scheller, I think, or at least 19 intended to primarily just be clarifying questions, so 20 I might lead you into a nuance or two. 21 To be clear, at the end of the deferral, this 22 deferral rule sets up a three-year period of EPA 23 studying this. In the meantime, biomass is exempted 24 from the tailoring rule CO2 regulation. 25 So at the end of that deferral period, one</p>	<p>754</p> <p>1 at the end of the deferral period, there is an 2 in-between option between those two extremes: That EPA 3 might decide, Well, we got it right on the carbon 4 neutrality, but just for the residue-type biomass, but 5 not whole trees. 6 That's another potential outcome at the end 7 of this deferral period; is that correct? 8 A I suppose they could bifurcate it. 9 Q Right. So it's in between. Okay. 10 And, again, just to clarify, the deferral 11 rule, like all these rules, has been challenged. Are 12 you aware of the status of that challenge, where it is 13 in the legal proceeding? 14 A I understand there may be some briefing 15 coming up this year, probably some court date set later 16 this year. It's not on the front burner, as I know. 17 Q Okay. Now, if that challenge is successful 18 so that the deferral rule is vacated, would you agree 19 with me that there is at least an argument that any 20 permit -- any air permit that's issued in reliance on 21 the deferral rule, let's say -- so you get a permit, 22 you get your air permit while the deferral rule is 23 still in effect, but then after you get that permit the 24 deferral rule is vacated, that permit is no longer 25 good, you're going to have to go back and go back</p>
<p>753</p> <p>1 option is that EPA will decide, well, it got it wrong, 2 and it will decide that all biomass -- you know, 3 biomass should be put back in -- essentially into the 4 tailoring rule framework. 5 The other extreme is that they will say, No, 6 we actually had it right. this deferral should 7 essentially be extended, we're going to make it 8 permanent. 9 Do you agree those are sort of the two 10 extremes of what may happen? 11 A I think those are the outcomes we're waiting 12 for. 13 Q Well, I want to get at something, and 14 building on something that's in your testimony on 15 page -- your rebuttal testimony, the bottom of page 4, 16 top of page 5. 17 And Mr. Kingsley got into this and maybe 18 another company witness might have mentioned this too, 19 is that there is a -- in a lot of the debate about the 20 carbon neutrality, it gets down into there are some 21 nuances between the types of biomass and there are 22 different shades of arguments about, say, residues. 23 For instance, the carbon neutrality of burning residues 24 versus the carbon neutrality of burning whole trees. 25 So would you agree with me that there is --</p>	<p>755</p> <p>1 through the permitting process without the benefit of 2 the deferral rule. 3 Would you agree with that? Or would you 4 agree that there's that argument that -- 5 A Well, I think it would -- I think it would 6 depend upon what the final order in the rule said. 7 Q Okay. Fair enough. 8 A Fair enough. 9 Q And even if the deferral rule is vacated so 10 it's sent back to EPA, there is that same -- as we 11 discussed the possibilities that would happen if the 12 deferral rule is allowed to, say, go its natural life, 13 the three-year period, at the end of that you've got 14 the extreme, EPA says, We're going to accept all 15 biomass; the other extreme will say, We're going to 16 exempt no biomass; or the in between where they're 17 going to -- the bifurcation, I think as you called it. 18 There's that same extremes and the 19 bifurcation possibility in the event that the deferral 20 rule is vacated and sent back to EPA for it to issue a 21 new proposal. Would you agree with that? 22 A I would think there's an argument that you 23 still would maintain your permit regardless of that 24 outcome. 25 Q Yeah, I'm not asking about the impact on the</p>

<p>756</p> <p>1 permit. but just as far as what EPA has to do. It 2 would be facing -- those same possibilities are going 3 to be before EPA if the deferral rule is vacated as if 4 at the end of this deferral period if -- if the 5 deferral stands, EPA is going to have these same 6 possibilities of deciding what to do with biomass, 7 either all of it's in, all of it's out, or something in 8 between. 9 A EPA would still have to deal with that, yes. 10 Q Yeah, okay. 11 MR. RAMBO: That's all I have, Your Honor. 12 COMMISSIONER CHRISTIE: All right. 13 Mr. Monacell. 14 MR. MONACELL: No questions. 15 COMMISSIONER CHRISTIE: Mr. Reisinger. 16 MR. REISINGER: Yes, Your Honor. 17 REBUTTAL CROSS-EXAMINATION 18 BY MR. REISINGER: 19 Q Good afternoon, Mr. Bisha. 20 I want to just very quickly clarify a couple 21 of points that came up on your surrebuttal. 22 Mr. Dahl asked you about this letter which 23 was a letter from the company to EPA after the initial 24 set of permitting rules came out; is that correct? 25 A Yes. Is this the -- yes, the September 13th</p>	<p>758</p> <p>1 Q The tailoring rule? You were not referring 2 to New Source Performance Standards? 3 A I was not. They have not come out yet. 4 Q You were not referring to legislation? 5 A No, sir. 6 MR. REISINGER: Okay. Thank you, sir. 7 COMMISSIONER CHRISTIE: All right. 8 Mr. Stogdale. 9 MR. STOGDALE: Staff has no questions, Your 10 Honor. 11 COMMISSIONER CHRISTIE: Any redirect? 12 REBUTTAL REDIRECT EXAMINATION 13 BY MR. DAHL: 14 Q Just quickly back to that EPA letter. You 15 said it applied to new and existing generating 16 facilities. Was that generally or was that looking at 17 these three specific conversions? 18 A That was generally and that was before these 19 three projects were being considered. 20 Q And these three projects have some 21 distinctions in your view? 22 A Yes -- yes, they do. They have the existing 23 equipment in place, they have the pollution control 24 equipment in place that makes them more viable, and 25 they have the other benefits to them, as I mentioned</p>
<p>757</p> <p>1 letter, 2010. 2 Q Yes, sir. 3 And I believe -- I believe you were 4 clarifying this statement that the economics of biomass 5 power generation under -- are marginal under current 6 conditions. You were clarifying that statement to say 7 that that applies to Greenfield power plants; is that 8 correct? Or did I -- did I mishear you? 9 A It would apply to new Greenfield or to 10 certain existing facilities. 11 Q Do you agree with this statement here that: 12 "Regulation of CO2 emissions from biomass facilities 13 would make them significantly less attractive than 14 other generating options resulting in a decrease in 15 generation from existing biomass-fueled generators"? 16 Do you agree with that statement? 17 A That was -- that was our position at the time 18 of this letter. 19 Q And you also talked about this idea of 20 biomass facilities being grandfathered under the EPA 21 rules. Do you remember that discussion? 22 A Yes. 23 Q You were referring to the permitting rules 24 that have come out, correct? 25 A The tailoring rule, yes.</p>	<p>759</p> <p>1 earlier. 2 MR. DAHL: Thank you. No further questions. 3 Your Honor. 4 COMMISSIONER CHRISTIE: All right. Thank you. 5 Mr. Bisha. You may be excused. 6 MR. McNAMEE: The company calls Greg Morgan. 7 WHEREUPON. 8 GREGORY J. MORGAN, 9 called as a witness, and having previously been duly 10 sworn, was examined and testified as follows: 11 REBUTTAL DIRECT EXAMINATION 12 BY MR. McNAMEE: 13 Q Are you the same Gregory J. Morgan that 14 previously testified in this proceeding? 15 A Yes. 16 Q Do you have with you today a document 17 consisting of five typed pages of questions and answers 18 entitled "The Rebuttal Testimony of Gregory J. Morgan," 19 and it's filed as a public version only? 20 A I do. 21 Q And was this document prepared by you and 22 under your direction? 23 A Yes. 24 Q And do you have any corrections or additions 25 to it?</p>

<p>760</p> <p>1 A I do not.</p> <p>2 Q And if I were to ask you the same questions</p> <p>3 again, would your answers be the same?</p> <p>4 A Yes, they would.</p> <p>5 MR. McNAMEE: Your Honor, at the appropriate</p> <p>6 time. I would like this marked as an exhibit and entered</p> <p>7 into the record. It's a public version only.</p> <p>8 COMMISSIONER CHRISTIE: All right.</p> <p>9 Exhibit 61, Morgan rebuttal.</p> <p>10 Any objection to admission? Hearing none, it</p> <p>11 is admitted.</p> <p>12 (Exhibit No. 61 was marked for</p> <p>13 identification and received in</p> <p>14 evidence.)</p> <p>15 MR. McNAMEE: Thank you, Your Honor.</p> <p>16 BY MR. McNAMEE:</p> <p>17 Q Mr. Morgan, were you present in the courtroom</p> <p>18 when Consumer Counsel questioned company witness</p> <p>19 Scheller about the ICF REC prices and suggested that</p> <p>20 perhaps the forecast was too high?</p> <p>21 A Yes, I -- I was here.</p> <p>22 Q And, in particular, they pointed to the fact</p> <p>23 that in 2009 and 2010 that the REC prices paid by the</p> <p>24 company for Tier 1 RECs were between one and two</p> <p>25 dollars?</p>	<p>762</p> <p>1 market.</p> <p>2 So you fast-forward to 2010 and '11, and what</p> <p>3 you see is kind of a disequilibrium. Supply has</p> <p>4 outpaced demand for renewables, you know, roughly --</p> <p>5 depending on how you look at it, roughly a 2-to-1</p> <p>6 level. So what you end up with is the prices really</p> <p>7 have chased the floor, they've really fallen to very</p> <p>8 low levels because of the imbalance between supply and</p> <p>9 demand. So that's why we're seeing -- we may have seen</p> <p>10 10 to \$15 not that long ago, but they've really fallen</p> <p>11 to the levels they're at now.</p> <p>12 Q Is it my understanding that Dominion actually</p> <p>13 was able to attain \$15 a REC for its Pittsylvania</p> <p>14 biomass Tier 1 RECs?</p> <p>15 A Yes, we've done some trades in 2009 at those</p> <p>16 levels.</p> <p>17 Q All right. Do you also agree, having heard</p> <p>18 Ms. Scheller with her statement that she believes the</p> <p>19 REC prices are likely to go up again as demand for</p> <p>20 electricity, starts to rise and REC requirements under</p> <p>21 the RPS standards start to rise?</p> <p>22 A Yes. I think Ms. Scheller talked at length,</p> <p>23 and I need to be careful because I know the exhibit was</p> <p>24 ES, but about the embedded demand that's out there that</p> <p>25 is due to rise, it's based on existing law. So it's my</p>
<p>761</p> <p>1 A I believe those were the prices received by</p> <p>2 the company for the sale of RECs, but, yes, I was here</p> <p>3 to hear that.</p> <p>4 Q All right. And the company has suggested</p> <p>5 that the REC prices are going to be significantly</p> <p>6 higher than that, correct?</p> <p>7 A We have, yes.</p> <p>8 Q Has the company actually obtained or sold any</p> <p>9 of their Tier 1 RECs for a higher amount than one to</p> <p>10 two dollars?</p> <p>11 A Yes, we have. I think -- I think Mr. Kelly</p> <p>12 alluded to it. While the RECs are still somewhat of an</p> <p>13 immature product, generally these RPS programs were</p> <p>14 borne in the 2006 to 2008 era. In my view, they've</p> <p>15 already experienced a business cycle of sorts. There</p> <p>16 was a relative balance, I guess, between supply and</p> <p>17 demand when many of these programs started, and the</p> <p>18 prices began in the -- in the 10 to \$20 range. New</p> <p>19 Jersey maybe even a little bit higher.</p> <p>20 What happened were two things happened, I</p> <p>21 guess. We've already talking about the load forecast</p> <p>22 fell, so the requirements actually fell due to the</p> <p>23 recession of 2008. But sort of at the same time on the</p> <p>24 heels of the big surge in gas and power prices, a lot</p> <p>25 of renewable supply, mostly wind, was brought to the</p>	<p>763</p> <p>1 view looking at the supply/demand fundamentals that we</p> <p>2 are at a floor, and there's only one place for prices</p> <p>3 to go from here. and that's up.</p> <p>4 If you look at the demand growth that's</p> <p>5 poised to occur. it's geometric. or it's due to double</p> <p>6 and then double again when you look at it. So it's not</p> <p>7 a very bold statement to say that prices are going to</p> <p>8 rise, and in fact, they may rise very precipitously.</p> <p>9 They may even rise earlier than otherwise you may --</p> <p>10 than you may think just looking at supply and demand</p> <p>11 due to some of the banking provisions.</p> <p>12 A REC generated in 2012 can either be sold in</p> <p>13 2012 or it can be banked and sold two years later, so</p> <p>14 there is two-year banking. So some of the controls of</p> <p>15 the REC today can say, Am I willing to sell today at</p> <p>16 today's price, or do I think I will get a higher price</p> <p>17 tomorrow? And they can make a decision in setting the</p> <p>18 price.</p> <p>19 So I think these markets could move and I</p> <p>20 think they could move earlier than the charts may</p> <p>21 indicate.</p> <p>22 As we sit here today, the 2012 REC prices</p> <p>23 have inched upward. They're now trading around \$2 a</p> <p>24 megawatt hour, so it's higher than what we got last</p> <p>25 year so we've already started to see what I think is a</p>

<p>764</p> <p>1 continuing rebound. 2 MR. McNAMEE: Thank you. 3 The witness is available for 4 cross-examination. 5 COMMISSIONER CHRISTIE: Let me ask you a 6 question, Mr. Morgan, on the question about -- in which 7 you address in your rebuttal and you also addressed it 8 in the direct, and Ms. Leopold has addressed it, but 9 that is the interplay with this and the RPS. 10 You're going to sell the Tier 1 RECs, you're 11 going to buy back Tier 2 RECs to meet the RPS, and then 12 you're going to credit the difference. I understand 13 that. And you don't need this for the current level of 14 the RPS. 15 When the RPS kicks up in, what, 2017, 2018, is 16 it the plan to use this towards the RPS? 17 THE WITNESS: I think that -- 18 COMMISSIONER CHRISTIE: These plants. 19 THE WITNESS: I think that's always going to 20 depend on the economics of what we can purchase and what 21 we can sell. So, so long as there continues to be the 22 spread that we see now and we predict between Tier 1 and 23 Tier 2 purchases, we're going to do what's economically 24 optimal. 25 So my take on it would be and what our case is</p>	<p>766</p> <p>1 sell the Tier 1 RECs and still count it towards your -- 2 well, first of all, if you can, then obviously that part 3 is easy, you can still continue to sell the Tier 1 RECs 4 and count it towards the RPS. So if it makes sense to 5 sell Tier 1 and buy back Tier 2, net the difference, 6 that's great. 7 But if the legal answer is, you can't both 8 sell the Tier 1 RECs and count these plants towards your 9 RPS, and you say, Well, we will just do whatever -- you 10 know, we'll see what the market is for RECs, but the 11 question -- the bigger -- not bigger but another 12 question then is, you now have -- you would have three 13 biomass plants which, absent the REC issue, you clearly 14 could count towards the RPS. But if you've sold the 15 Tier 1 RECs and if the legal answer is, Well, now you 16 can't count it towards the RPS, you might -- meaning 17 Dominion -- want to pursue another renewable option that 18 might be very expensive. 19 So in that scenario -- and really the legal 20 answer sort of answers that, because if you can't count 21 it, then the question becomes how long are you going 22 to -- and whether there should -- assuming it's 23 approved, should there be some condition that you have 24 to continue to net out the RECs or whether it's going to 25 be better for ratepayers that you don't continue to net</p>
<p>765</p> <p>1 built upon is we're going to continue to -- we'll count 2 it in our forward plan. That is, it's a renewable 3 resource. When we file our forward-looking plan, we 4 will say, This is one of the renewable resources we 5 anticipate using in our forward plan. But as we arrive 6 into each year, we're going to probably sell those 7 RECs -- our plan will be to sell those RECs at the 8 higher valued Tier 1 markets and purchase whatever 9 Tier 2 RECs at a lower price. So we will continue to do 10 that as long as that makes economic sense. 11 COMMISSIONER CHRISTIE: Sure. But there's a 12 couple of other dimensions to that economic question, 13 and it's this: One of the legal issues that we need to 14 brief, everybody, is whether if you sell the Tier 1 RECs 15 from these plants and buy back -- if you sell the Tier 1 16 RECs, whether you're buying back Tier 2s or not, can you 17 still count these plants towards your RPS if you've sold 18 the Tier 1 RECs? 19 Now, you know, we got close to that issue in 20 Covanta, but I'm not totally sure that we got -- 21 explicitly addressed it. So that would be a question 22 that we would like to see briefed, and that's a legal 23 question. I'm not going to ask you to answer that. 24 But, let's look at the decision, it could go 25 either way. If you -- if the legal answer is you cannot</p>	<p>767</p> <p>1 out the RECs, because then you're going to do something 2 that's even more expensive. 3 THE WITNESS: Well, you know, I guess at 4 first -- I guess you suggested it calls for a legal 5 conclusion, but, you know, I guess from -- 6 COMMISSIONER CHRISTIE: Well, let me -- 7 assuming that the legal answer is -- and I'm not asking 8 you for a legal opinion -- assuming the legal answer is 9 if you sell the Tier 1 RECs, you cannot count this 10 towards your RPS. 11 THE WITNESS: I think that's the way -- if you 12 look at what we did with Pittsylvania last year, I think 13 that's the way it ultimately was accounted for. When we 14 put our final certification in and we counted all of the 15 RECs that we were using for 2010 compliance, 16 Pittsylvania we had available -- let's say when we 17 started the year, through the year we sold those RECs in 18 other states, and bought back, if you will, Tier 2 RECs. 19 So our final plan did not include Pittsylvania RECs 20 being retired to meet our 2011 obligations. Other 21 states that we sold them to were using that in their 22 plans. 23 So I think in the end, I don't think you can 24 count them twice. We can't count them in Virginia while 25 someone that we sell it to counts it in Pennsylvania.</p>

<p>768</p> <p>1 They were only counted once in the end. In the end, we 2 were counting the ones we bought towards our 2011 goal, 3 and the party that we sold them to in other states was 4 counting them towards their 2011 goal. So there is no 5 double counting. In the end, once we optimize them, 6 they're going to get counted in the state we sell them 7 to. We're not going to count them when we determine 8 whether we made our goal. 9 COMMISSIONER CHRISTIE: All right. So then 10 the ratepayers benefit from the sale of the Tier 1 RECs, 11 assuming these are -- but then that would create when 12 the RPS kicks up the need for -- assuming you ask us to 13 approve additional facilities in order to meet the 14 higher RPS, there's going to be a cost to that, because 15 you're going to sell the Tier 1 RECs. 16 THE WITNESS: As long as that's economic to 17 do, which is we have every reason to believe that will 18 continue, that's what we're going to plan to do. So as 19 we sit here, our forecast would be that we do not 20 anticipate using these for -- in the end for the 21 Virginia program because we think they have a higher 22 value in other states. 23 COMMISSIONER CHRISTIE: Okay. 24 All right, Mr. Rambo. 25 MR. RAMBO: No questions, Your Honor.</p>	<p>770</p> <p>1 evaluation, you're not planning to use any of those 2 RECs, are you? You are planning to sell all of those 3 RECs? 4 A We're planning on -- the modeling that we've 5 done shows that the Tier 1 values exceed Tier 2, and 6 the optimal thing would be to sell them, to sell those 7 RECs. 8 Q Okay. Sell 100 percent? 9 A Sell 100 percent. 10 Q Your cost effectiveness evaluation is driven 11 in large part by those increasing profits from selling 12 100 percent of your RECs, correct? 13 A I agree with that. 14 Q Thank you, sir. 15 MS. POUILLE: No questions, Your Honor. 16 COMMISSIONER JAGDMANN: Redirect? 17 MR. McNAMEE: Just a few. 18 REBUTTAL REDIRECT EXAMINATION 19 BY MR. McNAMEE: 20 Q Continuing on Judge Christie's questions, so 21 the company's current plan is that it will not count 22 the renewable energy twice in a sense that there's 23 renewable energy, and you can either count it as 24 renewable energy or you can turn it into a REC and sell 25 it, but you can't have both renewable energy and a REC;</p>
<p>769</p> <p>1 COMMISSIONER CHRISTIE: Mr. Monacell. 2 MR. MONACELL: No questions. 3 COMMISSIONER CHRISTIE: Mr. Reisinger. 4 MR. REISINGER: Yes, Your Honor. very briefly. 5 REBUTTAL CROSS-EXAMINATION 6 BY MR. REISINGER: 7 Q Mr. Morgan, I believe you just said a few 8 moments ago that RECs are currently trading at around 9 \$2, is that right, in 2012? 10 A Yes, that's right. 11 Q I won't put it up on the screen because it 12 contains some extraordinarily sensitive information, 13 but would you agree that the prices Dominion has 14 received on average in 2011 for RECs was \$1.07? 15 A Yes. I believe that's our data, and what 16 I've said is that prices have perhaps started to 17 rebound. The 2012 -- looking out the front window as 18 we sit here today for 2012, the prices are higher than 19 they were, we actually received in 2011. 20 Q Judge Christie just asked you some questions 21 about whether you could use the RECs generated at these 22 plants in the RPS in later years. Do you remember 23 those questions? 24 A I do. 25 Q Now, in the company's cost effectiveness</p>	<p>771</p> <p>1 is that correct? 2 A Yes, that's right. 3 Q And the company's plan to do this 4 optimization is pursuant to 56-585.2: is that correct. 5 which permits the company to choose which option to do 6 on that? 7 A Yes. There is a statute that governs our 8 ability to do that. 9 Q And the requirement, though, is if you sell 10 those RECs, those higher valued Tier 1 -- and it 11 doesn't say Tier 1 or Tier 2, it just says a higher 12 valued REC -- you have to buy replacement RECs, lower 13 valued replacement RECs, correct? 14 A I'm sorry, restate. 15 Q If you sell a higher valued REC, you have to 16 buy a replacement REC under that optimization. 17 A Well, we still have to have enough to meet 18 the goal. So typically that means we will have to buy 19 to -- 20 Q Well, the statute itself says -- 21 A -- you may have to buy the entire volume to 22 meet the goal. These are big facilities. We might 23 have to buy a lesser volume to meet the goal. But we 24 will presumably have to buy to meet the goal. 25 Q Okay. And the requirement is -- and the</p>

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1 theory is that if you sell higher valued RECs in the
2 market, you're making ratepayers of utilities somewhere
3 else in PJM pay for our renewable facility, correct?
4 A The sale of RECs would be to the other PJM
5 states, Pennsylvania, Maryland, Jersey. So, yes, those
6 load-serving entities would be buying the credits from
7 our Virginia facility.
8 Q And our intent is to take that money and
9 credit it to ratepayers; is that correct?
10 A Yes.
11 Q And then pursuant to the statute, we're
12 required to go out there and buy replacement RECs,
13 which are usually Tier 2, which are, what, about
14 60 cents apiece?
15 A No, they're less than that. Last year they
16 were -- they're currently in the 20-cent range.
17 Q Okay. So even if you have \$2 RECs today that
18 you can sell on the market, and get those proceeds and
19 give them to customers, the requirement of the statute
20 and the intent of the company is then to go out and
21 spend 20 cents to buy the replacement, so customers net
22 a benefit of a dollar eighty?
23 A That's right.
24 MR. McNAMEE: Okay. Thank you.
25 COMMISSIONER CHRISTIE: But if in the future

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1 when the RPS kicks up, hypothetically, if the REC market
2 doesn't go as you anticipate it going, so that the
3 spread between Tier 1 RECs and Tier 2 RECs is not that
4 remunerative, you could use this towards the higher RPS.
5 and you could ask us and say, You know, sorry the REC
6 thing didn't work out, but now we can propose to use
7 this towards the RPS and not have to buy something else,
8 correct?
9 THE WITNESS: We could, and that way it's a
10 hedge against our RPS obligations.
11 COMMISSIONER CHRISTIE: Okay.
12 THE WITNESS: But the economics would have to
13 dictate that, as you suggested.
14 COMMISSIONER CHRISTIE: So the analysis --
15 well, one of the analyses would be, Here is what we're
16 making on RECs -- on the REC arbitrage -- that's what it
17 is, it's an arbitrage -- here is what it would cost us
18 to spend on a new facility to meet the RPS, but we could
19 do away with the REC arbitrage and just apply these
20 plants towards the RPS at no net additional cost.
21 THE WITNESS: We could do the calculations you
22 just described. I'm sure we will. Every indication is
23 that Tier 1 -- from what we can see today, Tier 1 prices
24 will always exceed Tier 2.
25 COMMISSIONER CHRISTIE: But you're not locking

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1 in -- you're not saying for the life of these plants
2 we're always going to be selling Tier 1s and buying
3 back -- and we'll just buy back whatever Tier 2s it
4 takes, so once we start selling Tier 1s, we can never
5 use this to meet the RPS.
6 THE WITNESS: I suppose the only way that
7 would -- if we were to enter into a long-term contract
8 to sell a long strip of Tier 1 RECs, which I don't think
9 we've contemplated how we're going to do this yet, but I
10 suppose if we did, then that might change the calculus.
11 But if we go a year at a time, we could do the calculus
12 you described and say, What makes sense here
13 economically?
14 COMMISSIONER CHRISTIE: Okay. Any more
15 redirect after I asked that last question?
16 MR. McNAMEE: No.
17 COMMISSIONER CHRISTIE: The one thing is,
18 isn't it the company's current intention that it's going
19 to evaluate the value of the Tier 1 RECs each year and
20 not enter into a long-term contract?
21 THE WITNESS: Yes, that's my expectation.
22 COMMISSIONER CHRISTIE: Just out of curiosity,
23 is anybody entering into long-term contracts to buy
24 RECs?
25 THE WITNESS: Yes. We've -- you know, for our

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1 Virginia RPS, we've been selling them in short durations
2 and trying to balance selling the Tier 1s with buying
3 the Tier 2s. But where there are certain. I guess,
4 specific carveouts that perhaps can only be met with new
5 facilities -- we, for instance, in our North Carolina
6 RECs program, we're entering into long-term contracts
7 for certain carveout facilities that are hard to find
8 and must be built. So the only way to get those
9 facilities -- and these are for whole tree and swine
10 waste renewable energy certificates. The only way to
11 get those is to get a developer in up front that will
12 develop a facility, and we're signing long-term
13 contracts because that's the only way to get the
14 facility.
15 So that is occurring. We're paying very big
16 prices for those because we're paying basically -- the
17 economics that Ms. Scheller described is exactly how it
18 works, which is there is a subsidy required, which is
19 the difference between the market value of the energy
20 and capacity you get and what it costs to build such a
21 facility. That's what we're in fact paying in long-term
22 contracts there. So, yes, we are, at least that I've
23 seen in our North Carolina program.
24 COMMISSIONER CHRISTIE: Okay. You may be
25 excused. Thank you, Mr. Morgan.

<p style="text-align: right;">776</p> <p>1 MR. DAHL: Company wishes to call Mr. Mark C. 2 Stevens to the stand. 3 WHEREUPON, 4 MARK STEVENS, 5 called as a witness, and having previously been duly 6 sworn, was examined and testified as follows: 7 REBUTTAL DIRECT EXAMINATION 8 BY MR. DAHL: 9 Q Are you the same Mark Stevens that testified 10 previously here? 11 A Yes. 12 Q Do you have with you today a document 13 consisting of 12 typed pages of questions and answers, 14 one exhibit consisting of one schedule, collectively 15 entitled "The Rebuttal Testimony of Mark C. Stevens"? 16 A Yes, I do. 17 Q And I believe there's only a public version 18 of that; is that correct? 19 A That's correct. 20 Q Was that document prepared by you or under 21 your direction? 22 A Yes, it was. 23 Q And filed with the Commission on December 22, 24 2011? 25 A Yes.</p>	<p style="text-align: right;">778</p> <p>1 which will be accrued up to the proposed effective date 2 of Rider B, April 1, 2012. 3 Do you have any response to that discussion? 4 A Yes, I do. Mr. Monacell and staff witness 5 Pate discussed the appropriate amortization period for 6 AFUDC, which will be accrued up to the proposed 7 effective date of Rider B, which is April 1, 2012. The 8 company is in agreement with the staff on this issue. 9 It is appropriate to use an AFUDC 10 amortization period that would begin with the proposed 11 effective date of Rider B to the end of the 12 construction period for each facility. 13 Subsection A6 of 56-585.1 requires the 14 recovery on a timely and current basis from customers 15 of the costs, in this instance of one or more major 16 unit modifications. Those costs include financing 17 costs such as AFUDC. The suggested amortization period 18 of 25 years for the total of \$1 million, representing 19 ten months' worth of AFUDC, would not be timely and 20 current. 21 MR. DAHL: Thank you. 22 No further questions. He is available for 23 cross-examination. 24 COMMISSIONER CHRISTIE: Mr. Rambo. 25 MR. RAMBO: No questions.</p>
<p style="text-align: right;">777</p> <p>1 Q Do you have any corrections or additions to 2 your rebuttal testimony? 3 A I do not. 4 Q If you were asked the same questions 5 appearing there, would you provide the same answers 6 today? 7 A Yes, I would. 8 Q Do you wish to sponsor it as your rebuttal 9 testimony? 10 A Yes. 11 MR. DAHL: I will ask the document be marked, 12 public version only, and admitted at the appropriate 13 time. 14 COMMISSIONER CHRISTIE: Okay. This will be 15 exhibit -- mark it Exhibit 62, Stevens rebuttal, public. 16 (Exhibit No. 62 was marked for 17 identification.) 18 BY MR. DAHL: 19 Q Just one question before we start. 20 Mr. Stevens. 21 Let's get the days straight here. Tuesday 22 when staff witness Pate was up here, she had an 23 exchange with counsel for the Virginia Committee, 24 Mr. Monacell, where they were discussing the 25 appropriate amortization period for the AFUDC, and</p>	<p style="text-align: right;">779</p> <p>1 COMMISSIONER JAGDMANN: Mr. Monacell. 2 MR. MONACELL: Yes, Your Honor. 3 REBUTTAL CROSS-EXAMINATION 4 BY MR. MONACELL: 5 Q On the subject of the AFUDC, won't all the 6 construction costs be incurred within the 16- to 7 19-month construction period? 8 A That is correct. 9 Q Okay. And -- 10 A Well, I should correct. 11 There were some costs -- I think the 16 to 19 12 months you're referring to is actually the remaining 13 construction period. 14 Q Okay. 15 A Beginning with the effective date of the 16 rider through the end of construction. 17 Q So how many months before that six months or 18 so? 19 A I can't say for certain when the project 20 officially started. We started accruing AFUDC on 21 June 1, but the project started months prior to that. 22 Q Well, no more than a year additional? 23 A No. No, not much more. 24 Q Okay. So we're talking about construction 25 costs incurred over a one-and-a-half to two-and-a-half</p>

<p>780</p> <p>1 year period, correct?</p> <p>2 A Correct.</p> <p>3 Q Okay. And those construction costs include</p> <p>4 the hard costs of any equipment, right?</p> <p>5 A They would.</p> <p>6 Q And they would include soft costs of any</p> <p>7 engineering?</p> <p>8 A They would.</p> <p>9 Q And they would include labor and whatever of</p> <p>10 doing this conversion, correct?</p> <p>11 A Correct.</p> <p>12 Q And you referred to the statutory phrase</p> <p>13 "timely," and you used that as an argument why the</p> <p>14 AFUDC should be recovered in a timely fashion. But</p> <p>15 doesn't that same word "timely" in the statute also</p> <p>16 refer to all of the other costs of the conversion?</p> <p>17 A Well, just to be clear, the subsection A6</p> <p>18 highlights a list of itemized costs --</p> <p>19 Q Right.</p> <p>20 A -- that cannot be recovered during the</p> <p>21 construction period. The only two -- the only two</p> <p>22 items that can be recovered during the construction</p> <p>23 period is the AFUDC and financing costs on CWIP. Those</p> <p>24 are the only two.</p> <p>25 And I may say this is completely consistent</p>	<p>782</p> <p>1 WHEREUPON,</p> <p>2 KURT W. SWANSON,</p> <p>3 called as a witness, and having previously been duly</p> <p>4 sworn, was examined and testified as follows:</p> <p>5 REBUTTAL DIRECT EXAMINATION</p> <p>6 BY MR. REID:</p> <p>7 Q Are you the slightly neglected Kurt W.</p> <p>8 Swanson --</p> <p>9 A Yes, I am.</p> <p>10 Q -- who previously testified in this</p> <p>11 proceeding?</p> <p>12 A Yes, I am.</p> <p>13 Q And, Mr. Swanson, do you have with you a</p> <p>14 document consisting of five typed pages of questions</p> <p>15 and answers entitled "Rebuttal Testimony of Kurt W.</p> <p>16 Swanson" filed in public version only in this case?</p> <p>17 A Yes.</p> <p>18 Q And was that document prepared by you or</p> <p>19 under your supervision?</p> <p>20 A Yes.</p> <p>21 Q Was it filed with the Commission on</p> <p>22 December 22nd of 2011 in this case?</p> <p>23 A Yes.</p> <p>24 Q And do you have any corrections or additions</p> <p>25 to it?</p>
<p>781</p> <p>1 with what we've done and what the staff has agreed with</p> <p>2 in the Bear Garden, the VCHC and the Warren County</p> <p>3 case.</p> <p>4 MR. MONACELL: I have nothing further.</p> <p>5 COMMISSIONER CHRISTIE: Mr. Reisinger.</p> <p>6 MR. REISINGER: No questions, Your Honor.</p> <p>7 COMMISSIONER CHRISTIE: Ms. Clowers, are you</p> <p>8 doing it?</p> <p>9 MS. CLOWERS: Yes.</p> <p>10 REBUTTAL CROSS-EXAMINATION</p> <p>11 BY MS. CLOWERS:</p> <p>12 Q Just following up on the AFUDC conversation,</p> <p>13 a shorter amortization period, could that reduce the</p> <p>14 carrying costs paid by customers as compared to a</p> <p>15 longer amortization period?</p> <p>16 A That is correct.</p> <p>17 MS. CLOWERS: No further questions.</p> <p>18 COMMISSIONER CHRISTIE: Redirect?</p> <p>19 MR. DAHL: No redirect, Your Honor.</p> <p>20 COMMISSIONER CHRISTIE: Thank you,</p> <p>21 Mr. Stevens. You are excused.</p> <p>22 MR. McNAMEE: The company calls Diane</p> <p>23 Leopold -- oh, I'm sorry. I want to get out of here as</p> <p>24 fast as everybody else.</p> <p>25 We're calling Kurt Swanson.</p>	<p>783</p> <p>1 A No.</p> <p>2 Q If you were asked the same questions</p> <p>3 appearing in that document here today, would you</p> <p>4 provide substantially the same answers?</p> <p>5 A I would.</p> <p>6 Q And do you wish to sponsor it as your</p> <p>7 rebuttal testimony in this proceeding?</p> <p>8 A Yes, I would.</p> <p>9 MR. REID: Your Honor, if we could have</p> <p>10 Mr. Swanson's rebuttal testimony identified and</p> <p>11 admitted to the record subject to cross-examination.</p> <p>12 COMMISSIONER CHRISTIE: All right. Swanson</p> <p>13 will be 63. Stevens was 62. I don't know if Mr. Dahl</p> <p>14 actually moved to admit it. He may have and I missed</p> <p>15 it. Any objection to admitting either 62 or 63?</p> <p>16 Hearing none, they're both admitted.</p> <p>17 (Exhibit No. 62 was received into</p> <p>18 evidence.)</p> <p>19 (Exhibit No. 63 was marked for</p> <p>20 identification and received in</p> <p>21 evidence.)</p> <p>22 BY MR. REID:</p> <p>23 Q Mr. Swanson, when you appeared before the</p> <p>24 Commission earlier in this proceeding, there was a</p> <p>25 request by the Attorney General to present some</p>

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1 customer rate comparisons.
2 Have you prepared such data?
3 A Yes, I have.
4 Q And are you prepared to relay that
5 information to the Commission at this time?
6 A Yes.
7 Q Would you please do that.
8 A Yes.
9 Mr. Browder had asked about where we stood
10 rate-wise or a thousand-kilowatt-hour bill-wise as of
11 today. I believe I answered that it was about \$112,
12 and in fact it is \$112.31.
13 And I believe he then asked where would we be
14 at the point in which these riders, Rider B as well as
15 the other riders, as I understood it, that would
16 include Rider W, Rider R and Rider S, where would we be
17 bill-wise when those take effect on or about April 1st
18 of 2012.
19 So, walking through that, again today we're
20 at \$112.31. And then pursuant to the 2011 biennial
21 final order in which the Commission has directed the
22 company to issue \$78.3 million in rate credits to our
23 customers, that should begin on or around February 1st
24 of 2012. And that's going to continue for six months.
25 Those credits will be amortized over a six-month

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1 period.
2 So, on or around February 1st, 2012, this
3 thousand-kilowatt bill customer will receive a credit
4 on its bill of \$2.84. That means the net effect after
5 that credit is the bill drops from \$112.31 to \$109.47.
6 That's about a 2.5 percent reduction.
7 And then effective April 1st, with the four
8 riders I just mentioned a moment ago, and considering
9 the fact that these revenue requirements are now
10 reflecting the return on equity coming out of the 2011
11 biennial order, the sum of the four riders, Rider R, S,
12 W and B, will produce a bill increase of \$1.35 on
13 April 1st. That would bring the bill up to \$110.82 on
14 April 1, 2011 (sic).
15 So the net effect, today we're at \$112.31.
16 On April 1st we will be at \$110.82. That's a net
17 reduction of \$1.49 versus today.
18 Q Just so the record is clear, I believe just a
19 moment ago, Mr. Swanson, you said April 1, 2011. Did
20 you mean to say April 1, 2012?
21 A I did, yes.
22 MR. REID: Thank you, sir. The witness is
23 available for cross-examination.
24 COMMISSIONER CHRISTIE: Mr. Rambo.
25 MR. RAMBO: No questions. Your Honor.

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1 COMMISSIONER CHRISTIE: Mr. Monacell.
2 MR. MONACELL: Yes, Your Honor.
3 REBUTTAL CROSS-EXAMINATION
4 BY MR. MONACELL:
5 Q Good afternoon, Mr. Swanson.
6 A Good afternoon.
7 Q Would you turn to page 2 of your testimony.
8 A Okay.
9 Q And I'm putting up on the screen lines 7 to
10 16 of your testimony. Is that what I put up on the
11 screen?
12 A Yes.
13 Q Okay. And I would like to ask you about how
14 the company is recommending to the Commission that it
15 interpret the scope of the large industrial rate class
16 exemption from the incremental cost.
17 Isn't it true that these words basically
18 provide two requirements for a customer to be exempted;
19 that first its customers that are served within the
20 large industrial rate classes of the participating
21 utilities?
22 Isn't that the first requirement?
23 A That is what it says, yes.
24 Q And then isn't there a second requirement
25 that the customers are served at primary or

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1 transmission voltage?
2 A Yes.
3 Q Now, isn't it true that you are recommending
4 to the Commission that they impose a third requirement
5 that the customers not just be within the large
6 industrial rate classes of Virginia Power, first
7 requirement, and that they be served a primary or
8 transmission voltage, but you're arguing that there
9 should be a third requirement that the customer meet a
10 certain SIC code definition, correct?
11 A What we're requiring is that it be an
12 industrial customer, because the company does not have
13 a large industrial rate class. So, therefore, my
14 testimony walks through that concept, and it's our
15 interpretation of the language in the statute that the
16 intent is to provide the exemption to industrials,
17 serve their primary transmission voltage that are
18 large. So that means not commercial customers.
19 Q Right.
20 Isn't it true that the dividing line that
21 your company has between your large nonresidential rate
22 classes and your smaller nonresidential rate classes is
23 500 KW?
24 A That's correct.
25 Q So the largest rate classes that meet that

788	<p>1 dividing line of being 500 KW or above are your GS3 and</p> <p>2 GS4; is that correct?</p> <p>3 A They are both considered large general</p> <p>4 service, GS3 and GS4, customer classes, yes, but they</p> <p>5 are not industrial.</p> <p>6 Q Well, they include industrial.</p> <p>7 A They include industrial but they include</p> <p>8 commercial as well, and, therefore, we don't interpret</p> <p>9 the phrase "large industrial rate classes" to include</p> <p>10 commercial customers.</p> <p>11 Q Okay. I understand that.</p> <p>12 And the dividing line between GS3 and GS4 is</p> <p>13 based on voltage to be on GS3 would be secondary</p> <p>14 voltage and would not be eligible because you're not a</p> <p>15 primary or transmission, correct?</p> <p>16 A That's correct.</p> <p>17 Q But GS4 is all either at primary or</p> <p>18 transmission, correct?</p> <p>19 A Correct.</p> <p>20 Q Okay. And your special contracts rate class</p> <p>21 is also above 500 KW and on primary transmission, is it</p> <p>22 not?</p> <p>23 A It is.</p> <p>24 Q And then you also have Schedule 10 --</p> <p>25 Schedule 10 class that requires that the customers be</p>	790
789	<p>1 above 500 KW. correct?</p> <p>2 A Schedule 10 is a rate schedule. and it is</p> <p>3 part of the GS -- well, it is actually potentially part</p> <p>4 of the GS3 customer class if the customers on</p> <p>5 Schedule 10 are served at secondary. If the customers</p> <p>6 on Schedule 10 are served at primary, they're members</p> <p>7 of the GS4 customer class.</p> <p>8 Q All right.</p> <p>9 A So in -- with respect to our interpretation</p> <p>10 of this language, if you're a rate Schedule 10 customer</p> <p>11 served at primary, you will be on the -- you will be in</p> <p>12 the GS4 customer class; and, therefore, the exemption</p> <p>13 will apply to you. If you're a Schedule 10 customer</p> <p>14 served at secondary, you fall within the GS3 customer</p> <p>15 class; and, therefore, this exemption would not apply</p> <p>16 to that type of customer.</p> <p>17 Q Right. If the General Assembly had the</p> <p>18 intent to look at this by customer as opposed to rate</p> <p>19 classes of the utility, wouldn't the most direct way</p> <p>20 for the General Assembly to have stated that would be</p> <p>21 to put the word "industrial" right before "customers"?</p> <p>22 A Well, I see the distinction that the</p> <p>23 legislature has already made, the General Assembly has</p> <p>24 made. If you consider the DSM section of the</p> <p>25 re-regulation act, that's the A5 section, I'm sure</p>	791
	<p>1 you're aware that there's a group of customers there</p> <p>2 that are either exempt or can opt out of energy</p> <p>3 efficiency programs.</p> <p>4 And in defining that group of customers, they</p> <p>5 call that large general service customers. They don't</p> <p>6 refer to industrial, they don't refer to commercial.</p> <p>7 And for our A5 exemption or opt-out customers with</p> <p>8 respect to DSM energy efficiency programs, they include</p> <p>9 both commercial and industrial types of customers.</p> <p>10 So I see a distinction here, the fact that</p> <p>11 the General Assembly has put the phrase "large</p> <p>12 industrial rate class" in this particular section of</p> <p>13 the code.</p> <p>14 Q Right.</p> <p>15 But with your interpretation of the statutory</p> <p>16 exemption, couldn't we strike "classes" and just have</p> <p>17 the definition be large -- large customers that are</p> <p>18 as defined by the utility, which you define as above</p> <p>19 500 KW served at primary or transmission?</p> <p>20 A The fact that the word "industrial" is in</p> <p>21 there, in our interpretation, means that there was an</p> <p>22 intent to distinguish certain customers in the general</p> <p>23 service category between industrial and commercial.</p> <p>24 Q And your proposal is to do that based on SIC</p> <p>25 codes?</p>	

<p>792</p> <p>1 starting with the number 11, but the codes actually go 2 into much more smaller units of 11 for various types of 3 agriculture and forestry and fishing and hunting, and 4 then there is mining and utilities and construction and 5 manufacturing and wholesale trade, retail trade, 6 transportation and warehousing, information. It goes 7 all the way through public administration. 8 A Well -- 9 Q I think there are about 20 major categories. 10 Is there just one of those that you would say is 11 industrial? 12 MR. REID: Your Honor, I guess I'm a 13 little unclear as to whether Mr. Monacell is asking the 14 witness about codes under SIC, which he is familiar 15 with, or codes under the NAICS, which he said he is not 16 familiar with, nor is he familiar with this document. 17 BY MR. MONACELL: 18 Q Well, I will first ask you about SIC codes. 19 How many categories of SIC codes are there? 20 A I don't have that document with me. There 21 are several. 22 Q Okay. Well, is there one category of SIC 23 codes that is called industrial? 24 A No, I think there are several. 25 Q And which ones are they?</p>	<p>794</p> <p>1 industrial by your company? 2 A That's correct. 3 Q And would utilities be included as 4 industrial? 5 A You need to look at the specific operation 6 there to ensure -- as you say, there's -- beyond this 7 initial code, there are, let's say, finer details or a 8 finer distinguishing of a particular process or trade. 9 So I think you would need to look at those specific 10 more detailed operations to understand exactly where 11 it's going to fall within the whole classification 12 system. 13 Q How about in industrial pipelines/compressor 14 stations? 15 A On the surface that sounds like it would be, 16 yes. 17 Q And why on the surface does that sound like 18 that's industrial? 19 A Are you referring to a particular item in 20 here? 21 Q No, I'm just asking you in general, how are 22 you going to determine what is industrial and what is 23 commercial? 24 COMMISSIONER CHRISTIE: Mr. Monacell, you've 25 asked him numerous questions, and we're not going to go</p>
<p>793</p> <p>1 A I don't have that information handy. 2 Q So you are asking the Commission to approve 3 your recommendation of using SIC codes, but the 4 Commission has no idea what categories the company 5 intends to use? 6 A We can certainly make that available. If 7 there's a question on the part of any customer that 8 they question the classification of their specific 9 product, of their specific trade, occupation, you know, 10 that can certainly be discussed. The point is we 11 wanted to distinguish industrial from a commercial 12 customer. 13 Q So you would include industrial but exclude 14 commercial, and you're dividing the whole universe into 15 those two categories? 16 A Yes. 17 Q Okay. Well, is agricultural, forestry, 18 fishing and hunting, is that commercial or industrial? 19 A Well, I certainly know that manufacturing 20 would be included. Retail trade would not be. I'm not 21 familiar with the terms on this particular document 22 that you've handed out. 23 Q Is mining included? 24 A I believe that would be, yes. 25 Q So Virginia's coal mines would be considered</p>	<p>795</p> <p>1 down every conceivable type of industry -- 2 MR. MONACELL: No. 3 COMMISSIONER CHRISTIE: -- and ask whether's 4 he's going to put it in or out. I mean you've 5 established he uses SIC codes. He said that. You asked 6 several questions about how he put stuff in or keeps it 7 out, so at some point we've done too many examples. 8 BY MR. MONACELL: 9 Q Well, is one of the things you would look at 10 with respect to industrial pipelines/compressor 11 stations would be the type of electrical service that 12 it received? 13 A The type of electrical service? I'm not sure 14 what you mean by that. 15 Q Well, if it had the same type of meter as an 16 industrial customer would have, would that make it tend 17 to be closer to industrial as opposed to commercial? 18 MR. REID: Your Honor, I would object for 19 the reasons that Your Honor just identified, that we're 20 proceeding down a path where we've already answered the 21 question several times, and we're talking about criteria 22 that the witness is not familiar with and are not 23 relevant to how the company is going to determine the 24 allocation. 25 COMMISSIONER CHRISTIE: Well, I'm going to say</p>

<p>796</p> <p>1 this: First of all, this issue is one of the legal 2 issues that obviously needs to be briefed because you 3 are asking for an interpretation of that code section -- 4 MR. MONACELL: Right. 5 COMMISSIONER CHRISTIE: -- and it's not a new 6 issue, but I don't know that it's been definitively 7 answered, and certainly not in Dominion's situation. We 8 touched on it in the APCO case. So it's going to be 9 briefed. 10 Your last question was a little bit different 11 from just one example after another, so I'm going to let 12 you ask that question, and he can give whatever answer 13 he wants. But your point has been made and we need to 14 wrap it up. 15 BY MR. MONACELL: 16 Q Okay. If an industrial company has -- many 17 industrial companies have many different accounts with 18 your company, do they not? 19 A Yes. 20 Q Okay. And for example, a paper products 21 company might have a pulp mill, and you would classify 22 that as industrial, I assume. Is that correct? 23 A Yes, that account would be industrial. 24 Q Okay. And what if they have a fabricate -- a 25 much smaller fabricating plant, would that be -- where</p>	<p>798</p> <p>1 interprets the word "industrial" in the General 2 Assembly's phrase "industrial rate classes" is the same 3 as Webster's number 2 definition, "characterized by 4 highly developed industries"? 5 Is that how you're using -- is that how 6 you're interpreting the phrase -- the word "industrial" 7 within the General Assembly's phrase "industrial rate 8 classes" of your company? 9 A I would not say that's how we're doing it. 10 As I said earlier, we're doing it consistent with the 11 Standard Industrial Classification code. If this 12 Commission feels it's appropriate, we would be happy to 13 go to that code, or if it's appropriate, the 14 replacement classification code, provide an exact 15 listing of what we deem to be industrial customers, and 16 provide that for the Commission -- the Commission staff 17 to review. 18 And if that's an issue beyond that -- 19 certainly we are willing to consider the operation at a 20 particular delivery point. But we do see a distinction 21 between "commercial" and "industrial" in the statute. 22 It's our attempt to try to have that distinguishment 23 captured in this possible exemption for incremental 24 costs. 25 Q Did the General Assembly intend to exclude</p>
<p>797</p> <p>1 they're not making paper but they're fabricating it 2 into boxes. 3 A Is this a separate meter? 4 Q Oh, yes. 5 A A separate account? 6 Q Totally different location. 7 A Well, we're considering on an account-by- 8 account basis. 9 Q Right. Right. 10 A So the extent -- we're going to look at where 11 that meter is serving the electrical requirements of 12 that account. Now, we use the word "customer" and 13 "account" somewhat interchangeably, but actually we're 14 referring to the metered account. 15 Q So it doesn't make any difference who owns 16 it. You're saying it depends on the characteristics of 17 the usage behind that particular meter. 18 A That delivery point. 19 MR. MONACELL: I would like to hand out 20 another document. Your Honor, this is three pages from 21 the Webster's New Collegiate Dictionary. First is the 22 cover page, and the next is the definition of 23 "industrial." 24 BY MR. MONACELL: 25 Q And I ask you if the way the company</p>	<p>799</p> <p>1 data centers from the -- 2 COMMISSIONER CHRISTIE: Mr. Monacell, I told 3 you we are going to brief this issue.. 4 MR. MONACELL: Okay. Yes. Your Honor. 5 COMMISSIONER CHRISTIE: I'm not going to tell 6 you again. 7 MR. MONACELL: Okay. I have nothing further. 8 COMMISSIONER CHRISTIE: Mr. Reisinger? 9 MR. REISINGER: Yes, Your Honor. Mr. Browder 10 has a few questions. 11 REBUTTAL CROSS-EXAMINATION 12 BY MR. BROWDER: 13 Q Mr. Swanson, just very briefly. I had a 14 question about -- well, first of all, thank you for 15 running those rate numbers I asked about the other day. 16 With respect to the four riders that are 17 scheduled to hit April 1st, 2012, you said -- did you 18 say it was R, S, W and B, or did you say C? 19 A B as in biomass. 20 Q Okay. So that would be the -- it's the three 21 units proposed in this case. 22 A Yes. 23 Q Assuming that all three get approved. 24 A That's correct. 25 Q So my question is, what about Rider C?</p>

<p style="text-align: right;">800</p> <p>1 There's a pending -- there's a current Rider C1, C2, 2 and there's a pending application for some additional 3 DSM programs. How do they -- where do they stand with 4 respect to subsequent changes? 5 A I don't have those included because I believe 6 those were scheduled to become effective on or after 7 May, so I was looking only at an April date. I thought 8 that was -- 9 Q So they are on a different rate year? 10 A Yes. 11 Q Okay. And then the credit, you mentioned the 12 2.84 credit, that would expire at the end of July; is 13 that correct? 14 A I believe so, yes, six months after the 15 February implementation. 16 Q Thank you, Mr. Swanson. 17 MR. BROWDER: That's all I have. 18 MS. POUILLE: No questions. 19 COMMISSIONER CHRISTIE: Ms. Clowers? 20 MS. CLOWERS: No questions. 21 COMMISSIONER CHRISTIE: Any redirect? 22 MR. REID: No redirect, Your Honor. 23 COMMISSIONER CHRISTIE: Mr. Monacell, you 24 never -- you asked -- actually, the North American -- 25 the industry classification, did you want that marked</p>	<p style="text-align: right;">802</p> <p>1 MR. MONACELL: I'm fine either way. 2 COMMISSIONER CHRISTIE: Yeah, I mean everybody 3 can cite whatever dictionary you want when you get to 4 legislative interpretation. 5 All right. So Exhibit 64 then is the NAICS 6 classification system. And they are admitted without 7 objection. 8 Okay. Thank you, Mr. Swanson. 9 And final witness. 10 MR. McNAMEE: The company calls Diane Leopold. 11 WHEREUPON, 12 DIANE LEOPOLD, 13 called as a witness, and having previously been duly 14 sworn, was examined and testified as follows: 15 REBUTTAL DIRECT EXAMINATION 16 BY MR. McNAMEE: 17 Q Are you the same Diane Leopold that testified 18 previously in this proceeding? 19 A Yes. 20 Q And do you have a document with you 21 consisting of 15 typed pages, questions and answers, 22 entitled "The Rebuttal Testimony of Diane Leopold" in 23 both a public and extraordinarily sensitive version? 24 A Yes. 25 Q And was this document prepared by you or</p>
<p style="text-align: right;">801</p> <p>1 and admitted? 2 MR. MONACELL: I would like them marked and 3 admitted, both that and the -- 4 COMMISSIONER CHRISTIE: And the SIC -- this is 5 not the SIC, right? This is the NAICS. 6 MR. MONACELL: Yes. 7 COMMISSIONER CHRISTIE: All right. We're 8 going to mark the North American Industry Classification 9 System, NAICS, will be Exhibit 64. 10 Any objection to admitting that? 11 Hearing none, that's admitted. 12 (Exhibit No. 64 was marked for 13 identification and received in 14 evidence.) 15 COMMISSIONER CHRISTIE: Did you -- what was 16 the other document? 17 MR. MONACELL: The other was the dictionary. 18 The Webster's dictionary, three pages. 19 COMMISSIONER CHRISTIE: All right. We will 20 mark -- 21 MR. REISINGER: Your Honor, I'm not going to 22 overly fuss with it, but I don't think it's necessary to 23 put the dictionary into evidence. If Mr. Monacell wants 24 to cite to the definition in his brief. I think that's 25 probably more appropriate.</p>	<p style="text-align: right;">803</p> <p>1 under your direction? 2 A Yes. 3 Q And this is the same document filed on 4 December 22nd, 2011? 5 A Yes. 6 Q Do you have any additions or corrections to 7 it? 8 A I do not. 9 Q And if I were to ask you the same questions 10 again, would your answers be the same? 11 A Yes. 12 MR. McNAMEE: Your Honor, at the appropriate 13 time I would like this marked as an exhibit, both public 14 and extraordinarily sensitive, and then admitted into 15 evidence. 16 COMMISSIONER CHRISTIE: Okay. There will be 17 two Leopolds -- well, 65 and 65-ES, Leopold rebuttal. 18 (Exhibit Nos. 65 and 65-ES was marked 19 for identification and were received.) 20 MR. McNAMEE: Thank you, Your Honor. 21 BY MR. McNAMEE: 22 Q Ms. Leopold, were you present in the 23 courtroom when Mr. Norwood, Consumer Counsel's witness, 24 questioned the soundness and methodology that the 25 company used to develop its cost benefit economic</p>

804	<p>1 analysis?</p> <p>2 A Yes, I was.</p> <p>3 Q Do you have any comments about that?</p> <p>4 A Yes, very briefly.</p> <p>5 The methodology that was used in this case</p> <p>6 was very standard for us. It was using standard tools,</p> <p>7 the Strategist program that we have brought forward in</p> <p>8 other generation cases and the IRP before the</p> <p>9 Commission. It used standard forecasts from ICF that</p> <p>10 we -- typical methodology that we've been using for</p> <p>11 some time.</p> <p>12 In addition, all of the other assumptions,</p> <p>13 the fuel, the EPC costs, the O&M, our availability,</p> <p>14 significant due diligence on those assumptions were</p> <p>15 completed, and we feel very good about them.</p> <p>16 In addition, we tried to pick the key value</p> <p>17 drivers for the case to run sensitivities on. Based on</p> <p>18 the discussion over the last few days, I think we</p> <p>19 probably picked the right sensitivities to look at to</p> <p>20 enable a thorough evaluation of the value proposition</p> <p>21 put forward here.</p> <p>22 Q Thank you.</p> <p>23 And do you have any thoughts on the comments</p> <p>24 made by Consumer Counsel and staff that the company</p> <p>25 should receive an enhanced ROE under 56-585.1A6 for</p>	806	
805	<p>1 only five years instead of 15 because they do not</p> <p>2 perceive the facilities to be critical or that there is</p> <p>3 limited risk?</p> <p>4 A I would like to address that briefly. It is</p> <p>5 the -- the range of 5 to 15 years is supposed to be</p> <p>6 based on the criticality of the need and the risk of</p> <p>7 development of the facilities.</p> <p>8 With respect to the criticality, certainly</p> <p>9 any generic 150 megawatts would not be considered</p> <p>10 critical. The need to meet our native load obligations</p> <p>11 by developing and maintaining a diverse portfolio of</p> <p>12 assets is critical. It is critical that we continue to</p> <p>13 try to meet that need by looking to lower costs for our</p> <p>14 customers.</p> <p>15 I think part of the criticality is trying to</p> <p>16 come up with unique solutions to do that to meet the</p> <p>17 energy needs. And in this particular case, I do</p> <p>18 believe that the need is being met with a very unique</p> <p>19 solution, low cost conversion of underutilized assets,</p> <p>20 providing a base load need that we have.</p> <p>21 We are a short base load and this serves</p> <p>22 that. It adds to our fuel diversity. It is a large</p> <p>23 instate renewable resource. It does access federal</p> <p>24 incentives that allows for a much faster payback of the</p> <p>25 capital costs. It creates a uniquely high number of</p>	<p>1 permanent jobs in three separate areas of Virginia. So</p> <p>2 we do think it translates into a uniquely high value at</p> <p>3 a low cost to the customer.</p> <p>4 With respect to development risks, I know</p> <p>5 what we've talked about over the course of the last few</p> <p>6 days has been that a lot of the risks have been</p> <p>7 mitigated, and that is true. We have signed fuel</p> <p>8 agreements to mitigate risk. We have signed</p> <p>9 essentially fixed-price EPC contracts and equipment</p> <p>10 contracts with the idea of trying to maximize the</p> <p>11 chances that this comes in on budget, non-schedule, to</p> <p>12 be able to obtain these PTCs. Mitigating these risks</p> <p>13 are to the benefit of the customers, and we do not</p> <p>14 think that mitigating risks themselves should be the</p> <p>15 basis of determining the development risk of the</p> <p>16 facility.</p> <p>17 COMMISSIONER CHRISTIE: Let me ask you a</p> <p>18 question while you're on that topic, and I don't think</p> <p>19 this is extraordinarily sensitive, although it does</p> <p>20 reference the contract.</p> <p>21 In the Wise County case, you all had a</p> <p>22 fixed-price contract, and in the Bear Garden case, you</p> <p>23 had a fixed-price construction contract. And to my</p> <p>24 knowledge, certainly Bear Garden, which is complete,</p> <p>25 came in within the budget, within the fixed price.</p>	807
	<p>1 THE WITNESS: Correct.</p> <p>2 COMMISSIONER CHRISTIE: Haven't heard</p> <p>3 otherwise, right?</p> <p>4 THE WITNESS: Correct.</p> <p>5 COMMISSIONER CHRISTIE: Is this fixed-price</p> <p>6 contract -- I'm talking about the construction now -- is</p> <p>7 that similar to Bear Garden in terms of the assurance</p> <p>8 that it is going to be a fixed-price contract?</p> <p>9 THE WITNESS: About the same percentage. What</p> <p>10 I will say is probably a little bit more of it is fixed</p> <p>11 early on in this contract than Bear Garden. Bear Garden</p> <p>12 had a few adjustments in there that ended up using a lot</p> <p>13 of our contingency. So while we did end up on budget,</p> <p>14 we did use a lot of contingency early on in Bear Garden</p> <p>15 because there were certain escalators of a much tighter</p> <p>16 construction market at the time, so labor and materials</p> <p>17 had a few fixed price timing to lock them in. This one</p> <p>18 is much more locked early on. So the percentage fixed</p> <p>19 ended up the same but it was a little bit earlier.</p> <p>20 COMMISSIONER CHRISTIE: All right.</p> <p>21 BY MR. McNAMEE:</p> <p>22 Q And were you -- do you agree with</p> <p>23 Mr. Norwood's recommendation that he made to the</p> <p>24 Commission that the company should wait to move forward</p> <p>25 on these projects, and if you did hear that, do you</p>		

<p style="text-align: right;">808</p> <p>1 agree with that?</p> <p>2 A I disagree that we should wait. I truly</p> <p>3 believe that now is the right time to do this and that</p> <p>4 our risks will increase if we wait. PTCs are available</p> <p>5 now under existing law, much more certain than what the</p> <p>6 future brings. We do have very attractive EPC and</p> <p>7 equipment contracts. We have attractive fuel contracts</p> <p>8 with suppliers that know the markets out there. We</p> <p>9 have air permits that we have filed for, and if we get,</p> <p>10 would expire, and we would have to start over again and</p> <p>11 potentially lose this grandfathering of the tailoring</p> <p>12 rule.</p> <p>13 So we do recognize this is a unique project.</p> <p>14 In many ways, when we first looked at it, almost too</p> <p>15 good to be true. We had been looking at biomass for a</p> <p>16 while in 2007 when we looked at Virginia City. We were</p> <p>17 looking at the wood throughout Virginia. In addition,</p> <p>18 the RPS bill that came about in 2007 continued to have</p> <p>19 us look at biomass through Virginia.</p> <p>20 We've had wood studies where we've looked at</p> <p>21 it. In 2008 and 2009, Greenfield biomass actually came</p> <p>22 about within the IRP. And at that time when we started</p> <p>23 looking at the wood baskets in the different regions,</p> <p>24 we started looking at cofiring or potentially</p> <p>25 conversions of facilities as a better use of that wood</p>	<p style="text-align: right;">810</p> <p>1 goals? Isn't that correct?</p> <p>2 A Yes.</p> <p>3 Q And isn't the value of that in excess of</p> <p>4 \$39 million a year ballpark?</p> <p>5 A I would have to check on that. I will take</p> <p>6 your word for that.</p> <p>7 Q Okay. And isn't it true that the return</p> <p>8 component for these three facilities that -- the total</p> <p>9 equity return is on the order of about \$10 million a</p> <p>10 year?</p> <p>11 MR. McNAMEE: Your Honor, this wasn't a</p> <p>12 subject of her direct or of her rebuttal, so I'm not</p> <p>13 quite sure the relevancy.</p> <p>14 COMMISSIONER CHRISTIE: Well, I think it's</p> <p>15 relevant, but -- in an overall sense, but the thing</p> <p>16 about it, Mr. Monacell, what part of her rebuttal is</p> <p>17 this coming from? That's what you've got to draw it to.</p> <p>18 MR. MONACELL: Okay.</p> <p>19 She says on page 10, lines 21 and 22: "The</p> <p>20 company would propose the biomass conversions regardless</p> <p>21 of whether or not there was a Virginia RPS statute."</p> <p>22 MR. McNAMEE: Your Honor, that --</p> <p>23 MR. MONACELL: This goes to question that.</p> <p>24 COMMISSIONER CHRISTIE: I will let you ask</p> <p>25 her -- the thing I mean -- I'm surprised that someone</p>
<p style="text-align: right;">809</p> <p>1 basket as a lower cost option than a Greenfield option.</p> <p>2 And through time with a study that culminated in 2010,</p> <p>3 we did find that these particular facilities through</p> <p>4 our fuel studies and through our engineering analyses</p> <p>5 could come together and have three facilities with</p> <p>6 150 megawatts be a very viable option.</p> <p>7 So I know there's been a lot of questions.</p> <p>8 We had them. We feel comfortable we've answered the</p> <p>9 questions for ourselves to know the value is there. We</p> <p>10 feel we have mitigated the risks, and we're actually</p> <p>11 excited to be bringing forward a project like this with</p> <p>12 these kinds of benefits. with these kinds of NPV, fuel</p> <p>13 diversity, base laid, economic development in state</p> <p>14 renewable resource.</p> <p>15 MR. McNAMEE: Thank you. The witness is</p> <p>16 available for cross.</p> <p>17 COMMISSIONER CHRISTIE: Mr. Rambo.</p> <p>18 MR. RAMBO: No questions, Your Honor.</p> <p>19 COMMISSIONER CHRISTIE: Mr. Monacell.</p> <p>20 MR. MONACELL: Yes.</p> <p>21 REBUTTAL CROSS-EXAMINATION</p> <p>22 BY MR. MONACELL:</p> <p>23 Q Isn't one of the incentives that the General</p> <p>24 Assembly has given your company the opportunity to get</p> <p>25 a 50-basis-point bonus on the ROE if you meet the RPS</p>	<p style="text-align: right;">811</p> <p>1 didn't bring this up in the direct because the 50 basis</p> <p>2 point, you know, is obviously there. It goes to the</p> <p>3 RPS.</p> <p>4 But I'm going to let you ask her one question.</p> <p>5 but, unfortunately, for you in the rebuttal she makes a</p> <p>6 reference to the RPS statute, but it's tenuous to say</p> <p>7 get into -- and the 200 basis point they are asking for,</p> <p>8 but that is different, this is the 50 basis point that</p> <p>9 goes to the base ROE.</p> <p>10 So you can ask her one question on it, but it</p> <p>11 really -- it's tenuous to her rebuttal, and that's the</p> <p>12 problem you've got.</p> <p>13 MR. MONACELL: You say I can ask one question?</p> <p>14 COMMISSIONER CHRISTIE: Well, if --</p> <p>15 MR. MONACELL: -- in only being able to only</p> <p>16 ask one question?</p> <p>17 MR. REID: Your Honor, I think that was his</p> <p>18 question.</p> <p>19 COMMISSIONER CHRISTIE: Well, she can answer</p> <p>20 the question. She -- she -- you know, she can answer</p> <p>21 the question. I mean if you were -- as I understand --</p> <p>22 your client -- if you were opposing the plant, I'm</p> <p>23 surprised -- but you are not. You are really concerned</p> <p>24 about the incremental cost --</p> <p>25 MR. MONACELL: No. I'm not getting -- I'm not</p>

<p style="text-align: right;">812</p> <p>1 getting at that at all.</p> <p>2 COMMISSIONER CHRISTIE: I mean that would have</p> <p>3 been an argument in your case in chief about why you're</p> <p>4 opposed to it, but you're not.</p> <p>5 Well, she can answer the question. Let her do</p> <p>6 it.</p> <p>7 BY MR. MONACELL:</p> <p>8 Q Is it your testimony that the company has not</p> <p>9 considered the opportunity to earn the 50-basis-point</p> <p>10 bonus and ROE for meeting the RPS goal as one of the</p> <p>11 factors it considered in deciding to go forward with</p> <p>12 asking for approval of this project?</p> <p>13 A It is not in the economic analysis, correct.</p> <p>14 Q That's not the question I asked. I asked --</p> <p>15 A That's what I thought it was.</p> <p>16 Q No.</p> <p>17 The question -- not whether it's in your</p> <p>18 economic analysis. The question is, are you telling me</p> <p>19 that Virginia Power's managers, the decision makers,</p> <p>20 did not consider that the General Assembly has given</p> <p>21 them the opportunity to earn \$39 million more per year</p> <p>22 now and in the future in deciding to propose the</p> <p>23 conversion of these products? You didn't consider</p> <p>24 that?</p> <p>25 A I would feel confident we would propose this</p>	<p style="text-align: right;">814</p> <p>1 A That's correct. I talked about that a little</p> <p>2 bit in the standard methodology. It's the same process</p> <p>3 that we've used in other generation cases we've brought</p> <p>4 forward.</p> <p>5 Q Along those lines, I do have a couple of</p> <p>6 questions just to clarify the company's assumptions</p> <p>7 here.</p> <p>8 Were you in the courtroom when I asked</p> <p>9 Ms. Scheller from ICF some questions about her</p> <p>10 forecasts for CO2 prices?</p> <p>11 A I've been here, yes.</p> <p>12 Q And without referencing any information that</p> <p>13 is sensitive, do you remember that some of ICF's prices</p> <p>14 differed from the prices that Ms. Scheller testified to</p> <p>15 in another state, in Delaware?</p> <p>16 A I remember the exhibit that you showed, yes.</p> <p>17 Q And Ms. Scheller testified when I asked her</p> <p>18 about that discrepancy, she said that one of the</p> <p>19 reasons that the CO2 price used in Delaware was</p> <p>20 different than the price that the company used was that</p> <p>21 that Delaware utility used its own judgment on CO2</p> <p>22 prices.</p> <p>23 MR. McNAMEE: Your Honor, I don't think</p> <p>24 Ms. Scheller said used their own judgment. I think she</p> <p>25 said that they provided her with the information and she</p>
<p style="text-align: right;">813</p> <p>1 project even if we did not have that RPS. It stands in</p> <p>2 its own right.</p> <p>3 MR. MONACELL: Okay. I have nothing further.</p> <p>4 COMMISSIONER CHRISTIE: Mr. Reisinger.</p> <p>5 MR. REISINGER: Yes, Your Honor.</p> <p>6 REBUTTAL CROSS-EXAMINATION</p> <p>7 BY MR. REISINGER:</p> <p>8 Q Ms. Leopold, very briefly, I would like to</p> <p>9 ask a question about a statement you make on page 1 of</p> <p>10 your rebuttal testimony, lines 14 and 15.</p> <p>11 You say on line 14 that you will rebut</p> <p>12 concerns about the assumptions the company used to</p> <p>13 determine the cost effectiveness of the biomass</p> <p>14 conversions.</p> <p>15 Do you see that language?</p> <p>16 A Yes. I do.</p> <p>17 Q Flipping over to page 3 of your testimony,</p> <p>18 lines 21 through 23, you say that the company utilized</p> <p>19 ICF International for its market assumptions and price</p> <p>20 forecasts; is that correct?</p> <p>21 A That's correct.</p> <p>22 Q And over on page 4, lines 17 through 18, you</p> <p>23 say that the company relies on ICF International for</p> <p>24 its market forecasts and REC forecasts; is that</p> <p>25 correct?</p>	<p style="text-align: right;">815</p> <p>1 ran it through her model.</p> <p>2 COMMISSIONER CHRISTIE: Well, she can say what</p> <p>3 she said. She probably remembers it better than anybody</p> <p>4 else.</p> <p>5 MR. McNAMEE: But it was Ms. Scheller that he</p> <p>6 was characterizing.</p> <p>7 COMMISSIONER CHRISTIE: Oh, I'm sorry. Well,</p> <p>8 how does that relate to her rebuttal, Mr. Reisinger?</p> <p>9 MR. REISINGER: She stated on page 1 of her</p> <p>10 rebuttal that she is here to rebut concerns about</p> <p>11 assumptions, and I just do have a couple of questions</p> <p>12 about how the company has used and relied on ICF's</p> <p>13 assumptions.</p> <p>14 COMMISSIONER CHRISTIE: I will let you answer</p> <p>15 it as best you can, and if you -- I mean that phrase,</p> <p>16 though, Mr. Reisinger, that could cover everything. I</p> <p>17 know she is sort of the cleanup witness.</p> <p>18 But if you know. If you can't remember --</p> <p>19 THE WITNESS: Yeah, the only thing I can say</p> <p>20 is what I heard from Ms. Scheller was exactly what</p> <p>21 Mr. McNamee said was that they were -- the Delaware</p> <p>22 company was using the ICF tool.</p> <p>23 BY MR. REISINGER:</p> <p>24 Q But they may have --</p> <p>25 A That integrated analysis, and I certainly</p>

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1 would not have purchased the output of that as ICF's
2 forecast. ICF has their standard suite of assumptions
3 and tools that they use that we rely upon in our
4 standard cases.
5 Q Okay. Okay. Did you understand Ms. Scheller
6 to say that the Delaware utility had made some
7 adjustments to ICF's CO2 price, and that's why there
8 was a discrepancy between the ICF forecast used in your
9 case --
10 A I apologize, because I understood it more to
11 be they used their own assumptions and used the ICF
12 tools, but I may not have that correct.
13 Q Sure. That's fair enough.
14 With respect to the REC price forecasts used
15 in this case that were provided by ICF, did Dominion
16 simply accept those forecasts or did you do any of your
17 own analysis?
18 A Well, we -- what we actually do is we
19 understand the markets that we deal in. I think
20 company witness Morgan talked about some of the type of
21 REC arbitrage that we do. We actually produced our own
22 similar graphic to show supply and demand of the states
23 within PJM so that we got a feeling. We did not try to
24 develop price forecasts from that, that we don't have
25 that type of integrated planning model, but we at least

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1 looked to make sure that we did feel comfortable that
2 it was sound.
3 Q Did the analysis that the company
4 conducted -- that corresponded to ICF's analysis with
5 regard to REC prices, is that what you are saying?
6 A What I'm saying is we did not forecast REC
7 prices. We do know that the states under existing law
8 that have RPS programs are ratcheting such that based
9 on the supply that's on the market now and the demand
10 that is increasing that we do feel confident the prices
11 should increase. We did not try to run it through a
12 pricing model.
13 Q Okay. So when ICF forecasts that REC prices
14 will go up if CO2 prices are not implemented, you did
15 not -- the company did not do an independent test,
16 independent analysis of that assumption?
17 A No, we talked with them about the outputs
18 that they have and the different cases they run and why
19 different price drivers are moving their model, but we
20 do not have an integrated model. That is why we use
21 ICF.
22 Q Okay. Thank you.
23 Ms. Scheller (sic), you understand that the
24 company is here applying for three separate
25 certificates to convert three separate facilities; is

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1 that correct?
2 A Yes.
3 Q So you understand that the Commission could
4 approve all of these conversions or it could reject all
5 these conversions or approve and reject some
6 combination of the three?
7 A That would be for the Commission to decide,
8 yes.
9 MR. REISINGER: Thank you, Ms. Leopold.
10 THE WITNESS: Thank you.
11 MR. REISINGER: That's all.
12 COMMISSIONER CHRISTIE: Ms. Clowers.
13 MS. CLOWERS: Yes, briefly.
14 REBUTTAL CROSS-EXAMINATION
15 BY MS. CLOWERS:
16 Q Could you please turn to page 9 of your
17 rebuttal testimony.
18 And at the very top of that page is a
19 question that states: "Consumer Counsel states that
20 the biomass conversions may not meet the standard under
21 Virginia Code Section 56-585.1A6 for a rate adjustment
22 clause. Do you agree?"
23 And now I'm looking at the very bottom of
24 your testimony, the very bottom paragraph. And you
25 note that the biomass conversions -- looking at

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1 line 18: "They will provide substantial customer
2 benefits compared to operation on coal and that they
3 will support economic development."
4 And then beginning on line 23, you note that:
5 "In conclusion, these major unit modifications meet the
6 standard under the A6 RAC; and, therefore, eligible for
7 the enhanced rate of return for the first 15-year
8 period as requested by the company," continuing on to
9 page 10. Is that correct?
10 A Yes.
11 Q You would agree that there's a difference
12 between meeting the standard for an A6 RAC and
13 determining what the proper duration is, would you not?
14 A Oh, yes.
15 MS. CLOWERS: No further questions.
16 COMMISSIONER CHRISTIE: Any redirect?
17 MR. McNAMEE: No, Your Honor.
18 COMMISSIONER CHRISTIE: Okay. Thank you,
19 Ms. Leopold. You are excused.
20 All right. Let's talk about the brief.
21 There are at least three issues that I've
22 identified. One, of course, is the issue of the -- if
23 you sell the Tier 1 RECs, can the facilities still count
24 towards the RPS? I think Mr. Morgan gave an opinion,
25 but let's have a better -- not a better opinion, but

<p>820</p> <p>1 everybody can address that from a legal standpoint. 2 Another issue is Mr. Rambo's issue, which is 3 does the State Corporation Commission have the legal 4 authority to impose conditions, forestry type conditions 5 on suppliers to the LEC, the utility, the generator? 6 And you don't have to word it the way I'm 7 wording it, but that's the issue. And I see it, 8 Mr. Rambo, as an issue comparable to if we had the 9 authority to regulate something like the labor and 10 safety practices of a coal mine that's selling coal to a 11 coal plant. We clearly regulate the coal plant. Can we 12 impose conditions on the way that coal was mined? If 13 it's an oil-burning plant, do we regulate how the oil is 14 achieved? In gas, do we regulate fracking, if that is 15 where they're getting it from Marcellus Shale. 16 So that's the issue. You may see it a little 17 different way, but that's the general issue. 18 Does that generally state what you're -- 19 because you're asking us to impose conditions, 20 environmental conditions on how the wood is produced and 21 gathered and harvested. And those conditions would 22 apply to those suppliers, correct, in your -- it would 23 have to. 24 MR. RAMBO: Well, yeah, they would -- we are 25 not asking -- well, eventually, yes. I mean whatever is</p>	<p>822</p> <p>1 I think for Dominion that would be the first time we've 2 done it in Dominion. But we need that -- that's another 3 issue. 4 Those are the three I can think of off the top 5 of my head. You are free to address other issues that 6 you think need to be addressed as well. 7 And also, as we always ask when you brief, 8 give us a list of the issues that you want us to decide. 9 This case is obviously not as complicated as a biennial 10 review, but there is more than one issue. So let us 11 know what issues you think we need to decide in this 12 case. And like in an appendix, you know, the best 13 briefs have that little appendix, and then we just go 14 down the list that way. Don't hide them in there, okay? 15 Now, let's talk about dates. 16 Where is John Dudley? John, have you all 17 agreed on a date? What is the schedule here? 18 MR. DUDLEY: Did not agree. 19 COMMISSIONER CHRISTIE: Did not agree? 20 MR. DUDLEY: February 10th is over a month 21 away. 22 COMMISSIONER JAGDMANN: So what is the 23 deadline for when this case has to be -- 24 MR. DUDLEY: March. End of March. 25 COMMISSIONER JAGDMANN: All right. So let me</p>
<p>821</p> <p>1 imposed on Dominion would be something that they would 2 have been imposed -- however they get it, whether they 3 do it in-house or -- 4 COMMISSIONER CHRISTIE: Well, they're buyers 5 in this case, right? They're buyers of a commodity. 6 And so you're asking us to order them as the buyer to 7 impose contract conditions on their seller, which would 8 go to how those sellers harvest, right, which would be 9 comparable to if we told them as a buyer of coal to tell 10 their seller how they should conduct coal mining, right? 11 MR. RAMBO: Well, I think that's a relevant 12 analogy or relevant -- I don't know if I want to concede 13 that it's comparable. 14 COMMISSIONER CHRISTIE: All right. Well, 15 that's fine. I'm just -- 16 MR. RAMBO: But I agree. 17 COMMISSIONER CHRISTIE: I'm just trying to 18 describe the issue here. So that's the second issue. 19 Another issue is Mr. Monacell's issue, of 20 course, and Mr. Sipe of MeadWestvaco as a -- 21 MeadWestvaco as a -- not as a supplier to Dominion, but 22 MeadWestvaco as a payer of the rates, the issue of 23 the -- what is the incremental cost and how does that 24 code section, which again we started to get into that in 25 an APCO case, and I don't think we fully defined it. So</p>	<p>823</p> <p>1 ask the court reporter, when will you have your 2 transcript, do you think? 3 THE REPORTER: We're planning on ten days. Or 4 a little bit less than that. Ten business days. 5 COMMISSIONER CHRISTIE: All right. Let's see 6 here. As we speak, today we're on the 12th of January. 7 So you say you're going to have your brief by 23rd; is 8 that right, I mean, your transcript? 9 THE REPORTER: Is that ten business days? 10 COMMISSIONER CHRISTIE: I just sort of 11 guessed. 12 THE REPORTER: I would say you could plan on 13 that. 14 COMMISSIONER CHRISTIE: Well, you're the one, 15 so does 23rd work for you? 16 THE REPORTER: Yeah, that's fine. 17 COMMISSIONER CHRISTIE: Close of business, 18 23rd? 19 THE REPORTER: Yes. 20 COMMISSIONER CHRISTIE: Okay. Then if you all 21 got the transcripts on the 23rd, what do you need, two 22 weeks? 23 MR. MONACELL: Does that mean it's posted on 24 the website on the 23rd? Because that is how we get the 25 free copy.</p>

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1 COMMISSIONER CHRISTIE: Let's go off the
2 record and take the earphones off.
3 (A discussion was held off the record.)
4 COMMISSIONER CHRISTIE: So if we're talking
5 January 24, what are you looking for, a couple of weeks,
6 two, three weeks? What?
7 MR. MONACELL: Do we have to buy the sensitive
8 part?
9 COMMISSIONER CHRISTIE: How do we handle
10 this?
11 I mean the whole purpose of this new system is to make
12 them free to groups that couldn't afford it.
13 I see Mr. Browder waving his hand there and
14 Mr. Rambo.
15 Have we talked about how -- the
16 extraordinarily sensitive material, how that gets --
17 (Commissioner Christie and Clerk confer.)
18 THE CLERK: They have to get a copy -- I think
19 we are going to charge.
20 COMMISSIONER CHRISTIE: All right. That is
21 TBD, Mr. Monacell. This is the first time -- we changed
22 this whole system around so groups like Mr. Rambo's and
23 the Attorney General could afford to get the transcript,
24 and so we're still working through the -- that is an
25 issue of first impression, as they say.

MS. VALAIKA: Your Honor, I spoke to Mr. Peck

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1 about it yesterday, and he said he was going to try to
2 track it down and resolve it.
3 COMMISSIONER CHRISTIE: So let's get back to
4 the date then. If it's the 24th, again is two weeks
5 enough?
6 MR. REISINGER: Maybe two-and-a-half weeks.
7 MR. BROWDER: Two-and-a-half might be better.
8 With the General Assembly in session, they're always a
9 little tapped out in various directions.
10 COMMISSIONER CHRISTIE: All right. If you --
11 that would take us into the 7th, Friday, February 10.
12 John, what is the deadline?
13 MR. DUDLEY: February 10 is good.
14 COMMISSIONER CHRISTIE: And what is our
15 absolute deadline for getting an order out?
16 MR. DUDLEY: March 26.
17 COMMISSIONER CHRISTIE: That works. All
18 right. February 10. Can everybody live with that?
19 MR. MONACELL: Yes, Your Honor.
20 COMMISSIONER CHRISTIE: Briefs are due
21 February 10.
22 Any other business?
23 Mr. Rambo.
24 MR. RAMBO: Your Honor, at the end of my
25 cross-examination of Mr. Kingsley, I had some questions

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1 going to procedural propriety of some issue regarding
2 the roundwood stumpage and how that played into
3 Dr. Abt's testimony.
4 I have not been able to consult or contact
5 Dr. Abt, and I would like to do that because I don't --
6 depending on what Dr. Abt -- I would like to consult
7 with him to know if there is some motion that I would
8 like to bring; and if so, what. But I also don't
9 want to waive any right, so I just would ask -- I
10 just want -- I don't want to waive any right, but I
11 would like to consult with Dr. Abt and then bring any
12 motion if it's proper.
13 COMMISSIONER CHRISTIE: Well, what have you
14 got in mind? Like an after filed exhibit or something?
15 MR. RAMBO: Well, yeah, potentially something
16 where he is allowed a motion for him to file some
17 additional testimony on this responding to
18 Mr. Kingsley's points on the issue.
19 COMMISSIONER CHRISTIE: The problem -- well,
20 you can make any motion you want. Whether we accept it
21 is a different thing. In effect, filing a -- you want
22 to make what amounts to a surrebuttal by filing --
23 MR. RAMBO: Yeah, it would be. Our contention
24 might be this is something that Mr. Kingsley should have
25 been in his rebuttal, and so it would be in the nature

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1 of a surrebuttal on this issue because he hasn't had a
2 chance to hear Mr. Kingsley on this.
3 COMMISSIONER CHRISTIE: Yeah, but that's the
4 way it always works. I mean we do direct, then we do
5 all the respondents, and the respondents get to do their
6 surrebuttal when they get on the stand as part of their
7 testimony. And then Dominion or the applicant gets to
8 do their rebuttal, and that's the end of the game right
9 there.
10 MR. RAMBO: Well, the potential argument could
11 have been that Mr. Kingsley and the company were on
12 notice from the content of Dr. Abt's direct testimony
13 and assessment that Mr. Kingsley should have included in
14 his rebuttal testimony that was filed, this issue
15 regarding roundwood stumpage. And because he did not
16 and that essentially got -- he had no excuse not to
17 raise that in his rebuttal; therefore, Dr. Abt didn't
18 have the chance on his surrebuttal on Tuesday afternoon
19 to respond.
20 COMMISSIONER CHRISTIE: You want to say
21 something, Mr. McNamee?
22 MR. McNAMEE: Yes. Your Honor, Mr. Abt was
23 asked questions yesterday during his testimony about
24 whether or not it included stumpage, or I guess it was
25 the night before, and he responded to that. And,

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<p>1 therefore, it was appropriate for Mr. Kingsley to</p> <p>2 respond here.</p> <p>3 And as you are indicating, there is a process</p> <p>4 here for a reason. It's for judicial efficiency, it's</p> <p>5 for fairness to the parties. And to allow this to go on</p> <p>6 and to now have yet additional testimony where then we</p> <p>7 would probably feel obligated to respond to that, who</p> <p>8 knows, Forest Watch -- it's just -- it's got to end.</p> <p>9 That's the reason we have these rules.</p> <p>10 COMMISSIONER CHRISTIE: Yeah, I mean it could</p> <p>11 conceivably go on forever, I mean, you know, tit for</p> <p>12 tat.</p> <p>13 MR. RAMBO: Well, I --</p> <p>14 COMMISSIONER CHRISTIE: You certainly in your</p> <p>15 brief can say you don't think the evidence supports</p> <p>16 Dominion's position. I mean that is typically what</p> <p>17 briefs address.</p> <p>18 MR. RAMBO: Well, I think Dr. Abt -- this</p> <p>19 criticism was leveled today, and it should have been in</p> <p>20 rebuttal. If it had been in the rebuttal, it was not in</p> <p>21 the rebuttal, then Dr. Abt would have addressed it</p> <p>22 specifically. And he was not because he was unaware --</p> <p>23 we were not aware until -- potentially we were not aware</p> <p>24 until today, and so --</p> <p>25 COMMISSIONER CHRISTIE: Well, the -- properly</p>	<p>1 goes to the ultimate issue.</p> <p>2 MR. RAMBO: Okay.</p> <p>3 COMMISSIONER CHRISTIE: But the argument about</p> <p>4 whether he was -- I mean, again, if you thought he went</p> <p>5 outside the scope of -- the proper scope, then you could</p> <p>6 have objected then, and then that would have been the</p> <p>7 time to do it, or you could have crossed him on it and</p> <p>8 said, Well, why didn't you -- you know, that's what we</p> <p>9 have cross for, is to go after them when they're on the</p> <p>10 stand.</p> <p>11 MR. RAMBO: Thank you, Your Honor.</p> <p>12 COMMISSIONER CHRISTIE: Yeah, okay.</p> <p>13 Anything else?</p> <p>14 MR. McNAMEE: Your Honor, and just one</p> <p>15 housekeeping matter. I asked permission from the</p> <p>16 Commission to try and make better handwriting on the</p> <p>17 exhibit, which was 54-ES, in the corrected versions. I</p> <p>18 have provided those to the other counsel, and I just</p> <p>19 need to provide one to the bailiff for you and the other</p> <p>20 Commissioners.</p> <p>21 COMMISSIONER CHRISTIE: Okay. And I take it</p> <p>22 there is no objection to the allegedly improved</p> <p>23 handwriting?</p> <p>24 MR. McNAMEE: It's the same math.</p> <p>25 COMMISSIONER CHRISTIE: Okay. With that, we</p>
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<p>1 you should have objected -- if you thought that</p> <p>2 Mr. Kingsley, and you had his rebuttal, so you must be</p> <p>3 referring to something that he said in answer to a</p> <p>4 question from counsel which was in the nature of his</p> <p>5 surrebuttal to -- is that what you're saying, that he</p> <p>6 said something from the stand? But that had to be</p> <p>7 within the scope of something that was said by your</p> <p>8 witness, so you would have objected then to say, you</p> <p>9 know, that was improper for him to be addressing it now</p> <p>10 from the stand.</p> <p>11 But I don't think -- that's when you take your</p> <p>12 shot at him is when they're on the stand, you know,</p> <p>13 unless you think they defrauded the Court or something,</p> <p>14 in which case you can certainly allege that.</p> <p>15 MR. RAMBO: No.</p> <p>16 COMMISSIONER CHRISTIE: But if it's just a</p> <p>17 disagreement with what he said, the time to do that is</p> <p>18 to do it when he is there, when he is on the stand.</p> <p>19 Otherwise, this could go on forever. You see what I</p> <p>20 mean?</p> <p>21 MR. RAMBO: I do -- well, I won't belabor it.</p> <p>22 I think --</p> <p>23 COMMISSIONER CHRISTIE: I mean you can</p> <p>24 certainly argue that the weight of his evidence should</p> <p>25 be, you know, given lesser weight. I mean that just</p>	<p>1 are adjourned.</p> <p>2 (Whereupon, at 3:55 p.m. the proceedings</p> <p>3 were concluded.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 CERTIFICATE OF NOTARY PUBLIC

2 I, LESLIE A. TODD, the officer before whom the
3 foregoing proceedings were taken, do hereby certify that
4 the proceedings were taken down by me in stenotypy and
5 thereafter reduced to typewriting under my direction; that
6 said transcript is a true record of the proceedings; that
7 I am neither counsel for, related to, nor employed by any
8 of the parties to the action in which these proceedings
9 were taken; and, further, that I am not a relative or
10 employee of any counsel or attorney employed by the
11 parties hereto, nor financially or otherwise interested
12 in the outcome of this action.

13

14 Dated this 23rd day of January 2012.

15

16

LESLIE A. TODD

17 Notary Public in and for the
Commonwealth of Virginia

18

19

My commission expires:

20 September 30, 2013

Notary Registration No.: 311305

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I, LESLIE A. TODD, the officer before whom the foregoing proceedings were taken, do hereby certify that the proceedings were taken down by me in stenotypy and thereafter reduced to typewriting under my direction; that said transcript is a true record of the proceedings; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Dated this 23rd day of January 2012.



Leslie A. Todd
LESLIE A. TODD
Notary Public in and for the
Commonwealth of Virginia

My commission expires:
September 30, 2013
Notary Registration No.: 311305