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DOCKET NO.: E-2, Sub 1220
BEFORE: Commissioner Kimberly W. Duffley, Presiding
Chair Charlotte A. Mitchell
Commissioner Tonola D. Brown-Blair
Commissioner Lyons Gray
Commissioner Daniel G. Clodfelter
Commissioner Jeffrey A. Hughes
Commissioner Floyd B. McKissick, Jr.

IN THE MATTER OF:
Williams Solar, LLC,
Complainant
versus
Duke Energy Progress, LLC,
Respondent

VOLUME: 3



1 A P P E A R A N C E S:

2 FOR WILLIAMS SOLAR, LLC:

3 Marcus Trathen, Esq.

4 Eric David, Esq.

5 Brooks, Pierce, McLendon, Humphrey & Leonard, LLP

6 1700 Wells Fargo Capitol Center

7 150 Fayetteville Street

8 Raleigh, North Carolina 27601

9

10 Matthew Tynan, Esq.

11 Brooks, Pierce, McLendon, Humphrey & Leonard, LLP

12 Suite 200 Renaissance Plaza

13 Greensboro, North Carolina 27401

14

15 FOR DUKE ENERGY PROGRESS, LLC:

16 Jack Jirak, Esq.

17 Associate General Counsel

18 410 South Wilmington Street, NCRH 20

19 Raleigh, North Carolina 27602

20

21 E. Brett Breitschwerdt, Esq.

22 McGuireWoods LLP

23 501 Fayetteville Street, Suite 500

24 Raleigh, North Carolina 27601

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P R O C E E D I N G S

Held via videoconference:

COMMISSIONER DUFFLEY: Good morning.

Let's go on the record. The panel of Ken Jennings, Steven Holmes, and Scott Jennings are available for cross examination. I remind the witnesses that you're subject to the affirmation from yesterday.

KENNETH JENNINGS, STEVEN HOLMES, AND SCOTT JENNINGS, having previously been duly affirmed, were examined and continued testifying as follows:

MR. TRATHEN: Thank you very much.

COMMISSIONER DUFFLEY: You may proceed, Mr. Trathen.

CONTINUED CROSS EXAMINATION BY MR. TRATHEN:

Q. This is Marcus Trathen for Williams Solar. We are with Ken Jennings. Again, Mr. Jennings, this line of questions will be directed to you.

First off, I want to try to clean up a little matter that we were -- we discussed yesterday related to the EIA data and your Figures 1 and 2. At your invitation, we prepared a -- an exhibit -- supplemental exhibit, which we distributed this morning.

MR. TRATHEN: Chair Duffley, has this been distributed to the Commissioners?

1 COMMISSIONER DUFFLEY: Yes. It was just
2 distributed a few moments ago.

3 MR. TRATHEN: Okay. I don't really want
4 to get into it, because I did ask my questions
5 yesterday, but I think it does help to clear up the
6 line of questions. I would like to mark that as
7 Williams Solar Cross Exhibit Number 3.

8 COMMISSIONER DUFFLEY: So identified.
9 (Williams Solar Cross Exhibit Number 3
10 was marked for identification.)

11 Q. Mr. Jennings, have you had an opportunity to
12 review that exhibit?

13 A. (Kenneth Jennings) I did.

14 Q. Okay. And I believe as we talked yesterday,
15 you clarified that your definition of utility scale was
16 1 megawatt and --

17 COMMISSIONER CLODFELTER: Mr. Trathen,
18 I'm sorry to interrupt. Commissioner Duffley?

19 COMMISSIONER DUFFLEY: Yes, sir.

20 COMMISSIONER CLODFELTER: What was just
21 distributed -- I have, was just distributed, but
22 it's not pertinent to the topic that Mr. Trathen
23 describes. It's on a different topic.

24 COMMISSIONER DUFFLEY: So it should be

1 coming in your inbox any minute. Just as a
2 housekeeping matter, the parties, both DEP and
3 Williams Solar, indicated to Commission staff that
4 they had two new exhibits that they would like to
5 potentially use and/or introduce today. It is my
6 understanding that DEP will be -- that they both
7 will be introducing one more exhibit. The exhibit
8 that you are probably looking at right now in your
9 email box is the DEP exhibit, and --

10 COMMISSIONER CLODFELTER: That is
11 correct.

12 COMMISSIONER DUFFLEY: And if you have
13 not received it already, you should be receiving it
14 any minute, the Williams Cross Examination Exhibit
15 Number 3.

16 COMMISSIONER CLODFELTER: Thank you,
17 Heather. It just arrived. Thank you. I'm sorry
18 to interrupt, but it had not yet arrived.

19 COMMISSIONER DUFFLEY: You're welcome.

20 COMMISSIONER CLODFELTER: Thank you.

21 MR. TRATHEN: Commissioner, should I --
22 I could move on to something else and come back if
23 others don't have it. If everybody has it, we
24 could move forward.

1 COMMISSIONER DUFFLEY: Let's give 10,
2 20 seconds, and then everybody can lay their hands
3 on it.

4 (Pause.)

5 COMMISSIONER DUFFLEY: You may proceed.

6 MR. TRATHEN: Thank you.

7 Q. So, Mr. Jennings, when we discussed yesterday
8 Figure 1, we noted that, as presented in your
9 testimony, it presents plants greater than 2 megawatts,
10 so it weeds out the 1 megawatt facilities, which would
11 be consistent with your definition of utility scale,
12 correct?

13 A. Yes.

14 Q. And the Alternative Figure 1 is our effort to
15 simply add -- use the same dataset, and add the 1
16 megawatt facilities to that charge.

17 Do you -- are you willing to accept that
18 data? I know you received it, and I sent you the
19 dataset. Do you have any reason to believe that this
20 is not an accurate representation of the dataset?

21 A. No, I don't. You know, one thing that I
22 failed to share yesterday was that the reason that we
23 had identified 2 to 5 megawatts as the -- as the volume
24 that we were looking at was because anything --

1 Q. Mr. Jennings, I'm sorry to interrupt. I just
2 want to clarify. I'm talking about Figure 1, which was
3 anything above 2.

4 A. Can you hear me okay?

5 Q. I can. Yes, sir.

6 A. I'm getting a bit of an echo, so. So I
7 understand that you have identified that there are
8 comparable states with 1 megawatt and above. My point
9 was that, in North Carolina, everything above 2
10 megawatts is Fast Track. And so the reason that we
11 identified that 2 to 5 was -- or above 2 is because
12 that is where we are using the Section 4 of the
13 Interconnection Procedures that actually go through the
14 full System Impact Study, Facility Study. So projects
15 that are below 2 megawatts don't necessarily have to go
16 to the Section 4 of the Interconnection Procedures.
17 They may just go to Fast Track and then to
18 supplemental. And so given that, we were -- we were
19 trying to identify the projects that are fully studied
20 through System Impact Study, Facility Study, all the
21 way to interconnection.

22 Q. Thank you. And looking at Figure 2 we
23 discussed yesterday, this is directed towards, as
24 presented in your testimony, projects between 4 and

1 5 megawatts placed into operational time in the states.
2 And so what we have done with our alternative figure
3 is, again, consistent with your agreed-upon definition
4 of utility scale, simply add 1 megawatt to that 1 to 5.

5 Do you have any reason to believe that this
6 is not an accurate representation of the dataset?

7 A. No, I don't.

8 Q. Okay. All right. With this additional
9 information, wouldn't you agree that this paints a
10 different picture of the various states' performance
11 with respect to interconnection of utility scale
12 facilities than you painted in your testimony?

13 A. Not necessarily. So there is no doubt that
14 North Carolina's the second largest state in the
15 country. We are clearly further into the
16 interconnection process than other states are. So I
17 think the point is that we're constantly managing
18 anywheres from 20- to 40,000 megawatts in our queue.
19 Today I think we have 37,000 megawatts in our queue,
20 and it's a challenging process, and I don't think even
21 the folks in Minnesota would disagree that
22 interconnection is a challenging process.

23 Q. Well, you cherry-picked the data to make --
24 to paint Duke in the best light; did you not?

1 A. No. I think we were just representing the
2 projects that actually go through Section 4 of our
3 interconnection process.

4 Q. Mr. Jennings, do you have Mr. McNeil's
5 testimony with you?

6 A. I do. I need a minute to get it.

7 (Pause.)

8 Q. I direct you to Figure 1 on page 9.

9 A. Yeah. I don't have it yet. Just one second.

10 (Pause.)

11 THE WITNESS: Page what?

12 Q. Page 9.

13 A. Okay.

14 Q. And Figure 1 is a depiction of DEP DG
15 applications over a period of years, broken down by
16 size, right?

17 A. Correct.

18 Q. The particular project size that we're
19 talking about here with Williams Solar would be in the
20 gray category: greater than 2, less than 20 megawatts,
21 correct?

22 A. Yes. Yes, sir.

23 Q. So looking at the trend from 2015 to 2020, I
24 see a dramatic increase in these applications; is that

1 what you're seeing?

2 A. Yes, sir.

3 Q. And looking at 2019 and 2020, you know, my
4 eyes aren't what they were, but I don't really see any
5 gray there. There could be a little sliver, but
6 basically, these applications have dwindled to next to
7 nothing in DEP's service territory in the last two
8 years; is that correct?

9 A. Yes, I would say so. The market has
10 basically shifted to larger projects from the smaller
11 projects.

12 Q. Okay. So, from your standpoint, is this a
13 good thing or a bad thing?

14 A. I think it's a good thing for --

15 MR. JIRAK: Commissioner Duffley, I'm
16 sorry. I'm not sure of the relevance of whether --
17 of North Carolina's distributed generation policy,
18 what relevance that issue has to the dispute at
19 issue in this proceeding.

20 COMMISSIONER DUFFLEY: I will allow.
21 Mr. Trathen, move it along, but I will allow this
22 question.

23 MR. TRATHEN: Thank you, Chair.

24 Q. Mr. Jennings, I believe you were answering.

1 A. I mean, in general, it's probably a good
2 thing that, from an economics perspective, I mean,
3 the -- kind of the -- the intent of HB589 was to
4 migrate projects from, you know, large distribution
5 projects to medium to larger transmission-type
6 projects, because they create less interference, power
7 quality issues on the distribution system, and at the
8 same time they create savings for customers. During
9 the HB589 process, the legislature identified
10 \$850 million in savings as a result of this shift.

11 Q. Mr. Jennings, I'd like to shift gears.
12 Do you have Mr. Burke's exhibits with you?

13 A. Specifically, which one?

14 Q. Number 8.

15 A. Is that DEP internal email cost estimation?

16 Q. It is not. It is -- it's a letter dated
17 October 2, 2019.

18 MR. JIRAK: We will work with the
19 witness and make sure he has it. Which exhibit,
20 Mr. Trathen?

21 MR. TRATHEN: Exhibit JB-8.

22 MR. JIRAK: Okay. Give us a moment.

23 Q. Okay. Let me ask you a couple other
24 questions while your counsel is getting that exhibit.

1 MR. JIRAK: Actually, I would ask you to
2 just hold while we get the exhibit, please. Thank
3 you.

4 (Pause.)

5 THE WITNESS: Okay, Mr. Trathen, I have
6 it.

7 Q. Okay. So let me -- let me ask a couple other
8 questions just to make sure that we're clear. We
9 covered this yesterday, but it got a little muddy.

10 First off, with respect to some basic
11 elements of this dispute, Duke knew it had an issue
12 with estimates by the first quarter of 2018, correct?

13 A. So I think what I said was that we began to
14 examine the data in early 2018, and that was in
15 response to a directive from the Commission to assign
16 interconnection cost to interconnection customers to
17 the greatest extent possible. So, in early 2018, we
18 began to look at a number of things, including the DET
19 administrative overheads, which were denied in the 2017
20 REPS proceeding. In 2018, we began to -- we just began
21 to look at the costs and the variances between
22 estimates and actuals. And it wasn't until later in
23 2018 that we actually began to prepare final accounting
24 reports. And final accounting reports are the linchpin

1 of this, because that is where we actually get the data
2 that -- where the rubber hits the road. We actually
3 have data to compare. And the problem with that is
4 that, in late 2018, we didn't have a lot, and we didn't
5 have a sufficient enough -- sufficient data to actually
6 identify pattern, identify issues, or -- or identify
7 that there is actually a systemic problem.

8 In early 2019, we began to look at those
9 things more closely, and it wasn't until then that we
10 started to receive a lot of projects from 2018 that we
11 could actually use. And the reason that is is because
12 most of our projects get connected in the fourth
13 quarter of a year. So, in early 2019, we begin to see
14 more projects, we begin to create more final accounting
15 reports, and we actually then began to identify a
16 pattern that we could actually then identify the issues
17 and create a solution, and that's where we got the RET,
18 the Revised Estimating Tool.

19 Q. Mr. Jennings, I asked you a real simple
20 question.

21 As of the first quarter of 2018, Duke already
22 was receiving evidence that its estimates were not
23 matching up with bills coming in from projects that had
24 been billed. The record is clear on that. You have

1 said that, correct? Are you changing your testimony
2 now?

3 A. No. I'm not changing my testimony. I'm just
4 saying that there is not enough data there yet to make
5 any kind of -- to make any systemic changes to our
6 system, for sure.

7 Q. But you knew that, as of the first quarter,
8 that was a problem with the estimates?

9 A. I don't know that. I'm not -- I'm not fully
10 aware that -- I don't think that I had enough
11 information to actually be able to -- to prepare a
12 response to a developer who was in the process of
13 interconnecting.

14 Q. Okay. Nonetheless, as of January 2018, as --
15 excuse me, January 2019, Duke went ahead and provided a
16 System Impact Study report knowing that there were
17 issues with -- with the information and the estimates,
18 correct?

19 A. So I would say that I was -- I was actively
20 examining issues, and I -- and yes, I probably knew
21 that there were -- there were issues. I had no idea
22 what the magnitude of the problem was or that it would
23 even affect the estimate that was prepared for Williams
24 Solar.

1 Q. So with respect to the timing, in response to
2 Williams Solar Data Request 1-15, Duke responded in Q1
3 2018 --

4 MR. JIRAK: Mr. Trathen, if you are
5 gonna reference a document, I would like to have an
6 opportunity for the witness to have it in front of
7 him.

8 MR. TRATHEN: Sure. Exhibit JB-9.

9 MR. JIRAK: Thanks. Give us a moment.

10 COMMISSIONER DUFFLEY: What page,
11 Mr. Trathen?

12 MR. TRATHEN: Page 28.

13 THE WITNESS: Page 28? Mr. Trathen?

14 Q. Yes, sir.

15 A. Page 28? Is that what you said?

16 Q. Yes, page 28.

17 A. 28 of 54?

18 Q. 28 of 54; that's correct.

19 A. Okay.

20 Q. Do you see the item Q1 2018?

21 A. Yes. Yes, sir.

22 Q. And it says, "In Q1 2018, DET management
23 directed DET process to further investigate observed
24 discrepancies between estimated construction costs and

1 actual construction costs, the distribution
2 interconnection projects coming online during Q4 2017.

3 Is that -- did I read that correctly?

4 A. Yes, sir.

5 Q. Okay. Are you disagreeing with that?

6 A. No. I'm just disagreeing that I would have
7 had enough information from that time that you are
8 saying that we had enough information at that point,
9 because we didn't. As you know, the data from fourth
10 quarter of 2017 isn't complete. Actually, we probably
11 don't even have all the invoices until some time
12 towards the end of Q1 2018. So we were just beginning
13 to gather the data that we needed in order to actually
14 make comparisons at the end of Q1 2018.

15 Q. Yeah, but you knew you had a problem,
16 correct?

17 A. I didn't know what the problem was, how big
18 it was, if it even affected the Williams Solar project.

19 Q. Yes or no; did you know you had a problem as
20 of Q1 2018?

21 A. I would say that I did not know what the
22 problem was or that it was a real problem. We were --
23 we were -- we were directed to -- to begin to
24 investigate the information. That does not -- being

1 directed to investigate an issue does not mean there is
2 an issue, necessarily.

3 Q. Well, Mr. Jennings, you were not in your
4 position in Q1 2018, were you?

5 A. I have been in -- I've been sitting next door
6 to Gary Freeman for the last five years until he left.

7 Q. But this was not your job responsibility in
8 2018?

9 A. It was.

10 Q. So the issue is not what you knew in 2018,
11 the issue is did Duke know. Your experiences --

12 A. My --

13 Q. Mr. Jennings -- Mr. Jennings, let me ask you
14 a question.

15 Your discovery responses state that, as of
16 Q1, you were aware of these discrepancies?

17 MR. JIRAK: Commissioner Duffley, this
18 is -- this has been asked and answered. We have
19 acknowledged this statement in this discovery
20 response is accurate as drafted. And Mr. Trathen
21 doesn't need to ask the same question over and over
22 again. Mr. Jennings has stated his position on
23 this issue, and I believe the question has been
24 asked and answered.

1 COMMISSIONER DUFFLEY: Mr. Jennings, if
2 you could answer for the Commission one more time
3 his question, and Mr. Trathen, do not ask the
4 question again after this time.

5 THE WITNESS: Are you gonna ask the
6 question again right now?

7 COMMISSIONER DUFFLEY: He'll ask it one
8 more time.

9 Q. Mr. Jennings, we established you were not in
10 this position as of the relevant time period.

11 Sitting here today, do you have any reason to
12 dispute this discovery response that, as of the first
13 quarter 2018, Duke was aware that there were problems
14 with the estimates?

15 A. So while I was not in the role in 2018, my
16 personal investigation in my role since early 2019, I
17 would conclude that we didn't have enough information
18 to identify a systemic problem, and so my answer is no,
19 we did not.

20 Q. Okay. So you commenced an investigation --
21 Duke commenced an investigation of a problem that it
22 didn't have in the first quarter 2018; is that what I'm
23 hearing you say?

24 A. So -- so the act of investigating does not

1 necessarily mean that there is a problem. People
2 investigate people all the time without actually having
3 a real reason to do so.

4 Q. Okay. When you transmitted the System Impact
5 Study to Williams Solar, you did not identify any
6 concerns about the estimate that you were providing, is
7 that correct?

8 A. I did not.

9 Q. In fact, you didn't identify any concerns
10 with the estimates prior to delivering the Facility
11 Study report in July of 2019; is that correct?

12 A. Personally, I did not. I'm not sure if the
13 account manager did or not.

14 Q. Are you aware that there weren't any
15 communications from the account manager to Williams
16 Solar prior to July 2019 about concerns with the
17 estimate?

18 A. I know that there were conversations after
19 the estimate was provided.

20 Q. Okay. That's not what I asked.

21 Are you aware that your account manager
22 expressed about -- concerns to Williams Solar about the
23 estimate?

24 A. I'm not aware of it.

1 Q. If you would turn back to Exhibit JB-8,
2 Mr. Jennings -- do you have that in front of you?

3 A. I am. I have it.

4 Q. Okay. So this is Duke -- Duke's response to
5 Williams Solar's notice of dispute with respect to the
6 revised estimate, correct?

7 A. Yes. It looks like it.

8 Q. Okay. If you would turn, please, to page 2
9 of this response.

10 A. Okay.

11 Q. Do you see the first sentence in the first
12 full paragraph that reads, "Revised cost estimate is a
13 product of more detailed engineering that the Company
14 performed as part of a Facility Study"?

15 Important fact: None of the increase was due
16 to more detailed engineering, was it?

17 A. So I would say that it was not due to more
18 study, but I would say that it was due to more
19 engineering. So the amount -- and so this is really
20 better handled by my colleague, Scott Jennings, because
21 he understands what's in the System Impact Study versus
22 what's in the Facility Study. But my understanding is
23 that, from System Impact Study, all you know is what
24 the widgets are that go into fixing a problem created

1 by an interconnection customer. There is very little
2 engineering conducted at the time of the System Impact
3 Study. When we get to the Facility Study, there is
4 extensively more engineering done, but it's not -- it's
5 not a full engineering package. And we talked about
6 that a little bit yesterday.

7 I don't know, Scott, could you elaborate a
8 little bit on this?

9 Q. We will get to Scott Jennings in a bit,
10 Mr. Jennings. I would like to focus with you for a
11 second.

12 A. Well, the answer, there was more engineering
13 conducted for the Facility Study. There always is.

14 MR. JIRAK: In the interest of
15 efficiency, Commissioner Duffley, if I could, we
16 have a witness here that could speak specifically
17 to the question Mr. Trathen is asking. The purpose
18 of having a panel is to make an efficient hearing
19 where the witnesses that have the relevant
20 knowledge can explain and respond to the questions
21 being posed by counsel. I don't know why we
22 wouldn't want to hear from the witness who
23 understands what -- the information directly
24 responsive to Mr. Trathen's question.

1 COMMISSIONER DUFFLEY: Mr. Trathen, in
2 Commission's questions, I was going to ask
3 Scott Jennings to answer that as a follow-up, so
4 why don't we just hear his answer right now,
5 please.

6 THE WITNESS: (Scott Jennings) Thank
7 you, Commissioner.

8 Mr. Trathen, could you please restate
9 the question?

10 Q. My question is -- do you have the exhibit in
11 front of you?

12 A. Which exhibit are we referring to?

13 Q. Oh, dear. So we are referring to JB-8.

14 A. One minute, please.

15 (Pause.)

16 THE WITNESS: I hear footsteps coming
17 down the hall. All right. I'm ready.

18 Q. Okay. So my questions relate to the first
19 full paragraph on page 2. Are you there?

20 A. I am. Yes, sir.

21 Q. And so it states that the revised estimate is
22 the product of more detailed engineering that the
23 Company's performed as part of the Facility Study.

24 And my question is simply this: There was no

1 detailed engineering. The cost increase was not the
2 result of any engineering changes with respect to this
3 project, was it?

4 A. So, absolutely. And I'd like to take a
5 moment here, and let's just walk through the scopes of
6 engineering work that are performed at different phases
7 in a project like this. So starting with the System
8 Impact Study, what you see is a very detailed
9 electrical systems analysis engineering. So a
10 significant amount of time is invested to research the
11 impacts that a potential generator interconnection
12 could have on the power grid, what types of problems
13 that could cause in terms of power quality or
14 reliability for our other retail customers on a
15 particular circuit or substation. And so I know we
16 discussed in the testimony yesterday you saw, at the
17 time of the System Impact Study, what would appear to
18 be a very detailed list of upgrade work and widgets to
19 be installed from an electrical engineering design
20 perspective. And that is a true statement, that a
21 significant amount of engineering work had occurred at
22 the time of the System Impact Study to produce that.
23 However, that, in no way, shape, or form, at the time
24 of the System Impact Study, involved any kind of

1 construction engineering or cost estimating. It was
2 simply an electrical model that helps us to understand
3 what kind of upgrade work is required.

4 Let me give you a good example of the change
5 in engineering and design activities that are occurring
6 as we work through this process. I believe you saw, in
7 the System Impact Study, what, again, appear to be a
8 very detailed listing of widgets. As an example, Fault
9 Tamer fuses, which are used to help prevent transformer
10 tank rupture due to high-fault current that could be
11 introduced to the system by the additional generation
12 capacity that's installed on. There were approximately
13 82 of those, as I recall, that were included in the
14 System Impact Study, and a list of the locations for
15 those 82.

16 At the time of this System Impact Study, we
17 use a spreadsheet-based unit cost, I think around \$400
18 per item, for each of those Fault Tamers that need to
19 be installed. Those go to a spreadsheet. Very quickly
20 we dump out a per-unit cost for those, with no
21 consideration being given to where those are located
22 and what kind of facility limitations that we might
23 have. And so while the scope, in terms of how many
24 widgets or how many miles of line might need to be

1 upgraded in order to actually interconnect this
2 generator, it is locked down, from a scoping
3 perspective, as defined in the System Impact Study,
4 what -- the variability that exists in a distribution
5 line construction project like this is actually much
6 more driven by site conditions and accessibility of our
7 equipment. We are at the mercy of working with a
8 variety of landowners along the route of one of these
9 projects. This is not a site that is owned by Duke
10 Energy where we have the ability to mitigate a lot of
11 the factors that might expose --

12 COURT REPORTER: Excuse me. Excuse me.
13 This is the court reporter. Excuse me, I think
14 there are some microphones that are on, and I'm
15 getting a little bit of feedback.

16 THE WITNESS: (Kenneth Jennings) I
17 think Mr. Trathen, he's moving books or something.

18 COURT REPORTER: Okay. If anybody who
19 is not speaking could mute their microphones while
20 he's speaking, I would appreciate that. Thank you.

21 THE WITNESS: (Scott Jennings) Yes,
22 sorry. Thank you. So the example I was referring
23 to in regards to the Fault Tamer switches that had
24 to be installed on this project, we use a base unit

1 cost of around \$400 per unit in our estimates. The
2 reality that we have to deal with when we go to
3 begin studying this project, from a design
4 engineering perspective, is that that location
5 where that equipment needs to be installed may be
6 along the side of the road, it may be very easily
7 to access and install that, or it may be in
8 somebody's back yard. We may have to have a larger
9 crew and may have to climb a pole in somebody's
10 back yard. It may have a transformer that's not up
11 to current specifications and requires additional
12 retrofit work to be able to install that Fault
13 Tamer, and that \$400 unit cost that we used in the
14 System Impact Study very quickly becomes \$2,000.
15 And that is a very real-world situation that we
16 deal with going from System Impact Study to
17 Facility Study.

18 So, yes, I will acknowledge that, at the
19 time of System Impact Study, we have a very clear
20 understanding of the number of widgets that have to
21 be installed in order to connect this customer.
22 But again, I just want to really reenforce the --
23 that the site access, the variability that we have
24 to address in our design and construction

1 processes, that can drive significant variations in
2 the actual cost that we expect to perform this
3 work, and that's the type of thing that you're
4 seeing here when we talk about the engineering and
5 scope identification that's occurring as we move
6 from System Impact Study into Facility Study.

7 Q. All right. Mr. Jennings, I asked you what
8 time it was, and you asked -- and you told me how to
9 build a watch. My question is this:

10 Did anything about the Williams Solar project
11 change, from a technical perspective, between the
12 System Impact Study and the Facility Study stages?

13 A. The scoping, from an electrical connectivity
14 perspective, did not change, and I believe that I just
15 described to you the exact types of field changes that
16 drive cost variability to a project like this -- did
17 occur.

18 Q. Okay. And this particular study, the cost
19 change was driven by Duke's new estimating tool, RET;
20 isn't that correct?

21 A. Yes. That is absolutely a component of what
22 drove this.

23 Q. It's not a component, it is what drove it; is
24 that correct?

1 A. No. There are really, I would say, multiple
2 components. One being clear identification of scope
3 and site conditions that occurs between System Impact
4 Study and Facility Study, and then also, yes, the
5 application of the RET to help supplement the
6 estimating process.

7 Q. So --

8 A. (Kenneth Jennings) So I would add too,
9 though, the reason that the cost changed as a result of
10 the RET is because the RET recognizes costs, real costs
11 that are captured that had not been captured in the old
12 System Impact Study methodology.

13 Q. Okay. Mr. Ken Jennings, back to you.

14 MR. TRATHEN: And, Madam Chair, we do
15 have some questions for Scott Jennings. From our
16 perspective, these witnesses filed separate
17 testimony, not joint testimony. I'm fine if Duke
18 wants to present them as a panel, and if the
19 Commissioners wish for them to interject over one
20 another, that's fine as well, but I think, from our
21 perspective, in examining them, they will go
22 smoother if we are just permitted to examine the
23 witness on the testimony they filed.

24 COMMISSIONER DUFFLEY: Mr. Trathen, if I

1 could address that. So, from a Commission
2 standpoint, it is helpful when a party puts up a
3 panel for efficiency purposes -- I mean, I'm hoping
4 that we will end today -- instead of the Commission
5 wanting to know what another person on the panel,
6 that might have better expertise to answer that
7 question -- instead of the Commissioners having to
8 ask that question during Commission-time questions,
9 if another panel member really has value to add or
10 something to add, I think the Commission would like
11 to hear that, but that's not to say that you cannot
12 ask your questions -- your initial questions to a
13 specific person.

14 MR. TRATHEN: Thank you,
15 Commissioner Duffley. I'm sorry, go ahead.

16 MR. DAVID: Sorry. I was just gonna
17 ask, Chair Duffley -- this is Eric David. Can we
18 ask them that, if they are going to interject and
19 answer other questions, that all of them could have
20 the exhibits open so we don't have to wait for the
21 exhibits to get passed between panelists?

22 COMMISSIONER DUFFLEY: I do agree with
23 that, Mr. David.

24 MR. JIRAK: Thank you,

1 Commi ssi oner Duffley. We will make sure that that
2 doesn' t happen agai n.

3 MR. TRATHEN: Mr. Jirak, do we need to
4 pause?

5 MR. JIRAK: No, no. We're good. We've
6 got the wheels i n moti on and make sure they will
7 have all the exhi bi ts.

8 MR. TRATHEN: Okay.

9 Q. Mr. Ken Jennings, back to Exhi bi t 8, page 2
10 of that exhi bi t. If you -- if you see the fourth
11 sentence of that paragraph, begi nni ng wi th
12 "Consistent" -- excuse me, "Consistent wi th good
13 uti lity practice"; do you see that?

14 Mr. Jennings?

15 A. Sorry. I had mute. I'm sorry. Could you
16 tell me which paragraph it was again?

17 Q. It's the first full paragraph, page 2.

18 A. The last sentence?

19 Q. The fourth -- next-to-last, "Consistent wi th
20 good uti lity practice."

21 A. On page 2?

22 MR. JIRAK: Mr. Jennings, we are back to
23 Exhi bi t JB-8, we were thi nki ng.

24 THE WITNESS: Which li ne of page 2 is

1 it? It's hard to --

2 Q. It's the fourth sentence of the first full
3 paragraph. It's the same paragraph we were looking at
4 before. And the sentence starts, "Consistent with good
5 utility practice."

6 A. I don't know why I can't see it. I'm --

7 Q. Let me just read it to you.

8 MR. JIRAK: One second. Hold on. I'm
9 sorry. Counsel is gonna walk over and point him to
10 the right paragraph.

11 (Discussion off the record.)

12 THE WITNESS: Okay. I see what you're
13 talking about, Mr. Trathen.

14 Q. Okay. Thank you. So the sentence reads,
15 "Consistent with good utility practice, the Company has
16 endeavored to use this information to continually
17 refine its estimates."

18 Do you see that?

19 A. Yes, sir.

20 Q. Okay. And point in fact, Duke concedes that
21 it went, essentially, five years, from 2015 to
22 June of 2019, without refining its estimate, correct?

23 A. I think that's correct. That wasn't in my
24 testimony, but I do believe I read that.

1 Q. Testimony of Mr. McNeil?

2 A. Correct.

3 Q. Page 19, line 5?

4 A. Yes, sir.

5 Q. Okay. And when it, in fact, did revise the
6 tool -- the system impact tool in July of 2019, you
7 just multiplied the results by two; isn't that correct?

8 A. That's my understanding.

9 Q. It didn't update the inputs, it just
10 multiplied the results by two?

11 A. That's correct.

12 Q. Okay. So in what sense is that continually
13 refining its estimate?

14 A. So -- so, in general, the issue is that we
15 need to provide the interconnection customer a better
16 estimate of what their actual costs are going to be.
17 And, you know, given that, we're constantly trying to
18 process interconnection requests with the -- we are
19 gonna keep the -- I guess we want to keep the train
20 running on time -- as close to being on time as we can.
21 We didn't -- we didn't have time to create a new tool.
22 To be honest, we -- we -- you know, throughout that
23 period of time, we were benchmarking the estimates out
24 of the system, the tool, ground zero, against the

1 Facility Study tool, and we weren't seeing significant
2 variance. And so it wasn't until we actually started
3 performing the final accounting reports that the
4 variance was identified. And so as soon as we saw
5 that, then, you know, we moved to correct as much as
6 possible.

7 What we did find was that the adjustment to
8 the system impact tool -- System Impact Study
9 estimating tool reflected very closely with the Revised
10 Estimating Tool, which does have much more science
11 around it and math to it. So, given that we were able
12 to be more consistent with that, then we felt like that
13 was a good solution to provide better System Impact
14 Study reports sooner than -- rather than continuing to
15 provide estimates that we knew were wrong. So had we
16 had that information prior to January of 2019, we would
17 have provided that same information to Williams Solar,
18 and Williams Solar probably wouldn't have the issue
19 that we're talking about today.

20 Q. Okay. And what -- in fact, you didn't
21 provide any such information to Williams Solar, did
22 you?

23 A. I did not, because I didn't have the -- I
24 didn't have the test that I just described to you

1 completed yet. But once we did, once we benchmarked,
2 you know, that practice, and we were able to identify
3 that it was a better estimate, we continue to work on
4 that tool, to refine it and come up with something
5 better, but that's what we did at that time.

6 Q. Mr. Jennings, stay on this same page. The
7 very first line of that page, do you see the statement
8 that Duke has no obligation under the Interconnection
9 Procedures to provide justification for changes in cost
10 estimates; do you see that?

11 A. Yes, I do.

12 Q. Okay. So is that consistent with your
13 position that Duke can double its estimates and change
14 it at will and the customers don't deserve an
15 explanation of what happened?

16 A. So I guess I'm uncomfortable with making that
17 statement. Personally, I -- you know, I am trying to
18 be more engaged with stakeholders and interconnection
19 customers to the extent that I can be. I think that,
20 you know, over the last year we have improved our
21 communications. Yesterday, I think I mentioned to you
22 that should be better -- I think that we should be
23 better. I think that it's dominant --

24 MR. JIRAK: Mr. Trathen, if you wouldn't

1 mind going on mute between your questions, just so
2 we could avoid the paper shuffling in the
3 microphone, that would be great. Thank you.

4 THE WITNESS: So we have been working to
5 try to improve our communication process. And,
6 from my perspective, I think that we moved a long
7 way, but I agree that -- I'm not comfortable with
8 it. I would prefer to be more collaborative to
9 make sure that interconnection customers understand
10 their estimates, and we are working on that right
11 now. We are working with NCCEBA on similar type
12 issues around cost controls and other things.

13 Q. So consistent, then, Mr. Jennings, would you
14 agree that a customer shouldn't have to go through what
15 we are doing here, filing a formal complaint, taking to
16 discovery to figure out what happened with these
17 estimates?

18 A. So I tend to agree. I will just add that,
19 you know, it depends on how much information an
20 interconnection customer wants. So everything takes
21 time, and oftentimes, if a customer wants some
22 information that -- that requires, you know, an
23 analyst, significant amount of time to research and
24 gather the information that's needed, then it's

1 actually taking away from other work that we're doing,
2 and so we're really -- we're trying to manage
3 resources. We are trying to manage time. We are
4 trying to treat all interconnection customers the same.
5 To the extent that we go way overboard because a
6 project that, you know, is on the fringe needs extra
7 attention -- and I'm not willing to do that for all
8 interconnection customers -- I think it's just a matter
9 of trying to standardize the attention that we provide
10 so that we are not inconsistent across all of our
11 interconnection customers.

12 Q. Mr. Jennings, there is -- you have testified
13 about good faith and context to these estimates.

14 I believe you read the rebuttal testimony of
15 Williams witness Mr. Bolyard; did you not?

16 A. I did.

17 Q. In his testimony, he quoted a definition from
18 Black's Law Dictionary, actually. Let me read this to
19 you. "A state of mind consisting in honesty, belief,
20 and purpose; faithfulness to one's duty or obligation;
21 observance of reasonable commercial standards and fair
22 dealing in a given trade or business; or absence of
23 intent to defraud or to seek unconscionable advantage."

24 My question is, do you have any disagreement

1 with this, in terms of your understanding of the term
2 "good faith"?

3 A. I think it's a good definition of good faith.
4 It's not the only one. I don't think it's inconsistent
5 with -- with the way that we perform our
6 interconnection duties. There is nothing -- there is
7 nothing that we do with regards to interconnection or
8 the deployment of solar in our system that is
9 inconsistent with what you just said.

10 Q. So let me ask you a hypothetical.

11 If I were a builder, and you asked me for an
12 estimate to build a house, not build 20 exactly like
13 it, and they only cost X times 2, but I tell you that
14 it costs X because that's what I have told the other 20
15 homeowners, is this good faith, in your judgment?

16 A. Yes.

17 Q. Okay. So it's your position that, just
18 because you have told everybody else something that you
19 know is wrong, that it's good faith to tell the next
20 person the same wrong information?

21 A. I don't understand the metaphor, actually.
22 You know, I -- you know, through this process I think
23 about house building all the time and how it relates to
24 what we're doing, and -- you know, I will give you an

1 example. What you just described was a subdivision of
2 strip houses that every house is almost exactly the
3 same. I built a house, a custom house in Kentucky, you
4 know, almost 20 years ago, and I had a price from the
5 builder before he started building it. He started to
6 dig the foundation. He -- he spent two days digging
7 the foundation. The inspector shut him down and
8 required me to bring in a geotechnical engineer to
9 drill borings. They drilled borings, like seven
10 borings, and they hit water. So then I had to hire --
11 then the geotechnical engineer had to then redesign my
12 foundation, my footings, and the cost of my house went
13 up by \$50,000.

14 So that happens all the time in every
15 industry in every thing. And so the furthest thing
16 from a strip-house development is interconnection work.
17 Not one interconnection project is the same, and in
18 some instances one that could be the same one day is
19 not the same the next day, because it rains, because we
20 have a hurricane, something else happens. So I just
21 don't think that housing -- you know, strip housing,
22 especially, where you are just -- you're basically
23 plowing down a field, cutting all the trees down, and
24 building a bunch of houses that all cost the same,

1 that's nothing like what we're doing with
2 interconnection.

3 Q. So, Mr. Jennings, if you assume that Duke
4 knew the estimate that it sent to Williams was wrong,
5 wouldn't you agree that it was bad faith to send an
6 estimate that you know is wrong?

7 A. I did not know that it was wrong at the time.
8 I did not demonstrate that it was wrong at the time.

9 Q. But if you knew it was wrong and you sent it
10 anyway, wouldn't that be bad faith?

11 A. If I knew that --

12 MR. JIRAK: Object -- object to the
13 question. The witness just said he did not know it
14 was wrong, and then Mr. Trathen stated the
15 opposite.

16 MR. TRATHEN: Well, he didn't answer the
17 question.

18 COMMISSIONER DUFFLEY: He answered the
19 question of -- he did answer your question, but as
20 I understand it, Mr. Trathen is asking a
21 hypothetical.

22 THE WITNESS: In the hypothetical, if
23 I --

24 MR. JIRAK: I'm sorry. Mr. Jennings,

1 could you just -- Mr. Trathen, can you just repeat
2 the question then, if we are asking a hypothetical?

3 MR. TRATHEN: Yeah.

4 Q. If you know the estimate is wrong and you
5 send it anyway, isn't that bad faith?

6 A. If I know that it's wrong, yes.

7 Q. Mr. Jennings, you were involved in the
8 Interconnection Procedures reform docket; are you not?

9 A. The queue reform docket?

10 Q. Right. The E-100, Sub 101 docket.

11 A. Right.

12 Q. And are you aware that, in the last reform
13 proceeding, with respect to revision of the rules, Duke
14 advocated for modifications with procedures requiring
15 customers to make a nonrefundable prepayment or provide
16 financial security based on the System Impact Study
17 report?

18 A. So I don't recall that from the last
19 proceeding. But I think --

20 Q. I'm sorry. I didn't mean to talk over you if
21 you're not done.

22 A. I said I don't recall, but you could proceed,
23 I suppose.

24 Q. Okay. So you're not aware of Section 4.3.9

1 of Interconnection Procedures that requires customers
2 to make a nonrefundable prepayment or provide financial
3 customer -- security based on the security -- the
4 System Impact Study report?

5 MR. JIRAK: If I could, we could
6 provide -- let us provide a copy of the procedures
7 so that Mr. Jennings can have in front of him the
8 section you are referencing, Mr. Trathen.

9 MR. TRATHEN: Sure. So this was
10 discussed several times yesterday. It was Williams
11 Solar Cross at Tab 31, and then it was taken
12 judicial notice of.

13 (Pause.)

14 THE WITNESS: Thank you.

15 (Witness peruses document.)

16 Okay. I see it.

17 Q. Okay. So you do see Section 4.3.9 that
18 requires a customer to place a nonrefundable prepayment
19 to provide financial security?

20 A. Right.

21 Q. Okay. Did Duke tell the Commission, when you
22 made this recommendation, that you regarded this
23 estimate as a class 5 estimate?

24 A. So I don't -- I don't know. I wasn't the

1 witness then.

2 Q. That's all right. So is it your position
3 that it's fair to ask a customer to make a
4 nonrefundable payment -- prepayment based on an
5 estimate that is back of the envelope that might change
6 as much as 100 percent?

7 A. I think it is, if the customer is serious
8 about going forward. Given the amount of work that has
9 to occur to get -- you know, to get them to the
10 interconnection-agreement point, I mean, I think it
11 just demonstrates readiness and seriousness to move
12 forward. Obviously, if the -- if the estimate would
13 have been, you know, high, and the customer goes
14 forward and connects, they would be refunded anything
15 above the actual cost. So it does seem fair to me.

16 Q. Mr. Jennings, would you look at Exhibit
17 CEB-20. So this is Exhibit 20 to Mr. Bolyard's
18 testimony.

19 A. (Witness peruses document.)

20 MR. JIRAK: And I would just take a
21 moment, Mr. Trathen, to remind the other Duke
22 witnesses to please also, consistent with
23 Mr. David's request, pull up that exhibit as well.

24 THE WITNESS: (Witness peruses

1 document.)

2 THE WITNESS: (Steven Holmes) Can you
3 just confirm the exhibit, please?

4 MR. TRATHEN: We are on Exhibit CEB-20,
5 page 15, exhibit to Mr. Bolyard's direct testimony.

6 (Pause.)

7 Q. Mr. Jennings, are you there?

8 A. (Kenneth Jennings)

9 (No response.)

10 (Witness peruses document.)

11 I'm ready, Mr. Trathen. Sorry about that. I
12 was muted for a second.

13 Q. Okay. So this is an email chain, the last of
14 which is directed to you, from back in June of 2019,
15 correct?

16 A. (Witness peruses document.)

17 Okay.

18 Q. And do you see the email from Beckton James
19 discussing DEC exposure?

20 A. Which --

21 Q. The first page, his email to you, subject,
22 "DEP and DEC exposure." There is a table there.

23 A. Okay, I do.

24 Q. Okay. So you talked about this event

1 yesterday, and this gets into the issue of -- I believe
2 the issue of cost overruns; is that correct? Tell me
3 what the exposure is.

4 A. So I don't -- I don't recall this email, but
5 I think that I understand, having had similar
6 discussions with Mr. Beckton James on this issue
7 before. So I think when he thinks of exposure, he is
8 referring to the amount of actual cost above an
9 estimate or a completed construction project. So, with
10 that said, that means that I think, in general case,
11 you know, most people believe -- and I'm sorry for not
12 looking at the camera now, but I'm looking for another
13 piece of information.

14 (Witness peruses document.)

15 So when Mr. James refers to exposure, he's
16 talking about the amount of money that would be owed
17 after a project is completed, or basically the true-up
18 in the financial account -- or the final accounting
19 report. And so I don't recall these numbers, but I
20 would assume that, at some point, that this was a
21 number that he had estimated was a total amount that
22 was exceeding our estimates. And so we think of it as
23 exposure because, in general, once we have completed a
24 final accounting report, developers don't pay the bill.

1 So, at this point in time, we have actually
2 trued up 125 projects in DEP, 90 of which had been
3 constructed. And of those 90, only 14 of them had paid
4 the amount of the true-up. 35 had withdrawn, and of
5 those 35, 25 owed us money. Only 2 of the 35 that --
6 or 2 of the 25 that owed us money actually paid. 10
7 actually received refunds, and they accepted those
8 refunds. In DEC, we trued up 51 projects. 8 were
9 constructed, 0 paid the true-up. 45 withdrawn, 41 of
10 them owed us money. Only 2 of the 41 of those paid. 4
11 were issued refunds, of which they accepted the
12 refunds. So we think of it as exposure, because if we
13 don't collect the money up front, we don't get it.
14 That's the problem.

15 Q. So, Mr. Jennings, with respect to this
16 particular exhibit, it looks like this information is
17 for DEC only, and it references total exposure for
18 these cost overruns at some \$9 million.

19 Is that -- you don't have any reason to
20 dispute that amount, I assume?

21 A. I don't, because right now, I know that,
22 between DEC and DEP, we are owed about \$32 million just
23 for -- just for construction upgrades of
24 interconnection facilities and network upgrades. We

1 are owed about -- and these are just projects that have
2 been constructed or almost constructed. We are owed
3 about \$7 million for study costs, DET administrative
4 overheads, Advanced Energy commissioning costs. The
5 thing is, when we submit a final accounting report, in
6 general, they either don't get paid or they are
7 disputed and still we don't get paid.

8 Q. Okay. But this specific information is the
9 delta between estimates and actuals?

10 A. That's what I was talking about, yeah. I
11 agree, and I'm just saying it's a lot more than that
12 now. Actually, if we look at both DEC and DEP, that
13 number is significantly higher. So, yes, it's an
14 exposure.

15 Q. Okay. So, Mr. Jennings, I'm skipping around
16 a bit, and I apologize for that, but I have some
17 specific -- very specific questions for you.

18 With respect to DEP's introduction of the
19 tool RET, the Revised Estimating Tool, which was used
20 for Facility Study, I believe that Mr. Scott Jennings
21 is probably the more detailed person on the specifics
22 of that tool; am I correct?

23 A. I think so.

24 Q. Okay. I have got a very general question for

1 you with respect to this tool.

2 Duke stated to us in discovery that this tool
3 was first used on July 30, 2019; will you accept that?

4 A. Yes.

5 Q. And that, in fact, is --

6 A. Could I -- could I ask you to clarify again?
7 Could you repeat that question again?

8 Q. Absolutely. Yes.

9 A. I'm sorry. I'm not sure I heard it
10 correctly, but I think I agree, but I'd appreciate it
11 if you repeated it.

12 Q. Sure. No problem.

13 So my question was, Duke stated in its
14 discovery responses to us that it began to use the RET
15 on July 30, 2019; is that correct?

16 MR. JIRAK: If you -- Mr. Trathen, if
17 are you referencing a particular discovery
18 response, it probably would be helpful to identify
19 the discovery response you are referencing and give
20 Mr. Jennings a chance to look at that.

21 MR. TRATHEN: Happy to. And it's also
22 Mr. Bolyard's testimony. But the discovery
23 response is at JB-9.

24 THE WITNESS: Did you say JE-9 or JB-9?

1 Q. JB. Mr. Burke's Exhibit Number 9 at page 29.

2 A. Okay. Page 29?

3 Q. Yes.

4 A. Okay.

5 Q. And do you see the paragraph that is headed
6 Q3 2019?

7 A. Yes, sir.

8 Q. The last clause of that says, "The planners
9 began to use the updated cost estimate for all
10 distribution project facilities in DEP starting
11 July 30, 2019."

12 A. Yes, sir, I see that.

13 Q. Okay. And that, in fact, is the same date
14 that the Williams Solar Facility Study report was
15 issued, correct?

16 A. Yes, sir.

17 Q. And, at that point, Duke personnel had not
18 even been trained on use of the tool, correct?

19 A. I don't know that. I do remember training
20 occurring. I would assume that it had occurred before
21 that.

22 Q. Well, I believe we have established that you
23 reviewed Mr. Bolyard's testimony, correct?

24 A. Yes, sir.

1 Q. And he attached to his testimony and
2 testified, based on examining Duke's emails, that the
3 training didn't occur until August 1st.

4 Do you have any reason to dispute that?

5 A. I do not. I will say that -- I will say
6 that -- that there was a period in which -- in which
7 Beckton James would have been working with the
8 planners, and so it's very possible that -- that he
9 actually was running the tool, you know, in conjunction
10 with planners and then probably held a more formal
11 training session later.

12 A. (Scott Jennings) That is correct, yes.

13 COMMISSIONER DUFFLEY: That was
14 Scott Jennings speaking, for the court reporter.

15 THE WITNESS: Yes, ma'am. Thank you.

16 Q. Back to Ken Jennings. Sticking with the
17 rebuttal exhibits from Mr. Burke -- or I'm sorry, we
18 are on the direct exhibits -- would you take a look at
19 Mr. Burke's Rebuttal Exhibit 2?

20 A. (Kenneth Jennings) Could you repeat that
21 again? I'm sorry.

22 Q. I'm at Jon Burke's Rebuttal Exhibit 2.

23 A. JB-2, right?

24 Q. Yes, sir.

1 A. (Witness peruses document.)

2 Okay. JB-2.

3 Q. Okay. And so this was -- this is not the
4 Williams Solar project, but this is on the general
5 issue of overheads. And I believe that you address
6 this issue in your testimony and note that majority of
7 customers have disputes with respect to overheads and
8 refuse to pay.

9 Do you recall saying that in your testimony?

10 A. Yes, sir.

11 Q. And this particular example shows an example
12 of a project that was billed \$3,000 for generalized
13 overheads for \$242 worth of work; do you see that?

14 A. I do.

15 MR. JIRAK: I'm sorry, for my benefit,
16 Mr. Trathen, could you point to the page which the
17 numbers you are referencing are?

18 MR. TRATHEN: It's only one page,
19 Mr. Jirak.

20 MR. JIRAK: Am I on the wrong exhibit?

21 THE WITNESS: Which page is it? I
22 didn't actually see it, but I know what you're
23 talking about.

24 Q. It's Exhibit -- Rebuttal Exhibit 2, page 1

1 of 1.

2 A. Page what?

3 Q. 1 of 1.

4 A. Oh, I'm sorry. Looking at JB-2 here.

5 Q. Mr. Jennings, I think you know what I'm
6 talking about. Sounds like you have seen this exhibit
7 before.

8 A. I have.

9 Q. Okay. And can you tell me what order the
10 Commission has specifically approved these charges?

11 A. (No response.)

12 Q. There isn't one, right? The Commission has
13 not specifically approved these charges?

14 A. So I suppose it's a matter of interpretation.
15 My interpretation of the most recent order in
16 E-100, Sub 101 actually states that the Company should
17 recover their overheads and has the ability to do so.
18 I don't know if I have the cite. Give me a second.

19 Q. Mr. Jennings, so is it your position --

20 COMMISSIONER DUFFLEY: Please --

21 Mr. Trathen, please let Mr. Jennings finish his
22 answer.

23 MR. TRATHEN: Yes. Thank you.

24 THE WITNESS: (Witness peruses

1 documents.)

2 One second.

3 (Witness peruses document.)

4 I can't find the cite at the moment,
5 so -- but my interpretation of the order in the
6 June 14, 2019, E-100, Sub 140 order was that the
7 Commission recognized the need for -- for the
8 utility to be able to recover its administrative
9 overhead costs. And, you know, in reference to
10 that, we did meet with Public Staff, and we shared
11 with Public Staff that information, and Public
12 Staff was comfortable with it.

13 So what I would like to do is actually
14 respond to your question, which was the \$242.50
15 study. So that actually was a project that was
16 withdrawn when we -- when we requested that the
17 developer submit the System Impact Study agreement
18 and failed to do so, they were withdrawn from the
19 queue. And so the amount of work that was actually
20 conducted on that was -- from an actual study
21 perspective, was small. That's not to say that
22 there wasn't administrative work that occurred in
23 getting the request submitted into Salesforce,
24 getting all of the information that was needed for

1 the project to be studied. And so that's the
2 intent of the -- of the administrative overheads,
3 and the schedule in which we recover that would
4 have been.

5 So when the interconnection request
6 application form was submitted, they would have --
7 the interconnection customer would have paid \$500.
8 Once the queue number is assigned, the
9 interconnection customer would have been
10 responsible for an additional \$2,500, which gets it
11 to \$3,000. So we did both of those. We received
12 an interconnection application, we vetted the
13 application, we put the request into Salesforce and
14 issued a queue number. That -- even today, that
15 project, after being withdrawn, is still being
16 tracked in the system and in our compliance filings
17 with the North Carolina Commission.

18 Q. Mr. Jennings, if Duke got a bill for \$242
19 worth of work and \$3,000 in overheads, would you object
20 to that?

21 MR. JIRAK: Commissioner Duffley, I
22 would just object to this line of questions. We
23 are being asked questions about a project that is
24 not at issue in this proceeding. This is an

1 entirely separate project.

2 MR. TRATHEN: Mr. Jennings has eight
3 pages of testimony on overheads in this proceeding.
4 This is my last question on this particular topic.

5 COMMISSIONER DUFFLEY: Mr. -- to
6 Mr. Ken Jennings, I mean, if you feel like you can
7 answer a hypothetical without all of the details, I
8 will allow this one last question.

9 THE WITNESS: So I -- yes. I would pay
10 the bill if I knew that that bill was coming. So
11 it shouldn't have been a surprise. We posted that
12 these charges would be issued on our website, and
13 we communicated it throughout the Sub -- the Sub --
14 the E-100, Sub 101 docket in 2019.

15 Q. Okay. Mr. Jennings, switching gears.

16 Are you aware of any arrangements with
17 contractors that are doing the work on these projects
18 with a guaranteed 60-hour workweek?

19 A. So I'm not really familiar with that. That
20 would probably be more appropriate to ask
21 Scott Jennings.

22 Q. Okay.

23 COMMISSIONER DUFFLEY:

24 Mr. Scott Jennings, will you answer the question,

1 please?

2 THE WITNESS: (Scott Jennings) Can you
3 please restate the question, make sure I heard it
4 correctly?

5 Q. Yes. Mr. Jennings, are you aware of any
6 arrangements with contractors performing this work for
7 interconnection customers -- the interconnection work
8 involving a 60-hour guaranteed workweek?

9 A. I am aware that there are absolutely times in
10 the past couple of years' history that we have paid
11 60-hour workweeks for interconnection projects as well
12 as our own internal Duke projects in order to execute
13 all of our necessary work that is by deadlines, yes.

14 Q. Okay. That's actually not what I was asking,
15 whether someone has worked 60 hours. The question is
16 whether there is a contract based on a 60 -- a
17 guaranteed 60-hour workweek assumption.

18 A. No. There is no written contractual 60-hour
19 agreement that I am aware of.

20 Q. Would you turn to Tab 9 of the Williams Solar
21 Potential Cross Examination Exhibits?

22 A. (Witness peruses documents.)

23 Brad or Jack, I may need some help with this.
24 I don't see the cross exhibits in this file.

1 MR. JIRAK: We will be right in.

2 THE WITNESS: (Kenneth Jennings) Could

3 you repeat the exhibit again, Mr. Trathen?

4 Q. Yes. I'm at Tab Number 9 --

5 A. Okay.

6 Q. -- of Williams Solar Potential Cross

7 Examination Exhibits.

8 COMMISSIONER DUFFLEY: Mr. Trathen, if

9 you could identify the document.

10 MR. TRATHEN: This is -- it's an email

11 exchange. The from line is Beckton James, sent on

12 March 26, 2019.

13 COMMISSIONER CLODFELTER: Mr. Trathen?

14 Mr. Trathen?

15 MR. TRATHEN: I'm sorry?

16 COMMISSIONER CLODFELTER: Mr. Trathen,

17 the copy of that Exhibit Number 9 in the cross

18 exam- -- potential cross examination book, at least

19 the copy I have, is cut off on the right-hand

20 margin, so all of the numerical data is not in the

21 copy that I have.

22 MR. TRATHEN: That's -- I see that as

23 well. That's not relevant to my specific question.

24 COMMISSIONER CLODFELTER: All right.

1 Thank you, sir. I just wanted to make sure I had a
2 complete exhibit.

3 COMMISSIONER DUFFLEY: And, Mr. Trathen,
4 are you identifying this as Williams Cross Exhibit
5 Number?

6 MR. TRATHEN: I am, and I have lost
7 track of the numbers, to be honest. I think maybe
8 it's 4, or is it 3? I think it's 4.

9 COMMISSIONER DUFFLEY: I think it might
10 be 3. It is Number 4; you are correct. Cross
11 Exhibit Number 4.

12 (Williams Solar Cross Exhibit Number 4
13 was marked for identification.)

14 THE WITNESS: (Scott Jennings) All
15 right, Mr. Trathen. I am ready now.

16 Q. So I am looking at the second page of this
17 exhibit, which is from Jack Andreasen to Beckton James,
18 March 2019; do you see that?

19 A. I do. Yes, sir.

20 Q. And he's referencing the project data dump
21 tab, "Was wondering if you could shed a little light on
22 how labor was calculated." And then his last sentence
23 is, "Alongside of that, where does the guaranteed
24 60-hour week figure into this sheet?"

1 What is that referring to?

2 A. I would state that that is referring to a
3 misunderstanding on the part of the engineering design
4 associate who composed this email. In preparation
5 reviewing material for this hearing, I spoke with our
6 director responsible for administration of our
7 contracts and confirmed affirmatively that at no time
8 was there ever a written contractual guarantee for
9 anything beyond 40 hours of work per week. And I can
10 state that as a fact out of our contract administration
11 leadership that that was never the case. And so yes,
12 there were potentially those in the organization who
13 might have seen us working 50 or 60 hours a week and
14 made assumptions, but it was never, in no shape or
15 form, a written guarantee.

16 Q. Okay. Was it an unwritten guarantee, the
17 arrangement you had, an understanding, that perhaps
18 isn't a formalized agreement with the contractor?

19 A. No. We work our contractors based on how
20 much work we have to be performed at a given point in
21 time. It's not our desire to necessarily work that
22 many hours in a week, but sometimes circumstances
23 dictate that, and resource availability and scope of
24 project work to be completed. I would say there was

1 never even any handshake agreement with our contractors
2 that would guarantee that type of expectation.

3 Q. Would you please turn, Mr. Jennings, to
4 Mr. Bolyard's Rebuttal Exhibit 1?

5 THE WITNESS: (Ken Jennings) Are you --
6 are you --

7 THE WITNESS: (Scott Jennings) Can you
8 clarify which Mr. Jennings you are referring to?

9 Q. Let's just stay with you, Mr. Scott Jennings.

10 THE WITNESS: (Ken Jennings) Could you
11 repeat the exhibit you're looking at, Mr. Trathen?

12 MR. TRATHEN: Yes. I'm looking at what
13 has been marked as CEB Rebuttal Exhibit 1, page 17.

14 THE WITNESS: (Scott Jennings) (Witness
15 peruses document.)

16 Okay.

17 Q. And rebuttal Exhibit 1 is a copy of the RET
18 tool, correct?

19 A. I will agree with that, yes.

20 Q. Okay. This exhibit was originally filed with
21 the direct testimony of Mr. Bolyard and then refiled in
22 rebuttal testimony through some spreadsheets which had
23 been hidden from the original electronic draft, I will
24 represent to you.

1 On page 17 of this exhibit, if you look down
2 at the bottom under the title "Contractor Labor
3 Assumption"; do you see that?

4 A. Yes, sir, I do.

5 Q. And do you see the -- the column "guaranteed
6 hours in a week"?

7 A. I do, yes.

8 Q. And you see it says 60?

9 A. I do, yes.

10 Q. Okay. And so what does this refer to?

11 A. This same answer I provided earlier. I have
12 zero doubt that there was perspectives or
13 misunderstandings in our organization that there might
14 have been guaranteed in place -- guarantees in place,
15 but that simply was not the fact. We were, at the time
16 that this was being developed -- and I believe that
17 this was actually a beta version of the tool that was
18 to be developed -- that it was the reality that we were
19 working 60 hours a week. But again, I can assure you I
20 spoke this week with the individual at Duke responsible
21 for administering this contract, and that simply was
22 not the case.

23 Q. Despite the fact that it's actually built
24 into the tool?

1 A. This is somebody's terminology who has very
2 little understanding of the actual terms of our
3 contract, so yes. I have no doubt that there were
4 potentials for misunderstandings or misconceptions
5 through the Duke organization about how the contracts
6 were administered. It's very easy for rumors to go
7 around, and that standpoint for somebody to hear
8 somebody make a statement and take that to be fact.
9 But no, it simply was not the case.

10 Q. Okay. But we agree that this is, in fact,
11 the RET tool?

12 A. This is a beta version of the tool. What we
13 were looking at is in the form and function of the
14 tool. I cannot speak to whether this version that we
15 see here was the specific version used at the time the
16 Williams estimate was. It may not have been.

17 MR. TRATHEN: Madam Chair, if you'd
18 please bear with me for one second.

19 COMMISSIONER DUFFLEY: And, actually,
20 this is a good time for our morning break. We will
21 take a 15-minute break and come back at 11:20.

22 (At this time, a recess was taken from
23 11:04 a.m. to 11:21 a.m.)

24 COMMISSIONER DUFFLEY: Okay. Let's go

1 back on the record. Mr. Trathen?

2 MR. TRATHEN: Yes. Thank you,

3 Chair Duffley. Can you hear me?

4 COMMISSIONER DUFFLEY: Yes.

5 MR. TRATHEN: Okay. We had been

6 promising some questions specific to

7 Mr. Scott Jennings, and we are ready to turn to

8 those, so I would hand the mic to Mr. Tynan.

9 Hopefully he is there.

10 MR. TYNAN: I'm here. Can you hear me?

11 COMMISSIONER DUFFLEY: Yes, we can hear

12 you. Mr. Trathen, can you mute your -- thank you.

13 CROSS EXAMINATION BY MR. TYNAN:

14 Q. Good morning, Mr. Jennings. Can you hear me?

15 A. (Scott Jennings) Yes, sir. Loud and clear.

16 Q. In your testimony, you refer to the fact that

17 you were the senior project manager responsible for

18 implementing Maximo; is that right?

19 A. The latest version that we use; that is

20 correct, yes.

21 Q. You were responsible for overseeing the

22 implementation of the version of Maximo that was

23 implemented in November 2017 for DEP?

24 A. Yes, sir.

1 Q. Was that an expensive process for DEP to
2 undertake?

3 A. It was an expensive project, yes. All
4 relative, of course.

5 Q. Safe to say that it cost millions of dollars
6 to do that?

7 A. Yes.

8 Q. Did Duke hope to be able to use Maximo to
9 generate accurate estimates for its own distribution
10 and transmission work?

11 A. Yes. That is the intent.

12 Q. Was Duke hoping to be able to generate
13 accurate estimates for interconnection projects for
14 interconnection customers using the Maximo?

15 A. The intent with Maximo, the implementation of
16 that system is to develop -- provide an average
17 baseline cost estimate -- cost estimate, excuse me,
18 that is representative of the entire portfolio of
19 distribution construction work that we perform. It is,
20 I would say, very focused on achieving repeatable,
21 accurate results, particularly as it relates to our
22 work for our retail customers.

23 Q. So when Maximo was implemented, DEP did not
24 expect that Maximo, itself, was going to generate

1 accurate estimates for interconnection customers; is
2 that right?

3 A. There was no consideration given to that
4 specific target audience at the time of the project.
5 There is a general -- again, just a general system
6 average cost-estimating tool.

7 Q. Was DEP aware in -- when it implemented
8 Maximo in 2017, that Maximo, itself, wouldn't be able
9 to generate accurate estimates for interconnection
10 customers?

11 A. I would say there was not any awareness or
12 even any consideration of that fact.

13 Q. Prior to the implementation of the RET, was
14 there another estimating tool like the RET that was
15 used to adjust estimates for interconnection customers?

16 A. No, not that I'm aware of.

17 Q. So the title "Revised Estimating Tool"
18 doesn't indicate that there was another estimating tool
19 prior to that version?

20 A. No. The "Revised" word in the title of the
21 RET just simply indicates that it is revising the
22 baseline cost estimate developed by Maximo.

23 Q. Were you involved in the development of the
24 RET?

1 A. No. I was not directly involved in the
2 development of the tool.

3 Q. Are you aware of the multivariate analysis
4 that was done in developing the tool?

5 A. I have familiarity with it; yes, sir.

6 Q. Have you seen that analysis?

7 A. I have seen examples of the data of that
8 analysis, yes, in the past.

9 Q. What did that analysis look like?

10 A. Just to try to simply describe it, it was
11 a -- you know, when you look at the cost-estimating
12 processes used, you know, we have to consider labor, we
13 have to consider lead and equipment, vehicles, we have
14 to consider materials cost. So what that analysis
15 process entailed, that led to the development of the
16 RET, was taking projects that had been completed -- and
17 specifically, obviously, solar interconnect projects
18 that had been completed -- taking the actual cost data
19 from those projects, breaking the actual cost data down
20 into those components of labor, materials, fleet, cost,
21 et cetera, comparing those to the -- what I will call
22 the, kind of, baseline estimating factors that are
23 produced by Maximo, and then taking the -- kind of the
24 delta there, and using that as a means for defining or

1 calculating the difference between the cost estimate
2 produced by Maximo versus the expected results that we
3 experience that are specific to the unique work
4 associated with solar interconnect projects.

5 Q. Duke's discovery responses indicate the data
6 that was used for the multivariate analysis was from
7 years 2015 to 2018; does that sound right to you?

8 A. So my understanding is that the projects --
9 the core projects that were used to develop the RET
10 were really from 2018. And there was then review and
11 benchmarking study of RET results against other
12 projects from the 2015 to 2017 timeline, but the core
13 assumptions that were used to develop the RET were
14 really centered around 2018 completed projects. Again,
15 as I stated, we took a range of projects from the past
16 several years' history to develop the first version of
17 the RET.

18 Q. Do you know what adjustments in the RET were
19 derived from the results of that multivariate analysis?

20 A. I may need you to be a little more specific
21 with that question.

22 Q. So the RET adjusts labor hours, labor rates,
23 vehicle costs, and other factors, contingencies,
24 overheads, or materials overheads.

1 Do you know which of those adjustments were
2 derived from the RET?

3 A. Um --

4 Q. Sorry. Excuse me. Derived from the
5 mul ti vari ate anal ysi s.

6 A. All of those.

7 Q. Do you know who performed the mul ti vari ate
8 anal ysi s?

9 A. I do.

10 Q. Who is that?

11 A. Beckton James, and there may be others from
12 the team, but Beckton was kind of the lead in
13 devel opi ng -- performi ng the anal ysi s and devel opi ng
14 the tool .

15 Q. Do you know if Mr. James has any statistical
16 experti se?

17 A. I do not know his speci fic experti se, and I
18 would state that the type of anal ysi s that was
19 performed is not incredi bly compl ex. Agai n, I'm just
20 tryi ng to expl ai n what we have done, is, agai n, taki ng
21 these esti mates down to their i ndi vi du al components, as
22 you've stated: materi al , labor, equi pment, et cetera.
23 Taki ng a sampli ng, groupi ng of compl eted projects and,
24 you know, averagi ng those resul ts to understand, on

1 average, what kind of variation we were seeing between
2 Maximo estimate and cost actuals on those projects.

3 Q. Do you know the statistical method that was
4 used in the multivariate analysis?

5 A. No, sir.

6 Q. You don't know if it was a multiple
7 regression?

8 A. No, sir, I do not.

9 Q. Did -- are you aware if the data that was
10 used for that analysis involved only projects for which
11 there were cost overruns or if there were also projects
12 in which costs came in under estimates?

13 A. It complete -- included all projects that had
14 been completed and trued up over that 2018 time period,
15 as I assume it -- we absolutely were not developing the
16 tool to try to inflate cost estimates by basing the
17 tool only on projects that had cost overruns. The tool
18 was developed to take a look at real results, both
19 high, low, good, bad, and ugly; understand the
20 differences or deltas against those actual results'
21 baseline to the Maximo estimate; and develop a tool
22 that could help to provide the customer a more
23 reflective estimate of what to expect at the time of
24 Facility Study.

1 Q. Was there any analysis of the statistical
2 significance of the results of the multivariate
3 analysis?

4 A. I do not know.

5 Q. On page 3 of your testimony, you indicated
6 that Facility Study estimate that was provided to
7 Williams Solar represents the current best estimate for
8 that project; is that right?

9 A. Could you refer me to a line in the
10 testimony, sir?

11 Q. Yes. One second. Page 3.

12 A. Okay. Line 19?

13 Q. Correct.

14 A. Okay.

15 Q. Is it a correct statement -- your testimony
16 is that the estimate that was provided to Williams
17 Solar on July 30, 2019, is DEP's current best estimate
18 of the cost of interconnecting that project?

19 A. It was our best estimate of the cost to
20 interconnect that project on July 30, 2019.

21 Q. Would it still be the best estimate if DEP
22 were to perform the study again today?

23 A. No, it would not.

24 Q. How would it be different now?

1 A. We continue to refine these estimating
2 methodologies. I think it's important to state that
3 we, on an annual basis, revisit the labor rates and
4 other assumptions in Maximo. So that's helping to
5 develop our baseline cost estimates. So those are
6 revisited and updated to reflect -- again, we are
7 talking about baseline system average labor costs in
8 Maximo. But those are updated every year by Duke. So
9 that variable would have changed between today and last
10 July.

11 In addition, as I understand it, there have
12 continued to be, you know, research and modifications
13 made to the RET to take the most recently available
14 cost data that we have to continue to refine that tool.
15 Again, our objective here is to do nothing but provide
16 what we feel, at that date and time, is the most
17 reasonably expected cost estimate for the project.

18 Q. If you were to reestimate the Williams Solar
19 project today, do you know if the costs would have been
20 higher or lower than they were on -- estimated to be on
21 July 30, 2019?

22 A. I have no idea.

23 Q. In your testimony, you talk about compatible
24 units. Can you explain what compatible units are?

1 A. Sure. A compatible unit is kind of the
2 building block in Maximo that is used to develop cost
3 estimates. So I will just give you an example. A
4 pole -- a 40-foot class 5 pole, at that level of
5 detail, is a compatible unit. When a designer adds
6 that to their design, that tells our estimating system
7 what material items are needed, and it tells our
8 estimating system the expected labor duration that
9 would be required to install that pole, and it tells
10 our system the type of labor resource that would be
11 required to install that pole. So that is the
12 foundational building block for the design process in
13 Maximo, and that is an industry standard term and
14 concept.

15 Q. So after the -- let me back up.

16 Can you give me an example of what kind of
17 compatible units were used to generate the estimate for
18 the Williams Solar Facility Study?

19 A. Sure. I mean, it's literally in -- our
20 compatible unit library for DEP is about 3,000 items.
21 Williams Solar, we would have had a variety of
22 different poles, wire, insulators, cross arms,
23 transformers, switching, lightning arresters,
24 et cetera. Each of those components is broken down to

1 individual compatible units.

2 Q. Is there a compatible unit for line
3 reconductoring work?

4 A. There is a compatible unit for what I would
5 call -- describe as the temporary layout of wire needed
6 to do a reconductor. So yes, there is a compatible
7 unit associated with that.

8 Q. Would a compatible unit for reconductoring
9 work pull in labor rates for other reconductoring work,
10 or would it pull in labor rates just system-wide
11 generally, or work done by DEP?

12 A. It is a -- it is a system average. And,
13 again, there is two components. I want to be very
14 clear. There is a time duration. So the compatible
15 unit might say that this activity of weighing that wire
16 for a reconductor requires high man hours. And I'm
17 just making up a hypothetical number. So that is
18 standard across Duke enterprise. What is unique is the
19 labor rate. Each of our Duke jurisdictions has
20 different labor rates based on our expenses: DEP, DEC,
21 DEF, et cetera, that is applied against the labor hours
22 to develop a cost estimate. But again, that is
23 a -- you know, very much an average.

24 Q. Do you know how Duke's finance department

1 calculates overheads on materials?

2 A. I have familiarity with it, yes.

3 Q. Is that different from the process that's --
4 that was used to calculate the appropriate materials
5 overheads in the RET?

6 A. It is. Again, all of this comes back to
7 system averages. And so when our finance department,
8 they typically calculate these and update these in the
9 system once per year, they will calculate an average
10 material overhead rate for each of our operating
11 companies. What was done in the development of the RET
12 was, again, taking a look at completed projects and
13 evaluating for this particular type of work the exact
14 overhead percentages that we would see on general line
15 upgrade work and interconnection projects.

16 Q. Is there a reason why the materials overheads
17 for Duke's own projects would be different for the
18 materials overheads for interconnection projects?

19 A. I honestly don't have enough expertise to
20 speak to that. I know that there is a lot of
21 complexities within our financial systems about how --
22 how and when overheads are applied to projects. So I
23 can't really go any deeper than that.

24 Q. Do you know how the materials overheads that

1 appear in the RET tool were developed?

2 A. I think, as I stated, looking at the
3 completed interconnect projects from recent history, we
4 evaluated what were the actual overhead percentages
5 that were applied by our financial systems to those
6 projects and considered that for purposes of the RET,
7 what would be expected on a solar interconnect. Again,
8 I think it's key for everybody to remember in this
9 discussion that we are talking about estimates. We are
10 talking about expected results. At the end of the day,
11 the financial systems will apply overheads consistently
12 at the point in time at which the work is being
13 performed to all of the work that Duke performs that
14 would be reported against any project. Take Williams
15 Solar as an example. And at the end of the day, the
16 overheads that are applied is going to be dependent
17 upon when the work is performed, and Williams Solar or
18 any other interconnect customer would only pay Duke for
19 the actual overheads that are incurred on the project.

20 Q. Mr. Jennings, do you have Williams Solar
21 Exhibit 2 of our potential cross examination exhibits
22 available to you?

23 A. I will get it in just one minute.

24 (Witness peruses document.)

1 I may need -- let's see. You said Exhibit 2?

2 Q. Correct.

3 COMMISSIONER DUFFLEY: Mr. Tynan, do you
4 want to label or identify this exhibit?

5 MR. TYNAN: Yes. Please label this as
6 Williams Solar Cross Exhibit 5.

7 COMMISSIONER DUFFLEY: The Commission
8 will label this Williams Cross Examination
9 Exhibit 5.

10 (Williams Solar Cross Exhibit Number 5
11 was marked for identification.)

12 Q. Mr. Jennings --

13 A. (Kenneth Jennings) Mr. Tynan, can you
14 describe the exhibit real quick so I can be sure that
15 I'm on it as well?

16 Q. Yes. It's a one-page document that has two
17 charts on it, one for man-hour labor rate and the other
18 for labor overhead percentage.

19 A. Got it. Thank you.

20 Q. Mr. Jennings, are you familiar with this
21 document?

22 A. (Scott Jennings) I am.

23 Q. Can you tell me what the labor overhead
24 percent rate that Duke was experiencing in 2019 was?

1 A. According to this table, 52 percent.

2 Q. Are you familiar with the overhead percentage
3 for labor that is applied in the RET?

4 A. I believe it is a figure less than that. I
5 don't remember the exact figure.

6 Q. Does 25 percent sound like it's right to you?

7 A. That sounds very feasible, yes.

8 Q. Do you know why the labor overhead percentage
9 for interconnection customer projects would be
10 25 percent versus 52 percent or Duke's, I guess, system
11 average?

12 A. Yeah. Again, there are a lot of nuances
13 about how our financial systems apply overheads to
14 different types of work. And I am not an expert on
15 this, but a lot of that has to do with the duration
16 that a project is open, timing of charges. There are a
17 variety of factors that input these, okay. And so what
18 we use in Maximo, that is what is displayed here in
19 this Exhibit 2. What we use in Maximo is a, again,
20 system average labor overhead rate that is developed on
21 an annual basis by our finance organization.

22 Again, as I described with the material
23 overheads, what we did in developing the RET was look
24 at actual completed solar projects, we looked at the

1 overhead percentages that were incurred on those
2 completed solar projects, and recognized that it was,
3 in this case, lower than our system average, and
4 therefore, we updated the estimates accordingly to,
5 again, try to meet the result of providing what we
6 believe would be the most reasonable or expected cost
7 estimate for this specific type of work scope.

8 Q. To your knowledge, did DEP produce in this
9 case the actual RET file that generated the Williams
10 Solar Facility Study estimate?

11 A. I do not know.

12 Q. Do you know if such a document exists?

13 A. I would imagine that it does, but I do not
14 know.

15 Q. Are there -- is there any other documentation
16 of the Facility Study, besides the email that is sent
17 to a customer, giving the results of the Facility
18 Study?

19 A. Not -- not that I'm aware of. That's
20 honestly a little bit outside of my area of expertise
21 in terms of what is compiled and sent to the customer.

22 Q. Did the project data that went into the
23 multivariate analysis that led to the RET reflect costs
24 that were incurred as a result of unforeseen events,

1 contingencies?

2 A. They reflected actual cost of completed
3 projects, yes.

4 Q. So the labor adjustment that comes out of the
5 RET is based on the fact that some of the data that
6 went -- some of the projects which the data -- there
7 was data supporting the RET, had contingent events
8 occur that increased the labor hours above what Maximo
9 had projected; is that right?

10 A. I believe that would be the case, yes.

11 Q. And so does the labor hours adjustment in the
12 RET already account for contingencies that might occur
13 on a given project?

14 A. To be very clear, I would need a minute to
15 review the materials and try to confirm an answer for
16 that, but no, I don't believe that is the case. It'd
17 certainly, I'd say, organically, potentially have the
18 ability for some contingency-type circumstances to be,
19 you know, pulled into the analysis that was done, but,
20 you know, again, to be very clear, we want to make --
21 we were trying to make a good faith effort here to
22 provide what we expect to be a reasonably accurate
23 estimate.

24 Q. So did the multivariate analysis exclude

1 projects where unforeseen events caused increases in
2 actual costs above the estimated costs?

3 A. My understanding is that there were
4 allowances -- or allowance may not be the right term,
5 but, you know, that a detailed review was undertaken
6 for the study projects used to develop the RET, that
7 outlier situations were excluded from that so that we
8 could try to get down to a more, you know,
9 apples-to-apples project cost consideration. And I
10 will just give, you know, examples.

11 Something that we incur on some of these
12 projects that is very unforeseen might be matting
13 required to access wet areas. Those could be very
14 clearly identified costs that we would recognize as,
15 you know, contingency. And from my understanding,
16 those types of scenarios were not included into the
17 billed-out base labor assumptions in the RET.

18 Q. I thought your earlier testimony was that the
19 multivariate analysis underlying the RET included all
20 of the projects that came online in 2018; is that
21 wrong?

22 A. I am aware that is the case. I don't think I
23 just said anything that would change that. I didn't
24 say that we left projects out. What I indicated is

1 that we did detailed analysis of the completed projects
2 and identified actual cost on those projects that we
3 would consider baseline project cost versus experiences
4 on those projects, as is matting or other things were
5 much more unforeseen, and I treated those differently
6 in terms of developing the RET.

7 Q. The -- have you been involved in developing
8 any tools like the RET for DEP?

9 A. I have not personally; no, sir.

10 MR. TYNAN: I have no further questions
11 for the witness.

12 MR. TRATHEN: Madam Chair, we tender the
13 witnesses. No further questions from Williams.

14 COMMISSIONER DUFFLEY: Redirect,
15 Mr. Jirak?

16 MR. JIRAK: Commissioner Duffley, would
17 you prefer to have Commissioner questions first or
18 redirect first?

19 COMMISSIONER DUFFLEY: Redirect first,
20 then we will do Commission questions, and then
21 questions on Commission questions.

22 MR. JIRAK: Okay. Got it. Give me one
23 minute and we will start.

24 REDIRECT EXAMINATION BY MR. JIRAK:

1 Q. All right. Let's -- let's start with just
2 the most recent set of questions, Mr. Scott Jennings,
3 that were asked of you with respect to Maximo and the
4 application of the RET.

5 Do you recall those questions from counsel
6 for GreenGo?

7 A. (Scott Jennings) Yes, I do.

8 Q. Now, there were some questions -- let's start
9 with questions regarding the manner in which overheads
10 are applied to interconnection projects.

11 Can you comment with respect to the manner in
12 which actual overheads are applied -- Duke corporate
13 overheads are applied to interconnection distribution
14 project --

15 COURT REPORTER: Excuse me. Excuse me.
16 This is the court reporter. I was trying to unmute
17 myself. I didn't catch that whole question. It
18 was a little choppy. Can we take a step back?

19 MR. JIRAK: Okay.

20 COURT REPORTER: Thank you.

21 MR. JIRAK: We can. Sure. So -- and if
22 you continue to have a problem, let me know. I
23 appear to be having a little bit of lag here, and I
24 can try a different room where maybe the connection

1 is better. So please let me know.

2 Q. All right. Mr. Jennings, you were asked a
3 number of questions regarding Maximo and RET, and
4 specifically regarding the application of Duke
5 overheads, and I asked you to comment on the manner in
6 which Duke applies its corporate overheads to
7 interconnection distribution projects as compared with
8 retail distribution projects when a project is actually
9 constructed.

10 Could you please reiterate -- restate your
11 comment on that issue?

12 A. Yes, sir. Our financial systems apply
13 consistently across all types of --

14 COURT REPORTER: Excuse me. I
15 apologize. Again, I didn't catch that answer. I
16 think, Mr. Jirak, you were shuffling some papers so
17 it was breaking up his answer a little bit.

18 MR. JIRAK: My apologies.

19 COURT REPORTER: No problem. Thank you
20 very much. If you could repeat your answer,
21 Mr. Jennings.

22 THE WITNESS: Yes, ma'am. Third time's
23 a charm.

24 COURT REPORTER: Thank you.

1 THE WITNESS: The response to that is
2 that our systems -- financial systems apply
3 overheads consistently across all types of
4 distribution projects. There is no distinction for
5 solar interconnects receiving different treatment
6 of overheads.

7 Q. And I have asked my colleagues here to smack
8 my hands if I start to shuffle papers again, so I
9 apologize for that.

10 Mr. Jennings, the cost estimation that's
11 performed through the RET is intended to project what
12 overheads will be applied to future, correct?

13 A. Yes, that is correct.

14 Q. But the interconnection customer that --
15 (audio breaking up) -- would only pay the actual
16 overhead cost assigned, correct?

17 A. Jack, you're continuing to break up pretty
18 bad. We may need to make an adjustment here.

19 MR. JIRAK: Okay. Commissioner Duffley,
20 if I could turn my video off one minute, I will
21 relocate to another room and see if that fixes the
22 problem.

23 COMMISSIONER DUFFLEY: That is fine.
24 Please move.

1 MR. JIRAK: I'm hoping if I go to a
2 different room there is a different network -- not
3 network, but different --

4 (Pause.)

5 MR. JIRAK: All right.
6 Commissioner Duffley, Ms. Needham, I relocated to a
7 new room. I'm hoping that access to a different
8 network may help this problem. If it continues,
9 Commissioner Duffley, I might suggest that we do an
10 early lunch break, and we could kind of work out
11 the technical issues here.

12 COMMISSIONER DUFFLEY: I think that
13 would be a good suggestion.

14 Court reporter and Scott Jennings, does
15 he seem better to both of you?

16 THE WITNESS: (Scott Jennings) Yes,
17 ma'am.

18 COURT REPORTER: Yes. Sounds better.

19 MR. JIRAK: Yeah. Okay. I will
20 continue -- I'll try to get -- I'm still getting
21 the same message on my end that the low bandwidth
22 is interfering with my video, so just stop me if we
23 need to stop, and we'll spend time over lunch
24 figuring this out.

1 COMMISSIONER DUFFLEY: You may proceed.

2 MR. JIRAK: Thank you. Apologies for
3 the distraction.

4 Q. Mr. Jennings, with respect to the adjustments
5 that are made by the RET, can you -- can you comment
6 further on the types of adjustments that the RET makes
7 with respect to the Maximo estimates?

8 A. I can. And again, it kind of goes back to
9 those individual building blocks of the estimating
10 process for distribution line work. You know, we look
11 at materials. Materials are honestly one of the things
12 that we are able to forecast most consistently. They
13 have less variation in them. Beyond that, we look at
14 specifically the type of labor resources that perform
15 this interconnect work, recognize that they are more
16 larger crews, higher per-hour crew costs. So we look
17 at that. We look at the typical -- you know, the -- we
18 will call it the crew capacity, how many productive
19 hours they are able to achieve in a week, which is
20 highly driven by site conditions and site location,
21 distance from Duke facilities. And then, beyond that,
22 we consider inflation as a percentage of the RET
23 adjustments, and then the contingency. And as we
24 talked in detail about the overhead and the actual

1 overhead percentages we would expect to see.

2 Q. And would you agree that the basic building
3 blocks of a cost estimate in the RET are the same as
4 the basic building blocks of a cost estimate generated
5 Maximo?

6 A. Yes, sir. Materials, labor, fleet equipment,
7 et cetera.

8 Q. And are you aware of any part in this
9 proceeding -- whether GreenGo has challenged the
10 assumed labor rates that are imbedded in the RET?

11 A. I have not heard any challenge to that; no,
12 sir.

13 Q. And have you heard -- have you heard any
14 challenge to the assumed vehicle costs that are assumed
15 in the RET?

16 A. I have not.

17 Q. And have you heard any challenges to the
18 materials cost estimates that are in the RET?

19 A. No, I have not.

20 Q. Please, Mr. Jennings, if you could just
21 briefly comment on what the Company has done with
22 respect to benchmarking the RET? And if other
23 witnesses want to weigh in, they can as well.

24 A. I can start with that. You know, so once the

1 RET was put into place in the summer last year, we did
2 begin -- and I mentioned this earlier. We are
3 constantly trying to refine our estimating processes,
4 and specifically the RET. So what we have done is
5 undertaken some benchmark in projects that have been
6 completed in the last 8 to 10 months since the RET was
7 put into service. And what that analysis has shown us
8 at a high level is that the RET is helping us to
9 provide a cost estimate that is much more in line with
10 the cost actuals that we achieve, around the
11 neighborhood of about a -- maybe within typically
12 10 percent. The RET may be leaning a little bit on the
13 high side, but with then probably about a 10 percent
14 high average accuracy rate, which we feel very good
15 about.

16 A. (Steven Holmes) This is Steve Holmes. I'd
17 just like to add, if I may, the analysis that I
18 conducted on the same dataset, around 60 projects,
19 demonstrated that the class of estimate expected with
20 the class 3 estimate, and the range of outcomes was
21 well aligned with that seen from the analysis.

22 Q. Thank you, Mr. Holmes. All right.
23 Mr. Holmes, while I have you, you were asked some
24 questions yesterday regarding the AACE estimation

1 classification system.

2 Do you recall those questions from counsel
3 for GreenGo?

4 A. I do.

5 Q. And please reiterate your opinion regarding
6 the basis -- the manner in which an expert like
7 yourself goes about establishing or determining the
8 class of an estimate.

9 A. Certainly. Well, using the AACE guidance
10 that was Exhibit 1 in my testimony as a basis, it's
11 important to understand the characteristics and the
12 definition of deliverables that are specific to this
13 type of work to validate the class of the estimate.
14 Using Table 3 in that document is noted within the
15 document by AACE as being the most objective way to
16 determine definition and class of an estimate. So
17 wherever possible, I would use that table heavily.

18 Q. Okay. And as you look at that table and
19 think about what's typically known as a System Impact
20 Study estimate point in time, what is your opinion
21 regarding the proper classification of that estimate?

22 A. Class 5.

23 Q. Okay. Could you explain on what basis you
24 reached that conclusion?

1 A. Yes. Certainly. At the time of the System
2 Impact Study, there are several of the deliverables
3 that are either not known, not defined, or not
4 considered in the estimating methodology, the System
5 Impact Study. I am gonna read you a list. It's not
6 all inclusive, but things like right-of-way strategy,
7 having an integrated project plan, stakeholder
8 consultation requirements, project master schedule,
9 procurement contract and strategy, route mapping
10 survey, structure location, land and right-of-way title
11 negotiation, civil site preparation or access road
12 work, specifications and data sheets. And as I look at
13 those deliverables, it aligns closely with the
14 expectations of a class 5 estimate. To be at a class
15 4, you would need to have done some definition of those
16 deliverables and it be effected into the estimate,
17 which is not the case for us.

18 Q. Okay. Along the same lines, could you just
19 reiterate your perspective with respect to the level --
20 the proper classification for the cost estimates that
21 are delivered at the time of the Facility Study?

22 A. Yeah. I believe class 3.

23 Q. Okay. And can you please provide some
24 more -- again, reiterate why it is that you reached

1 that conclusion?

2 A. Yeah. Again, by looking at the set of
3 deliverables, many of those that I have just
4 referenced, would have been advanced summary be
5 completed. But honestly, to be at a class 2, based on
6 that method of analysis, every single item on this
7 sheet would either be defined or completed. And we
8 know that is not the case.

9 Q. Thank you, Mr. Holmes. For the
10 Commissioners' benefit, Mr. Holmes, can you just
11 comment generally why thinking about classes of
12 estimates is important as we think about the cost
13 estimation that occurs in interconnection process? Why
14 is that relevant to the issues at hand in this
15 proceeding?

16 A. So it's relevant because it sets expectations
17 on expected ranges of outcomes after you have included
18 contingency. The ranges within the AACE guidance say
19 that, with a reasonable amount of contingency,
20 80 percent of projects should fall within those bands.
21 So it really gives you a good expectation of how your
22 estimate may evolve.

23 Q. Okay. And comment on the relationship of
24 contingency to the expected accuracy range, please.

1 A. Yeah. So really they are two separate
2 things. The expected accuracy is for a level -- for an
3 estimate that is defined to the level noted. What
4 should you expect the outcome to be? There is an
5 expectation that contingency is included in that level.

6 Q. And do the AACE cost estimation guidance
7 documents specifically contemplate that contingency
8 should be layered on before the accuracy range is set?

9 A. Yes, they do.

10 Q. Let me turn -- on this topic of cost
11 estimation and classification, let me turn the question
12 to Mr. Ken Jennings.

13 Is it possible -- does the Company have the
14 ability to do the work that would be necessary to
15 generate cost estimates interconnection process that
16 are more like class 3 or class 2 estimates?

17 A. (Kenneth Jennings) Absolutely. I think we
18 could, just not in the current framework, you know, the
19 current timelines that we are trying to meet, and if we
20 did, it would certainly expand the timeline, increase
21 the cost. It would just be a different process, for
22 sure. When I say "cost," I mean -- when I say "cost,"
23 I mean the cost of actually performing the study. You
24 know what I mean?

1 Q. Okay. Yeah. And would you agree that, like
2 with much, an interconnection process, there are always
3 balances and tradeoffs between costs, and efficiency,
4 and timelines that are always being balanced with an
5 interconnection process?

6 A. That's correct.

7 Q. Mr. Jennings, I will stay with you.
8 Mr. Kenneth Jennings, I want to stay with you to ask
9 some questions -- to revisit some questions that you
10 were asked concerning the Company's investigation of
11 cost discrepancies with respect to its inter- --
12 distribution interconnection projects.

13 Do you remember those questions?

14 A. Yes, I do.

15 Q. So for the benefit of the Commission, could
16 you once again talk about the process by which the
17 Company reached the determination that a change was
18 needed in its cost estimating methodologies?

19 A. So after we received the Commission directive
20 from the REPS order stating that we should make every
21 effort to assign costs associated with interconnection
22 to the interconnection customer, we began in early 2018
23 to study or begin to collect the data, and that
24 included examining the data that went into the DET

1 administrative overheads. We began to look at cost
2 comparisons of actual projects from estimate to actual,
3 and that took some time even to pull that information
4 together to begin to create any kind of database.

5 So going into -- by the end of 2018, we
6 were -- we were able to actually produce a final
7 accounting report, and we issued about 12 final
8 accounting reports in the fourth quarter of 2018. And
9 as I mentioned earlier to Mr. Trathen, the key or the
10 linchpin to actually being able to perform an adequate
11 analysis to implement a change to the process was based
12 on that -- that final accounting report. We actually
13 had the comparisons. So we started issuing the final
14 accounting reports, and then in early 2019, we begin to
15 work on a solution, and it took us, you know, up until
16 the middle of 2019 to actually verify and test that
17 analysis.

18 Q. And you mentioned final accounting reports
19 that were delivered in the end of 2018.

20 How many did you reference?

21 A. Twelve.

22 Q. And how many final accounting reports were
23 delivered in the first and second and third quarters of
24 20- -- or first and second quarter of 2018?

1 A. I don't know that answer off the top of my
2 head. I'm guessing about --

3 Q. I'm sorry. I think you -- when were -- the
4 12 final accounting reports you delivered in 2018, do
5 you recall approximately when those were delivered?

6 A. Yeah. Before the end of -- between the
7 beginning of the fourth quarter and the end of the
8 fourth quarter 2018.

9 Q. And those were all of the final accounting
10 reports, to your knowledge, that were delivered in
11 2018, correct?

12 A. That's all we had, yes.

13 Q. So, to the best of your knowledge, there were
14 no final accounting reports delivered in the first and
15 second quarter of 2018?

16 A. No, there were not.

17 Q. Okay. Did you believe you had sufficient
18 information to make a fundamental change to your
19 estimating process based on those 12 final accounting
20 reports that you had in 2018?

21 A. No. I did not have enough information.
22 There wasn't enough information to -- to identify a
23 pattern. Wasn't enough information to actually
24 conclude that there was a systemic issue or any

1 other -- there wasn't anything conclusory about it at
2 all.

3 Q. And this period of time we are referencing in
4 which the first set of final accounting reports were
5 delivered in the fourth quarter, was that also the same
6 point in time at which the Williams' System Impact
7 Study was being performed?

8 A. Yes, it was.

9 Q. Mr. Kenneth Jennings, let's stay with you.
10 You were asked some questions regarding the Company's
11 DET administrative overheads.

12 Do you recall those questions?

13 A. Yes.

14 Q. And can you briefly explain the categories of
15 costs that are intended to be recovered by DET
16 administrative overheads?

17 A. Sure. So the account management group that
18 reports to me are all -- are all staff that is
19 interacting, and working with developers on their
20 projects, and keeping communication with the
21 developers. They are drafting interconnection
22 agreements, providing purchase power agreements, but
23 none of them are directly billing costs to the project.
24 So we don't have specific project codes for the account

1 management group. So it's more of a kind of labor
2 associated with study process, but not directly
3 billing, such as an engineer that's performing a System
4 Impact Study or a Facility Study.

5 Other costs include the software that we use
6 to capture the interconnection request and track that
7 interconnection request through its lifecycle, and
8 that's called Salesforce, and there is actually IT
9 folks that are supporting the Salesforce upgrades and
10 maintenance, and that's an ongoing process in itself,
11 to maintain and enhance the interconnection request
12 system. And that system is more than \$1 million a
13 year. There is also costs associated with the
14 renewable service center who are not necessarily
15 billing any charges to direct projects. We have
16 another team that is actually overseeing the
17 contractors that are performing the studies. They are
18 called -- they work in the distribution group. They
19 are called the distributed generation group, and they
20 are generally in the overheads as well.

21 So over the process of, you know, developing
22 an interconnection process, there is just a number of
23 people that are involved, and those costs are now being
24 attributed to the interconnection customers, and that

1 makes up generally what the DET administrative
2 overheads are.

3 Q. Thank you, Mr. Jennings. The costs that you
4 just described, would you agree that, generally
5 speaking, they are all costs that are solely incurred
6 to facilitate the interconnection process in the state
7 of North Carolina?

8 A. Absolutely.

9 Q. And why is it that the Company is seeking to
10 recover those costs from interconnection customers
11 through the DET administration overhead?

12 A. We had -- we had initially attempted to
13 recover that cost through the REPS rider with the
14 assumption that the intent was to produce renewable
15 energy to comply with the REPS requirements. And then,
16 in the 2017 REPS proceeding, the Commission issued a
17 directive that we should not be recovering that cost
18 from REPS. We should be recovering that directly from
19 interconnection customers.

20 Q. And were the DET administrative overhead
21 charges established specifically in response to the
22 Commission's order in that proceeding?

23 A. Yes.

24 Q. And can you explain -- we won't -- I won't

1 make you turn to it, but you were pointed to an exhibit
2 from Mr. Burke's rebuttal testimony that shows the
3 schedule of DET administrative overheads.

4 Are you familiar with that schedule?

5 A. Yes.

6 Q. Okay. Can you explain, just briefly, the
7 logic behind that schedule and why it is that the DET
8 administrative overheads are -- different amounts are
9 charged at different points in the interconnection
10 process?

11 A. The assumption is that the longer that a
12 project remains in the queue, the more time that the
13 resources supporting the project are working on it, and
14 therefore, just basic cost causation principles. The
15 further a project goes, the more resources are expended
16 to support that project. And so it is -- through the
17 phases of the study process, there are incremental
18 additions to the -- to the overhead cost.

19 Q. Okay. So the intent of the layered DET
20 administration costs -- administrative cost charges is
21 to recognize that the longer a project stays in the
22 interconnection process, the more touch points are
23 required on the DE- -- on the Duke side?

24 A. That's true. For instance, the project that

1 we talked about earlier, the one that had \$242 of
2 direct cost. So the direct cost was actually engineers
3 that had looked at that project. Obviously, it wasn't
4 a lot of work done, because it was only \$242, but the
5 initial \$500 was the estimated cost of actually
6 receiving the application and processing it, and
7 getting the -- and then getting the project entered
8 into the Salesforce application and issuing a queue
9 number, there is an addition of another \$2,000, \$2,500.
10 That's how we get to \$3,000. Ultimately, a project
11 that stays in the queue up to System Impact Study will
12 ultimately have about a \$12,000 overhead obligation.
13 One that goes to Facility Study will have an \$18,000
14 obligation. And I believe that when they get to IA
15 it's \$20,000.

16 Q. Okay. And again, implementation of this DET
17 administrative overhead, the genesis was the REPS
18 order.

19 In the Commission's most recent 2019 order in
20 Docket E-100, Sub 101, did the Commission reiterate the
21 direction to Duke to recover reasonable overhead
22 expenses from interconnection customers?

23 A. Yes.

24 Q. Okay. And did the Commission, in giving that

1 direction, identify a specific schedule of overhead
2 costs? There was no identification of a specific
3 schedule in their order, was there?

4 A. No.

5 Q. So was it your understanding that Duke has an
6 obligation to collect those -- these administrative
7 costs from interconnection customers, even though there
8 was no particular schedule approved by the Commission
9 in its order?

10 A. That's my understanding.

11 Q. Okay.

12 MR. JIRAK: I want to -- just a couple
13 more lines of redirect, Commissioner Duffley.

14 Q. Let me begin with Mr. Scott Jennings just to
15 revisit the Facility Study estimate that was delivered
16 to Williams Solar in this proceeding.

17 Mr. Jennings, is it your testimony that you
18 believe that is a -- the Company's best estimate of the
19 cost to interconnect the Williams Solar facility?

20 A. (Scott Jennings) At that point in time; yes,
21 sir.

22 Q. And that estimate was generated and based on
23 adjustments that the Company has made based on actual
24 projects that had been constructed by Duke, correct?

1 A. Yes, that is correct.

2 Q. And to the extent that that estimate -- in
3 the end, if the project was actually built, if that
4 estimate is higher than the actual cost, will Williams
5 Solar receive a refund of the difference?

6 A. Yes, they would.

7 Q. And do you believe that the implementation of
8 the RET was a prudent decision consistent with good
9 utility practice to improve the cost estimates
10 delivered to customers the Facility Study process?

11 A. I do. We have tried to take what I would
12 consider, again, an average baseline estimating system
13 in Maximo, take our experience learned doing a specific
14 type of work, and apply that to developing a tool that
15 can produce more accurate estimates, and that
16 absolutely has occurred in good faith and consistent
17 with good utility practice.

18 Q. And does the fact that the estimate is now
19 generated through a two-step process at all change your
20 conclusion that this estimating methodology is entirely
21 consistent with good utility practice?

22 A. Does not change that. I see that as nothing
23 but a positive in that we are working to try to tailor
24 the cost estimate to a very unique, specific work type.

1 Q. Okay. Mr. Ken Jennings, just a few last
2 questions for you.

3 In your testimony, is it the case that you --
4 that Duke -- that you and Duke has absolutely
5 acknowledged that there have been -- there has been a
6 substantial pattern of cost overruns on actually
7 constructed projects, correct?

8 A. (Kenneth Jennings) So I would say that there
9 have been some substantial cost overruns. In general,
10 you know, we have examined 93 projects. Out of 93
11 projects, I think 55 of them the variance is under
12 \$100,000. I think -- I think -- I think it's 75 or
13 80 percent of them were under \$500,000. So it's still
14 something we want to correct, and we are working with
15 developers actively to solve these issues.

16 Q. And thank you, Mr. Kenneth Jennings.

17 And it was the -- it was the reality of the
18 final accounting reports and those exceedances that we
19 saw that caused us to make this change, correct?

20 A. Correct.

21 Q. Because we do not want to put interconnection
22 customers in the future in facing cost exceedances?

23 A. Correct.

24 Q. And, again, as you look back at the records

1 regarding actual cost compared with estimated costs,
2 could you reiterate, how many of the projects that you
3 have looked at -- just reiterate. How many projects
4 looked at, in total, of how many of them had cost
5 overruns less -- around -- sorry, equal to or less than
6 \$100,000?

7 A. That was 55 of 93.

8 Q. Okay. So in terms of absolute dollars, the
9 cost exceedances we are seeing for many, many projects
10 is not substantial relative to the scale of these
11 projects?

12 A. That's correct.

13 Q. And going forward into the future,
14 Mr. Jennings, have you been engaging with the solar
15 development community on a wide variety of issues in
16 the past months?

17 A. Yes.

18 Q. Please provide a few more details regarding
19 how you have been engaging with the solar development
20 community in the state of North Carolina over the past
21 months.

22 A. For about a year we have been working
23 collaboratively with solar developers on the
24 interconnection process and the improvements for the

1 interconnection process in something that we call queue
2 reform, and it is a transition to a different structure
3 of interconnection that would -- that -- well,
4 actually, increase certainty of the timelines, enhance
5 the -- decrease the total time that it takes to produce
6 an interconnection. And through that, we have also
7 actually worked through some cost issues. We are still
8 actively collaborating on the cost control measures,
9 but I feel like we are -- we are not that far apart on
10 the banding, and the variety of issues that we could
11 address that will provide developers more certainty
12 about their projects and less unexpectedness when it
13 comes to cost.

14 Q. So would you agree that the improvements in
15 the cost estimation methodology that were applied to
16 the Williams Solar are part of an overall effort by the
17 Company to improve the interconnection cost certainty
18 for customers, but it's only one part; it's also
19 occurring in your discussions with the solar
20 development community in the context of queue reform as
21 well?

22 A. That's correct.

23 MR. JIRAK: Thank you,
24 Commissioner Duffley. I have no further questions

1 at this time.

2 COMMISSIONER DUFFLEY: Questions from
3 the Commission? Chair Mitchell.

4 EXAMINATION BY CHAIR MITCHELL:

5 Q. All right. I'm just gonna ask my questions,
6 and whoever is in the best position to answer them,
7 please do so. And if that's multiple of you, that's
8 perfectly fine with me. All right.

9 So the Company begins -- as I understand
10 y'all's testimony today, the Company begins
11 investigating cost discrepancies between the estimates
12 and the as-builts, or what we have been calling the
13 actuals, in 2018, and that investigation emanated from
14 projects that were constructed, placed in service in
15 2017; do I understand that correctly?

16 A. (Kenneth Jennings) I think so, yeah.

17 Q. I just want to make sure I'm sort of grounded
18 correctly.

19 So prior to the 2017 -- those 2017 projects,
20 had the Company not experienced cost overruns with
21 these projects? I mean, sort of help me understand
22 what was happening for those projects that were
23 developed and placed in service 2012, 2013, 2014, 2015,
24 because we know we had a number of projects, you know,

1 distribution-tied projects, 5 megawatts coming online
2 during that time frame. Were you-all -- were there
3 just no cost overruns with those, or was it not as
4 significant of an issue as it became?

5 A. So I don't think it was a significant issue
6 at that time. I will say that we were not performing
7 the final accounting reports at the time, because
8 Interconnection Procedures didn't have the same
9 directive, and we did not recognize the same directive
10 from the Commission that we had in 2017.

11 Q. Okay. But just so I'm clear, that, the final
12 accounting provision in the Interconnection Procedures,
13 existed at that time, I believe; but what you're saying
14 is the Commission's directive that costs be recovered
15 from interconnection customers came in that 2017 REPS
16 order?

17 A. Correct.

18 Q. Okay. And is it the Company's position that
19 that directive that was made clear by the Commission
20 back in that 2017 order was the first time, or was a
21 change in -- was a change in policy or -- I mean, was
22 the Company's position that, prior to that order, that
23 costs could be imposed on the system -- or costs would
24 be borne by the system that were imposed by the

1 interconnecting customer? If my question is not clear,
2 I will ask it, because, admittedly, it might not be --
3 it might not be clear.

4 A. I think -- I think I understand your
5 question.

6 Q. Okay.

7 A. So I think it's a little bit of both. So I
8 think that, absent the directive, we did not feel like
9 there was a mandate to true up the projects. At the
10 time, we did not believe that there was a disparity
11 variance between the estimate and the actual, and so we
12 were not -- we were not performing the activity of
13 trueing up on a regular basis.

14 Q. Okay. All right. That's helpful. Thank
15 you, Mr. Jennings. In -- the interconnection docket is
16 one of those -- and I'm specifically referring to
17 E-100, Sub 101, just for purposes of the record. I
18 think that we would all agree that that's the docket
19 that never ends. One of the many that we are engaged
20 in here, but.

21 So, you know, that docket has been ongoing,
22 like I said, for years, but during the 2017, 2018, 2019
23 time period, you know, there were revisions proposed to
24 and ultimately accepted by the Commission to the

1 Interconnection Procedures that we have discussed
2 somewhat over the past day and a half. But those
3 revisions really go to the issues that we're discussing
4 today. I mean, we have talked about the revisions to
5 the definitions of the preliminary estimated
6 interconnection facilities charge and the preliminary
7 estimated upgrade charge. Also, there was a change to
8 Section 4.3.8 that related to the provision of an
9 interim interconnection agreement following the results
10 of the System Impact Study. And those, it's my
11 understanding, just based on quick review of the record
12 in that -- or the docket in E-100, Sub 101, that those
13 changes were proposed by the Company in late 2017. So,
14 you know, those -- it just seems to me that the
15 Company -- there was a reason why the Company proposed
16 those changes.

17 And, Mr. Jennings, to the extent that you're
18 aware -- I recognize you were not holding your present
19 position at that time, but can you help me understand,
20 you know, the -- why those changes were proposed at
21 that time, sort of, in light of everything else that we
22 have been discussing today?

23 A. So could you remind me what 4 point -- hang
24 on one second.

1 Q. Yeah. And you don't have to -- I don't mean
2 to ask you to recall with command great -- the
3 specifics of the Interconnection Procedures, because I
4 know you might not have them in front of you and might
5 not have had an opportunity to study them. But my only
6 point is that the Company proposed, at the end of 2017,
7 changes to the definitions of preliminary estimated
8 interconnection facilities charge, preliminary
9 estimated upgrade charge, and also changes to Section
10 4.3.8, and the -- and, you know, it doesn't -- just
11 from, again, my quick review of that docket, doesn't
12 appear that those -- that those changes that were
13 proposed by the Company were really fully discussed or
14 vetted by the working group, they were just -- they
15 were proposed by the Company sort of at that time, and
16 so I'm just wanting you guys to help me understand why.

17 A. So I can -- can I just ask a clarifying
18 question? Would that be okay? So are you asking me --
19 I think this relates to the security and the payment at
20 System Impact Study?

21 Q. Well, I was going to ask you about that one
22 next. But specifically the question I'm asking right
23 now relates to the changes in the definition. I mean,
24 the changes you-all made, we have already discussed

1 those. But the changes made to the definitions of
2 preliminary estimated interconnection facilities charge
3 and preliminary estimated upgrade charge from the 2015
4 Interconnection Procedures to the 2019 Interconnection
5 Procedures, the change made is that there is the
6 high-level estimate addition of language and the -- you
7 know, the -- sort of the caveat that the estimate
8 doesn't include detailed engineering. I don't have the
9 language right in front of me. But, in general, the
10 changes make clear that those estimates are high-level
11 estimates, and those changes were proposed by the
12 Company in late 2017. So I guess my question really is
13 more about the timing of the proposed changes there.

14 A. I apologize. I just don't recall, and so I
15 don't -- I mean, I could speculate, and I -- and it
16 would be -- it would be swag, because I'm just -- I'm
17 not familiar with what that was at the time.

18 Q. Okay. That's fine. That's fair. And I
19 would note that also -- and again, I will ask you the
20 question -- I recognize what you just said to me. So
21 I'm gonna ask you this question, and you can respond as
22 you need to, but the proposed revision to Section 4.3.8
23 which was made at the same time, again at the end of
24 2017, related to the interim interconnection agreement

1 that there was a note or a comment imbedded in the red
2 line -- that was filed in that docket that says that
3 the interim interconnection -- the companies had found
4 that the interim interconnection agreement created
5 false expectations regarding system upgrade costs.

6 And so I'm just -- it seems to me that the
7 Company was aware of some -- there were some concerns
8 about these estimates at that time, and I'm just trying
9 to understand what they were and if they were different
10 from those which y'all were investigating, you know, in
11 '18 and '19, but -- so I will ask you the question, and
12 you can -- you can respond, but I recognize that you
13 have told me that you weren't in the position then.

14 A. Yeah, and I really -- I just don't know on
15 that one either.

16 Q. Okay.

17 A. I would assume that, you know, given the
18 order in the REPS proceeding in 2017 -- and again, this
19 is an assumption that I'm making in that -- is that we
20 decided that we were going to begin to staff a group to
21 examine these -- the issues that we began to address in
22 2018, and therefore, given the -- given the expectation
23 that we were going to examine things, the possibility
24 of any potential issues, I'm assuming that we were --

1 we were adding language that would be enlightening to a
2 developer that is -- that is requesting
3 interconnection.

4 Q. Okay.

5 A. Enlightening meaning they would signal this
6 is not a firm bid to do your work, right.

7 Q. Okay. That's helpful. Thank you,
8 Mr. Jennings. You mentioned the revision about the
9 prepayment or the posting of security subsequent to the
10 revision of the results of the System Impact Study.

11 A. Yes.

12 Q. That too was a change made around that same
13 time, just based on my quick review of the
14 interconnection docket. You know, it -- why -- I
15 understand the need to sort of balance -- you know, if
16 one of the reasons for continually updating or working
17 on the Interconnection Procedures is to -- you know, to
18 encourage only those developers that have a viable
19 or -- a viable project to remain in the queue or, you
20 know, just sort of send signals to the marketplace of
21 interconnection customers, you know, I understand sort
22 of that objective or that goal of the revisions, but
23 if -- you know, I'm just -- I'm curious as to why, you
24 know, if the Company was -- if there were -- if there

1 were questions about the accuracy of the estimates
2 being developed at that time, why didn't the -- why
3 didn't the Company make the universe of interconnection
4 customers aware of those concerns at the time, you
5 know, it knew -- you know, was sort of first --
6 first -- the Company first became aware of the
7 problems?

8 A. Again, I'm gonna speculate on the response,
9 but I don't think -- I don't think that it would have
10 been related to the estimates at all. So increasing
11 security earlier in the process in order to gain
12 certainty about the go-forward prospects of that
13 project are important for a couple of reasons, and it
14 clearly overlays the work that we are doing right now
15 on queue reform as well. And so some of the
16 discussions I have had with developers on the queue
17 reform provides me some insight into this question,
18 because a lot of my conversations have been, well, this
19 is what we talked about on the last docket, as far as
20 gaining certainty, but the key to moving forward,
21 especially in a cluster study, is to understand what
22 the base case is. And the base case is the -- what
23 could you assume should be in the -- what are the
24 assumed resources in the study for the next

1 interconnection study.

2 And so, in trying to make sure that we know
3 what that is so we don't have to restudy it again, we
4 try to increase the security and the certainty that
5 that project stays in so that we can get a base case
6 that's as static as possible. I think when you go back
7 to the A/B process that's under the current
8 interconnection process, I think that security is more
9 than just the base case. It is the actual ability to
10 know -- have certainty about the project that is behind
11 the project, that is the project A. And so, I mean, I
12 think it's really more of an enhancement to process
13 than it is about estimation.

14 Q. Okay. And I -- I mean, I understand the need
15 to have an -- you know, the need to have as much
16 certainty about the base case for purposes of the queue
17 reform process. I understand that. My question is
18 more about really one of timing here. I mean, you
19 know, the -- at the same time that the Interconnection
20 Procedures were being revised, you know, you-all -- at
21 least based on my understanding of y'all's testimony
22 today, you-all were becoming aware of the discrepancies
23 or problems with the -- with the estimating process. I
24 just -- you know, I don't -- you know, while on the one

1 hand you're -- you know, the procedure is being revised
2 to require investment and, you know, significant
3 decisions on the part of the interconnection customer,
4 you're -- the Company is increasingly aware of, or at
5 least finding reason to investigate problems with
6 the -- or issues -- I won't use the word "problem," but
7 issues with the estimating process.

8 It just -- I still -- I still don't know that
9 I have a clear understanding of why there wasn't any
10 sort of signal given to the interconnection customers
11 about this issue at that time. Even one that would
12 have just put the interconnection customers on notice
13 that, you know, there could be a problem down the road
14 if they made the choice to move forward.

15 A. So my -- you know, once -- once I was in the
16 role, and my examination of the timeline and the facts,
17 I do not -- I do not have anything to indicate that we
18 had clear line of sight, in 2017, that there was an
19 issue. I do know that we thought that there needed to
20 be -- there needed to be governance around the process
21 to ensure that we were capturing costs better and
22 allocating costs better to -- between the, you know,
23 retail customers and interconnection customers, but I
24 don't think we had any certainty of what that

1 examination was gonna be. That's just -- that's my
2 understanding of the facts.

3 Q. Okay. All right. Well, thank you,
4 Mr. Jennings. I appreciate it. That's all I have.
5 Thank you.

6 A. Thank you.

7 COMMISSIONER DUFFLEY:
8 Commissioner Clodfelter and then
9 Commissioner McKissick will be next.

10 COMMISSIONER CLODFELTER: Thank you.

11 EXAMINATION BY COMMISSIONER CLODFELTER:

12 Q. Gentlemen, I have a few disconnected and
13 stray questions, so I'll try to get through them as
14 quickly as I can. Mr. Ken Jennings?

15 A. (Kenneth Jennings) Yes, sir.

16 Q. Would you get in front of you Mr. Bolyard's
17 Exhibit 20? You were asked about that on cross
18 examination.

19 A. Did you say Mr. Ken Jennings?

20 Q. Yes. Mr. Ken Jennings. You were asked about
21 Mr. Bolyard's Exhibit 20. Let me know when you have
22 that.

23 A. Is that Exhibit CEB-20?

24 Q. Yes, sir, it is. Thank you.

1 A. Okay.

2 Q. I really just need some translation help so I
3 can understand what I'm reading in the exhibit. So
4 let's -- let's just stay on the first page of that
5 exhibit, and down at the very bottom, the date of
6 presentation, there is a line that says, "Row labels,
7 sum of IC, sum of IC actual costs," and so forth.

8 Do you see that line at the bottom of page 1?

9 A. Yes, I do.

10 Q. Okay. And, really, my only question is,
11 please translate for me IC, and then later on in
12 cross -- reading across, there is the abbreviation, SI.

13 A. So IC is interconnection facilities, and that
14 is the equipment that --

15 Q. Okay. I understand.

16 A. And then SI is system improvements --

17 Q. System improvements, okay.

18 A. -- or system upgrades.

19 Q. That's fine. Thank you. That's the only
20 question I have about that. I just wanted to be sure
21 that I was interpreting the data correctly on that.
22 The next question is for whichever of the three of you
23 can answer, and I will take the answer from anyone.

24 What -- what contingency, if any, was used or

1 imbedded in the estimates in the System Impact Study
2 delivered to Williams Solar? I mean, I have looked at
3 the System Impact Study estimate, and it must be an
4 imbedded number, because it's not shown as a discrete
5 item.

6 What contingency, if any, was used?

7 A. So it's my understanding it was zero.

8 Q. It was zero?

9 A. Yeah. Scott Jennings could probably confirm
10 that better than me, but my understanding was it was
11 zero.

12 Q. Scott Jennings, can you confirm that?

13 A. (Scott Jennings) That is my understanding as
14 well, yes. It is not broken out or considered as a
15 discrete item in the SIS.

16 Q. At that period of time, was it generally
17 understood by developers that the System Impact Study
18 estimate included no contingency provision?

19 A. (Kenneth Jennings) I'm not sure if they were
20 aware of that or not.

21 Q. How would I find out the answer to that?

22 A. Well, I can tell you that I have not -- I
23 don't think we communicated until we realized it.

24 Q. All right.

1 A. I would have to ask the developers if they
2 ever -- if we have ever -- you know, if we have ever
3 communicated that in the past.

4 Q. I will likely ask that of Mr. Burke on his
5 rebuttal testimony. Thank you. I will leave you alone
6 for now on that, okay. I am trying to get done with my
7 questions here before the lunch break, and I don't mean
8 to hurry you along, but I hear you. I get you.

9 Next series of questions are going to be
10 about the Facility Study agreement with Williams Solar,
11 which is -- if you want to refer to it, that's fine.
12 If you don't need to refer to it, that's fine too. It
13 is Exhibit 3 to Mr. Burke's testimony. And, again,
14 it's not critical that you have it in front of you.
15 You could take my word for it, but if you want to look
16 at the exhibit, that's fine. It was executed on
17 February 22, 2019 --

18 A. Okay.

19 Q. -- by Mr. Flagstad for Williams Solar. The
20 agreement provides that, in cases where upgrades are
21 required -- and that was the case for Williams Solar --
22 there was the line upgrade and the pole protection
23 requirements. In those cases, the Facility Study must
24 be completed within 45 business days of the utility's

1 receipt of the agreement, or if it's in a project,
2 which this was not, it's a different time period. So
3 45 business days. That did not, in fact, happen in the
4 case of Williams Solar. Williams Solar's Facility
5 Study was delivered on July 30, 2019.

6 What is the explanation for the discrepancy
7 between the delivery date stipulated in the Facility
8 Study agreement and the actual delivery date? And I
9 will take the answer from probably either Mr. Jennings,
10 or both Mr. Jenningses.

11 A. So I don't remember there was anything
12 holding it up. I will say that business days are
13 longer than calendar days, and so I'm not exactly sure
14 how late that would have been. But, you know, if Scott
15 doesn't have a better answer, then I have an answer I
16 could speculate on.

17 A. (Scott Jennings) I do not have a better
18 answer. I'm sorry, Ken.

19 A. (Kenneth Jennings) So if we were aware of
20 it -- and I could check with my own folks, but if we
21 were aware of it, then -- and we had -- we had gotten
22 better information, and we were close to finishing
23 the -- the Revised Estimating Tool, then providing them
24 a Facility Study estimate that was as equally wrong as

1 the System Impact Study, allowing the project to go
2 forward through construction, and to true up with
3 significant cost overruns would have been worse than
4 providing a System Impact -- much worse than providing
5 a System Impact Study estimate that was wrong before
6 the analysis was done.

7 Q. Thank you for that.

8 COMMISSIONER CLODFELTER: Chair Duffley,
9 I am going to stay with this line of questions for
10 more than another two or three minutes. Do you
11 want to break for lunch and then come back, or what
12 do you want to do?

13 COMMISSIONER DUFFLEY: Yes.
14 Commissioner Clodfelter, we are coming up on the
15 90 minutes. We probably need to give our court
16 reporter a break.

17 COMMISSIONER CLODFELTER: Well, I will,
18 then, hold with the next question then.

19 COMMISSIONER DUFFLEY: Okay. Before we
20 break for lunch, though, I think we have some
21 cleanup to do on the exhibits. And, Mr. Trathen, I
22 do not --

23 MR. TRATHEN: Yes, I'm here.

24 COMMISSIONER DUFFLEY: There he is.

1 Would you like to make any motion
2 regarding your cross examination exhibits?

3 MR. TRATHEN: I would. I would like to
4 move into evidence our cross examination exhibits,
5 I guess 1 through Number 5. Does that comport with
6 your records?

7 COMMISSIONER DUFFLEY: Yes. And I will
8 allow into the record cross examination -- Williams
9 Cross Examination Exhibits Numbers 1 through 5.

10 (Williams Solar Cross Exhibit Numbers 1
11 through 5 were admitted into evidence.)

12 MR. TRATHEN: Thank you.

13 COMMISSIONER DUFFLEY: Thank you. So we
14 will break an hour for lunch. We will come back on
15 the record at 1:50. If everyone can mute their
16 devices and turn your cameras off.

17 (The hearing was adjourned at 12:50 p.m.
18 and set to reconvene at 1:50 p.m. on
19 Thursday, June 18, 2020.)

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CERTIFICATE OF REPORTER

STATE OF NORTH CAROLINA)
COUNTY OF WAKE)

I, Joann Bunze, RPR, the officer before whom the foregoing hearing was taken, do hereby certify that the witnesses whose testimony appear in the foregoing hearing were duly affirmed; that the testimony of said witnesses were taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

This the 30th day of June, 2020.



JOANN BUNZE, RPR

Notary Public #200707300112

