

## REDACTED

1 PLACE: Dobbs Building, Raleigh, North Carolina  
2 DATE: Tuesday, November 30, 2021  
3 TIME: 12:11 p.m. - 1:31 p.m.  
4 DOCKET NO.: EMP-116, Sub 0  
5 BEFORE: Commissioner Kimberly W. Duffley, Presiding  
6 Chair Charlotte A. Mitchell  
7 Commissioner Daniel G. Clodfelter  
8  
9

## IN THE MATTER OF:

11 Application of Juno Solar, LLC,  
12 For Conditional Certification of Public  
13 Convenience and Necessity to Construct a 275-MW  
14 Solar Facility in Richmond County,  
15 North Carolina  
16

17 VOLUME 2  
18  
19  
20  
21  
22  
23  
24

NORTH CAROLINA UTILITIES COMMISSION

OFFICIAL COPY

Jan 10 2022

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

2 FOR JUNO SOLAR, LLC:

3 Karen Kemerait, Esq.

4 Ben Snowden, Esq.

5 Fox Rothschild LLP

6 434 South Fayetteville Street, Suite 2800

7 Raleigh, North Carolina 27601

8

9 FOR THE USING AND CONSUMING PUBLIC:

10 Layla Cummings, Esq.

11 Robert G. Josey, Esq.

12 Public Staff - North Carolina Utilities Commission

13 4326 Mail Service Center

14 Raleigh, North Carolina 27699-4300

15

16

17

18

19

20

21

22

23

24

NORTH CAROLINA UTILITIES COMMISSION

1	T A B L E O F C O N T E N T S	
2	E X A M I N A T I O N S	
3		PAGE
4	As a Panel,	
5	STEVEN J. LEVITAS AND PIPER MILLER	
6	(Confidential Session)	
7	Cont'd. Cross Examination by Mr. Josey .....	5
8	Redirect Examination by Ms. Kemeraït .....	9
9	Examination by Commissioner Duffley .....	11
10	(Confidential Session Concluded)	
11	Redirect Examination by Ms. Kemeraït .....	12
12	Examination by Commissioner Clodfelter.....	19
13	Examination by Chair Mitchell.....	29
14	Examination by Commissioner Duffley.....	44
15	Examination by Ms. Cummings.....	54
16	Examination by Ms. Kemeraït.....	58
17	Examination by Chair Mitchell.....	62
18	Examination by Commissioner Duffley.....	64
19	Examination by Commissioner Clodfelter.....	69
20	Examination by Mr. Josey.....	72
21	Examination by Ms. Kemeraït.....	75
22		
23		
24		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

## E X H I B I T S

IDENTIFIED/ADMITTED

Public Staff Levitas Cross Examination

Exhibits 1 - 5 ..... -- /77

Public Staff Miller Cross Examination

Exhibits 1 and 2 ..... --/77

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

2 COMMISSIONER DUFFLEY: Okay. Let's go back  
3 on the record. Please keep in mind we're in  
4 confidential session, so if you have not signed a  
5 Confidentiality Agreement, please leave the courtroom.

6 And Mr. McCoy, I understand that the -- we  
7 are not online currently.

8 MR. McCOY: Correct.

9 COMMISSIONER DUFFLEY: Go ahead, Mr. Josey.

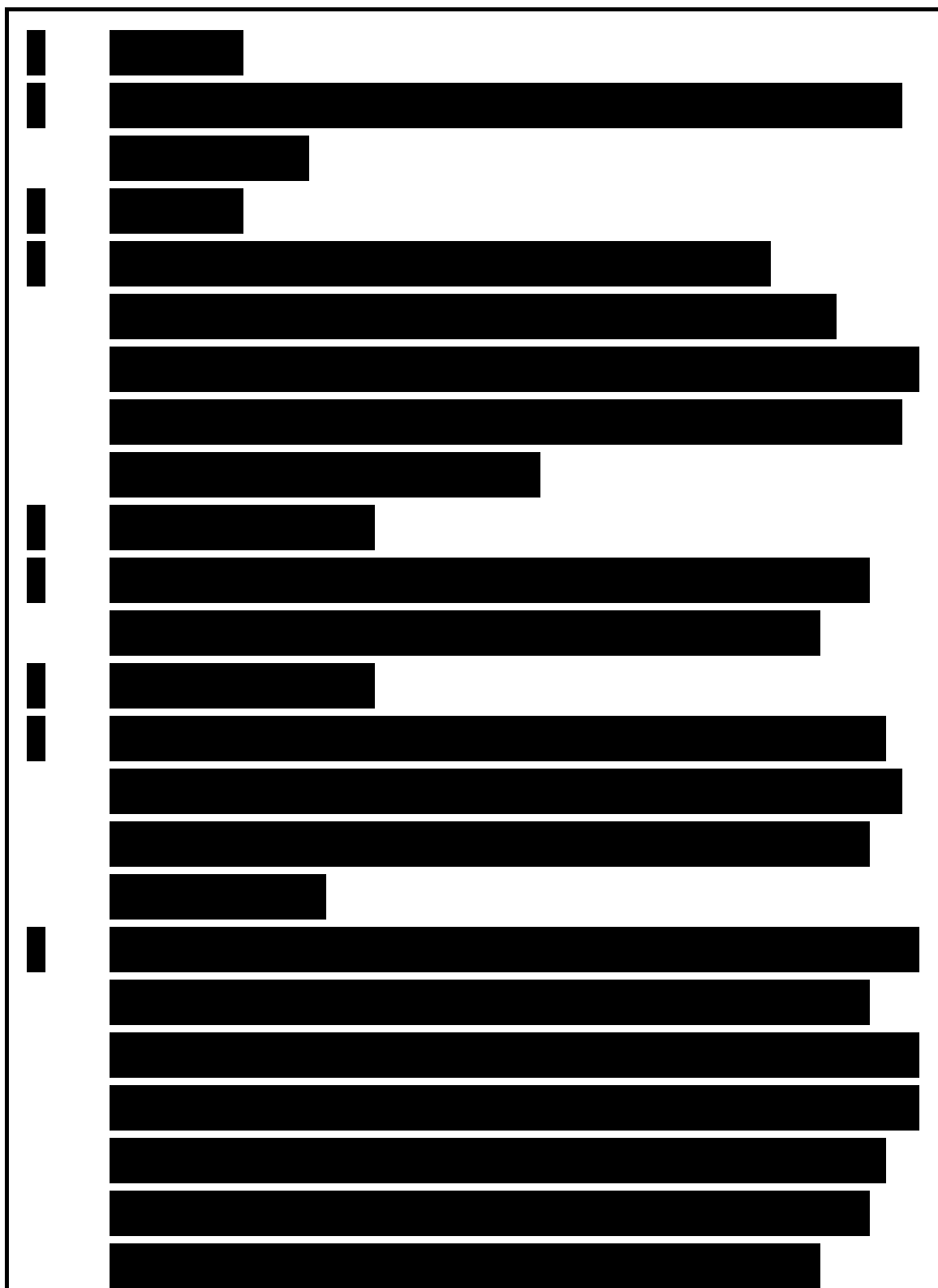
10 MR. JOSEY: Thank you. Okay.

11 (CONFIDENTIAL SESSION BEGINS)

12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

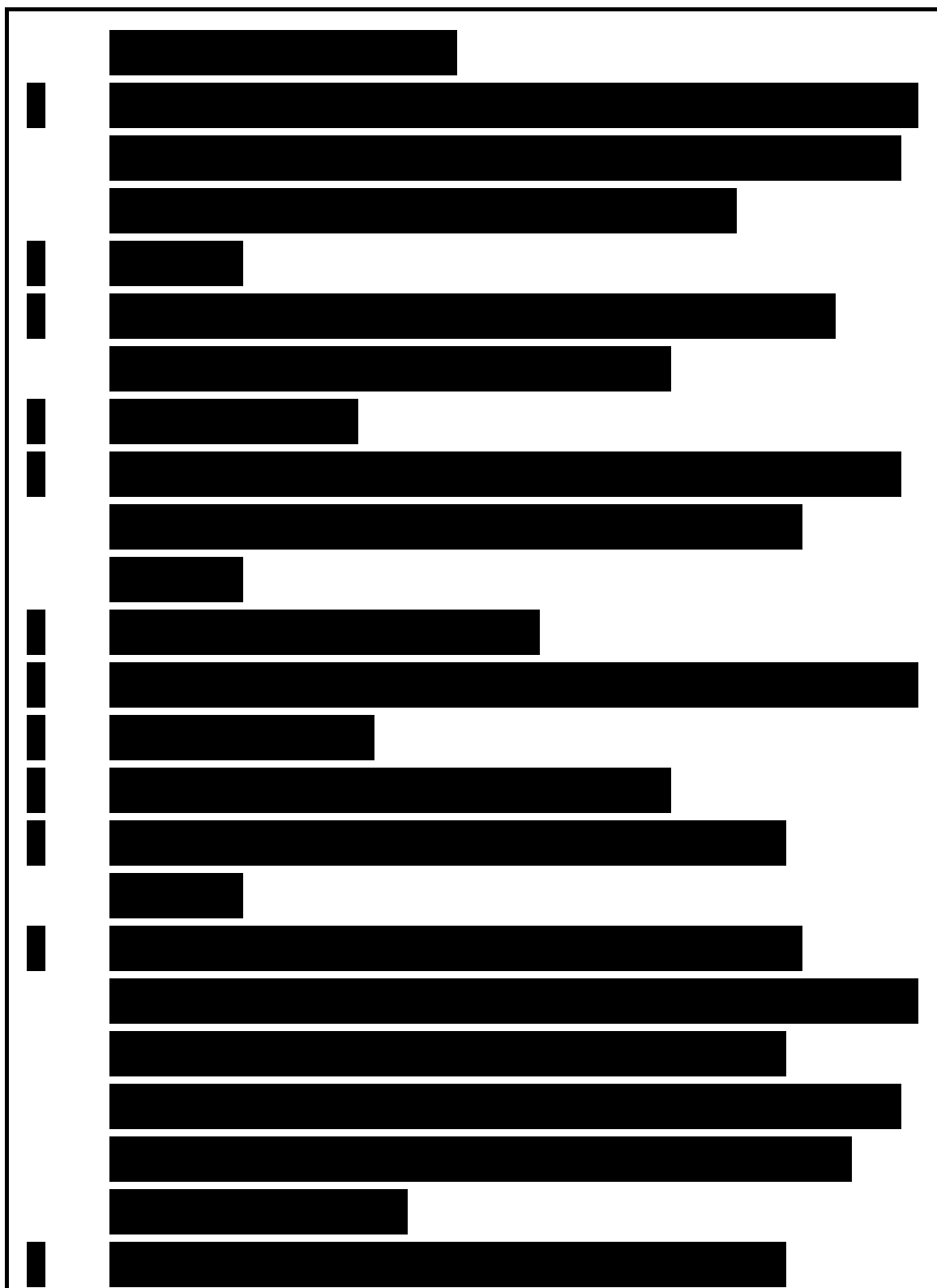
NORTH CAROLINA UTILITIES COMMISSION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24



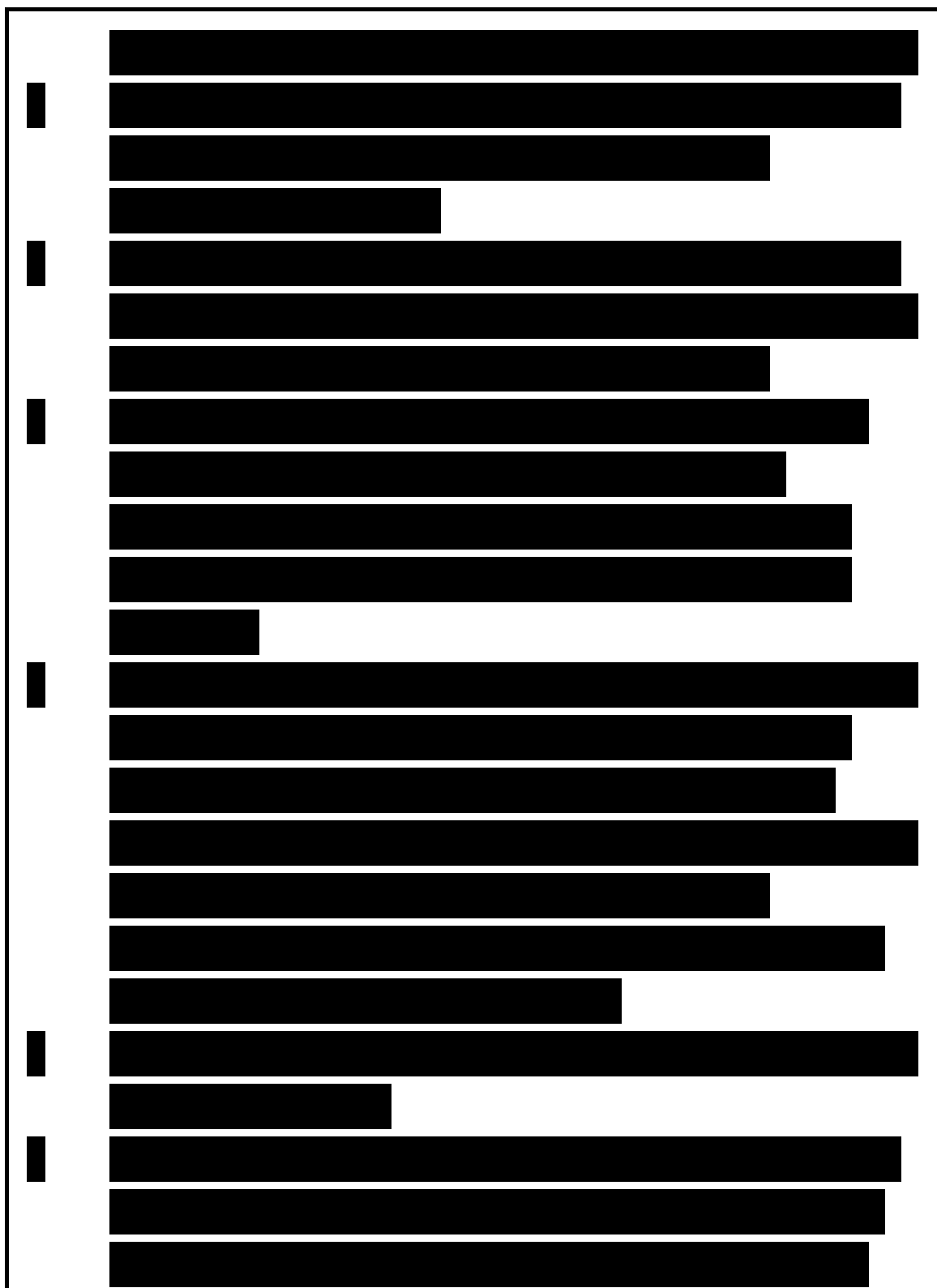
NORTH CAROLINA UTILITIES COMMISSION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24



NORTH CAROLINA UTILITIES COMMISSION

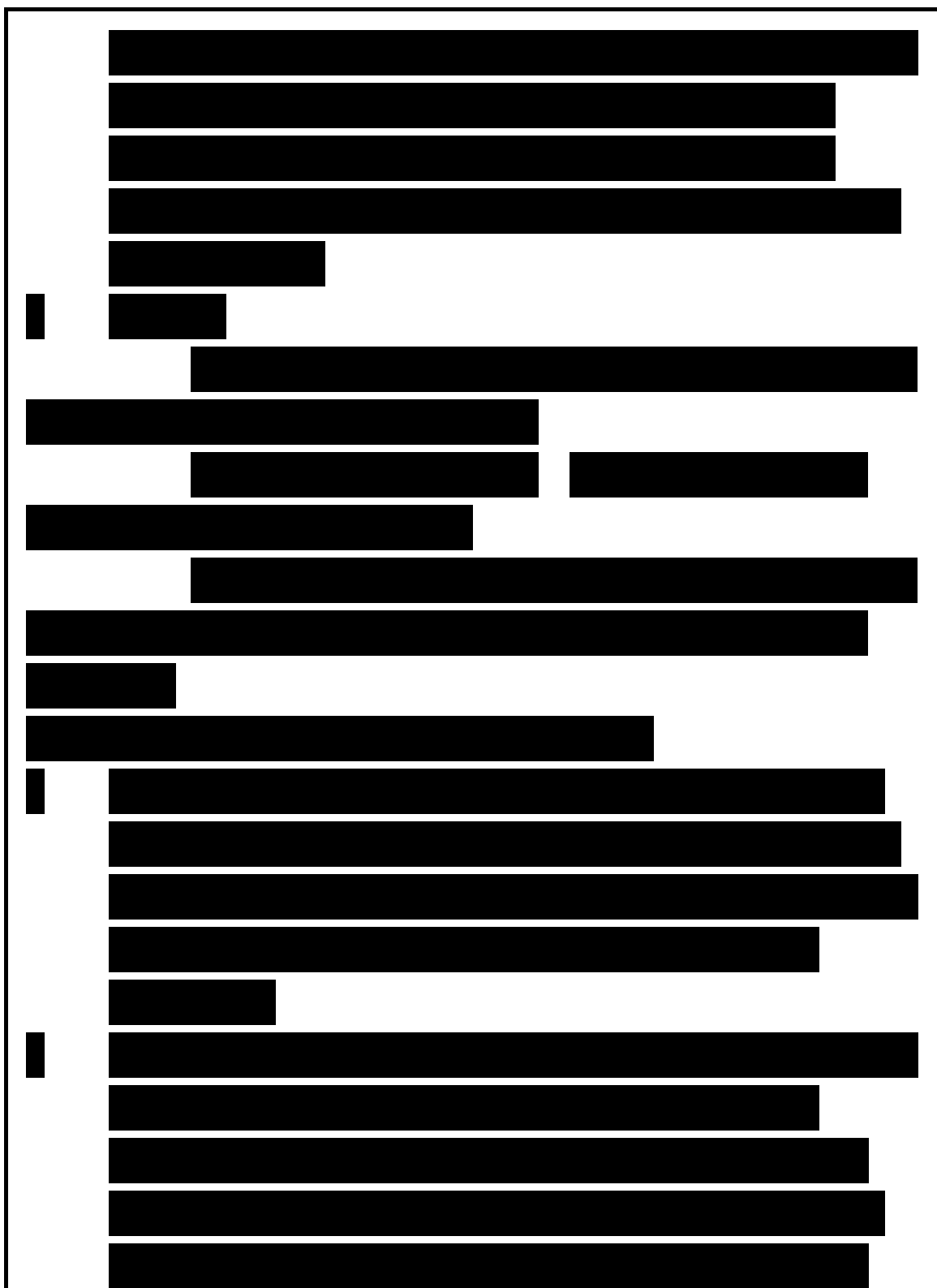
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24



NORTH CAROLINA UTILITIES COMMISSION



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24



NORTH CAROLINA UTILITIES COMMISSION

1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 (CONFIDENTIAL SESSION CONCLUDED)  
19 COMMISSIONER DUFFLEY: Mr. Josey, do you  
20 have further questions?  
21 MR. JOSEY: No further questions at this  
22 time.  
23 COMMISSIONER DUFFLEY: Okay. Redirect?  
24 MS. KEMERAIT: Yes, I have a couple of

1 questions for Mr. Levitas on redirect.

2 REDIRECT EXAMINATION BY MS. KEMERAIT:

3 Q And Mr. Levitas, I'll begin with a line of  
4 questioning that Ms. Cummings had asked you about  
5 the stakeholder process and your having raised  
6 the catch 22 problem and potential solutions.  
7 And I believe that Ms. Cummings stated that you  
8 raised this catch 22 problem late in the  
9 stakeholder process. It consisted of  
10 approximately 17 meetings. Do you recall your  
11 testimony about that?

12 A (Levitas) I do.

13 Q And can you describe for the Commission the focus  
14 of the stakeholder process? Whether it was  
15 primarily focused -- the length of time primarily  
16 focused on state jurisdictional Queue Reform,  
17 Stakeholder process for the FERC jurisdictional  
18 Queue Reform process.

19 A The vast majority of meetings were devoted to the  
20 state process.

21 Q And the vast majority of time and number of  
22 meetings?

23 A Yes.

24 Q And then you were also asked by Ms. Cummings

1 about whether the Public Staff provided any  
2 specific feedback to your solution to the catch  
3 22 problem during the stakeholder process. Do  
4 you recall that exchange?

5 A Yes.

6 Q And I think that your response was during the  
7 stakeholder process that you did not -- the  
8 Public Staff did not provide any actual feedback;  
9 is that correct?

10 A That's correct.

11 Q After the stakeholder process, can you describe  
12 to the Commission the conversations and  
13 information that was provided to the Public Staff  
14 about the Conditional CPCN Application before it  
15 was filed?

16 A Well, to be honest, I don't recall all of that,  
17 sequence of events. I don't know if you have a  
18 document that would refresh my recollection. I  
19 did mention that the email that -- and again, I'm  
20 not remembering which was the exhibit and which  
21 was the one that I discovered. I guess the  
22 exhibit to my testimony was some record that  
23 right in that same timeframe I was seeking to  
24 confirm with the Public Staff their position as

1 to how this would work, so that it would be  
2 successful.

3 Q And subject to check, we filed the Conditional  
4 CPCN Application on July the 12th of 2021. Does  
5 that sound accurate?

6 A It does.

7 Q And do you recall whether we had any virtual  
8 meetings with the Public Staff shortly before  
9 filing the Conditional CPCN Application?

10 A I'm certainly aware that we were seeking to give  
11 the Public Staff a heads up of what we were  
12 planning and you may refresh my recollection, but  
13 I -- I've had so many conversations and Zoom  
14 calls with the Public Staff on these topics that  
15 run together a little bit.

16 Q And, subject to check, would you agree that we  
17 provided a copy of the Conditional CPCN  
18 Application to the attorneys for the Public Staff  
19 before we filed it?

20 A We did.

21 Q And do you recall whether we asked for feedback  
22 from the Public Staff about the Conditional CPCN  
23 Application?

24 A I'm sure that's why we provided it to them.

1 Q And do you recall whether we received any  
2 feedback from the Public Staff?

3 A I don't recall receiving any feedback.

4 Q And then Mr. Levitas, you were also asked by  
5 Ms. Cummings about whether it would be possible  
6 or preferable for Juno Solar to participate in  
7 DISIS as opposed to the Transitional Cluster  
8 Study. And you provided some information about  
9 some benefits, some public benefits that would be  
10 provided to the state based upon solving its  
11 constraints in southeastern North Carolina by  
12 participating in a Transitional Cluster Study.

13 Are there any other benefits to  
14 the state or to the ratepayers for Juno  
15 participating in the cluster -- excuse me --  
16 Transitional Cluster Study as opposed to DISIS?

17 A Well, I am very concerned that if Juno does not  
18 participate in the cluster study or is required  
19 to withdraw after Phase 1 because it doesn't have  
20 certainty around the CPCN that the Transitional  
21 Cluster Study will implode. At a minimum, if it  
22 has to withdraw, there will almost certainly have  
23 to be a restudy.

24 But my main concern, as I think I

1        said during cross, is that it's vitally important  
2        to spread the upgrade costs in this critical  
3        region of the state over as many megawatts as  
4        possible in order for any project to be able to  
5        absorb them. So, you know, if Juno is able to  
6        pick up a portion of those costs, it means that  
7        other state-jurisdictional projects will have a  
8        lower share of the cost and potentially be viable  
9        and able to get these costs done.

10                And the biggest concern that I  
11        have for the ratepayers and public interest is  
12        that if these upgrades are not made feasible as a  
13        result of the Transitional Cluster Study but,  
14        first of all, I have no idea what's going to  
15        happen in DISIS, but there's a very good chance  
16        that they won't get resolved in DISIS either and  
17        then we're really in a mess.

18                And I also would just point out  
19        that in the Transitional Cluster there is --  
20        there are quite a number of state-jurisdictional  
21        projects including ones controlled by our company  
22        that will bear their share of those upgrade  
23        costs. One of the objections in the Friesian  
24        proceeding, a major objection, was that there



1        were going to be state projects that effectively  
2        would be free riders, because the FERC  
3        jurisdictional project would be reimbursed for  
4        all the cost. That was one of the benefits and  
5        beauties of the Transitional Cluster Study is  
6        that that those state projects would not get a  
7        free ride. They would have to bear their cost.

8                Admittedly, there will be some  
9        FERC-jurisdictional projects that would get  
10       reimbursement, but that was certainly a big  
11       improvement over the situation that was presented  
12       by Friesian. And I would argue it's a big  
13       improvement over what would be likely to happen  
14       if the Transitional Cluster Study doesn't work,  
15       because my belief is if the Transitional Cluster  
16       Study is not successful that these upgrades will  
17       eventually get done and they will be 100 percent  
18       paid for by North Carolina ratepayers.

19               So, there's an opportunity here if  
20       the Transitional Cluster can be successful to  
21       spread some of those costs to  
22       state-jurisdictional projects including ones that  
23       we control and we're quite prepared to pay our  
24       share of those costs.

1 Q And finally, Mr. Levitas, you just testified that  
2 if the Transitional Cluster is not successful and  
3 the qualifying facilities do not pay their fair  
4 share and pay 100 percent of the network upgrade  
5 costs that are assigned to them that the  
6 ratepayers will likely end up paying for the cost  
7 of the network upgrades. Can you explain,  
8 especially in light of House Bill 951, how that  
9 might work or what the concern is?

10 A Well, I think we were talking earlier about  
11 competitive procurement under 951. Those rules,  
12 of course, have not been established, but my  
13 expectation is that as with House Bill 589 that  
14 where projects are competitively procured that it  
15 is in ratepayer interest to for any upgrade costs  
16 to be paid by ratepayers rather than be embedded  
17 in PPA bid prices. But also keep in mind that 55  
18 percent of all solar projects that will be  
19 procured under House Bill 951 will be owned by  
20 the Utility and by definition their upgrades will  
21 be paid for by ratepayers.

22 Q Thank you, Mr. Levitas.

23 MS. KEMERAIT: That's all the questions I  
24 have.

1 COMMISSIONER DUFFLEY: Okay. Commission  
2 questions?

3 COMMISSIONER CLODFELTER: I just have a  
4 couple.

5 EXAMINATION BY COMMISSIONER CLODFELTER:

6 Q Mr. Levitas, during one of your exchanges with  
7 Ms. Cummings I believe you were discussing the  
8 value of not establishing firm rules across the  
9 board for all projects but looking at projects on  
10 a case-by-case basis, and "with the best  
11 available information" I think was the phrase you  
12 may have used. Do you recall that exchange?

13 A (Levitas) I do.

14 Q Let me ask you this question. Would we not be in  
15 a position, better position to know what the  
16 estimates are on transmission upgrade costs at  
17 the end of the Phase 1 cluster study? We would  
18 know what Duke's estimate was, Phase 1 estimate,  
19 understanding that that's subject to Phase 2  
20 study, but we would also know their initial  
21 estimate of what would be allocated to the  
22 general project and what would be allocated to  
23 other projects and how many other projects might  
24 be bearing the costs, wouldn't we?

1 A Well, you would, but if -- if --

2 Q That's information we don't have today.

3 A That's right. I guess I would say two things in  
4 response. One is procedurally it would appear to  
5 be very difficult to get projects through the  
6 CPCN process between the end of Phase 1 and the  
7 time that firm financial commitments have to be  
8 made and withdrawal penalties become applicable  
9 in Phase 2. It's a very narrow window.

10 But perhaps more substantively,  
11 your question, Commissioner Clodfelter, implies  
12 that those total costs or absolute costs are  
13 relevant to the decision about the CPCN and as,  
14 you know, we've indicated in our testimony we  
15 believe that LCOT is a reasonable test. It's a  
16 test that this Commission has approved and, you  
17 know, let's say that you get this information and  
18 there are \$100 million of total FERC  
19 jurisdictional costs. I don't know how many  
20 FERC-jurisdictional projects are in the  
21 Transitional Cluster. I know there are some.

22 But let's say you have an  
23 absolute -- Phase 1 yields to the absolute value  
24 on those costs. It's my position, our position,

1       that that is not relevant information, not  
2       permissible information to consider in denying a  
3       siting decision for an individual project, that  
4       you're going to deny that siting decision because  
5       there are three or four projects over here that  
6       have some impact on ratepayers, their own costs.

7               And so we think you guys -- well,  
8       as you know, the Friesian case is on appeal. We  
9       have a disagreement about that. But if there's  
10      going to be a test, if there's not complete  
11      preemption of siting authority, we believe that  
12      LCOT is the correct test, that the Public Staff  
13      has stated that, and the Commission has relied on  
14      it, and as long as you have -- and if that's  
15      settled, as long you have a conditional link to  
16      LCOT, that information you don't really need to  
17      make the decision.

18             Now, you might want to decide --  
19      if you don't think \$4.00 is the right number,  
20      that's obviously your prerogative to say that's  
21      not the right number, but once we get the Phase 1  
22      information, it will either be below whatever  
23      number you decide is reasonable in this case or  
24      not. And that will decide whether this CPCN

1 remains in effect or dissolves.

2 Q Thank you for that answer. Let me ask you a  
3 couple of follow-ups. Right now the only  
4 application for a CPCN I have before me is this  
5 one. So, what would be the procedural problem  
6 with simply holding the record open on the  
7 decision of this CPCN and simply taking into the  
8 record the Phase 1 cost estimate for allocation  
9 of this project?

10 A I'm going to go out on a limb, because I haven't  
11 thought about this before, but I want to be  
12 responsive to your question. If what you mean is  
13 that you would create a procedure in this docket  
14 to issue a CPCN based on a LCOT number but you  
15 just want to wait until you have that information  
16 from Phase 1 and then there would essentially be  
17 an immediate issuance. In other words, sort of a  
18 condition precedent so that you have made the  
19 decision and --

20 Q Don't -- don't put too many ideas in my head, Mr.  
21 Levitas. Let me simplify the question for you.

22 A Yeah.

23 Q Again, I'm just going back to the idea that more  
24 information is better than less information. And

1           today I have no information. I have a proposal  
2           that we put a condition in an order, but as to  
3           what the actual LCOT for this project will be I  
4           have no information right now. So all I'm simply  
5           asking you is so what would be wrong with my  
6           getting at least one additional bit of  
7           information and that is the Phase 1 estimate  
8           before I make a decision on this petition?

9    A    Well, is that going to determine whether you  
10       think \$4.00 is the right number --

11   Q    If it will give me an LCOT number on Phase 1 at  
12       which I could look at and say is that too much or  
13       is that not enough or is that fine? What's the  
14       harm in doing that?

15   A    Well, to my earlier point, if the CPCN decision  
16       can be finalized -- well, two things. If the  
17       CPCN can be finalized before the Phase 2  
18       commitment has to be made, that would go a long  
19       way towards solving the problem. I will say that  
20       the posture that we're in right now is not -- is  
21       not irrelevant in that we've got to spend  
22       \$250,000 on study costs and we also have other  
23       costs that are associated. We've already  
24       incurred costs of half a million dollars or so on

1           this project and we have to do those going  
2           forward without any -- in the absence of a  
3           Conditional CPCN, any guidance, any benchmark,  
4           any way of knowing whether we're ultimately going  
5           to be able to move these projects forward, so we  
6           are at a disadvantage. And I guess what I'm  
7           missing is understanding why -- how your decision  
8           about whether \$4.00 is a reasonable number would  
9           be effective as to -- if you come back and the  
10          number is -- if the number comes back at \$3.50 or  
11          it comes back at \$2.50, how does that change your  
12          decision --

13   Q     Suppose it comes back at \$25.00? Would I not  
14          want to know that?

15   A     Well, that would kill the CPCN under the  
16          condition that we propose.

17   Q     It would -- again, I'm not asking about your  
18          proposed condition. I'm asking about the  
19          information that would be useful to me in  
20          deciding whether the costs of this project are  
21          too great at this location to warrant issuing a  
22          CPCN. Wouldn't it be beneficial for me to have  
23          more information rather than less information?

24   A     Well, I don't mean to be difficult. I'm just not



1       sure why. You know, if I make a decision that  
2       I'm willing to pay \$20,000 for a car and I go in  
3       the market, I don't necessarily need to know that  
4       whether the car cost 15 or 30, I'm only going to  
5       pay 20. So --

6   Q    You seem to be shifting your ground a little bit  
7       from where you were with Ms. Cummings. You seem  
8       to be suggesting to me now that I just fix the  
9       price in advance and simply apply it across the  
10      board going forward. If I want to pay \$20,000  
11      for that car, I'll pay \$20,000 for the next car.

12   A    No. Let me clarify on that. First of all, I  
13      think we can -- I think we may have said this in  
14      some testimony, we've accepted the notion that  
15      while there may -- decisions may be informed by  
16      prior decisions, we're not asserting that any of  
17      this is binding precedential decision making.

18               And the second thing is with  
19      respect to my point to Ms. Cummings about updated  
20      information and the like, the main thing that I  
21      want to communicate about that is that I -- LCOT  
22      is a test based on market conditions, market  
23      benchmarks. And we understand, I acknowledged to  
24      Ms. Cummings, those may change over time. And so

1           -- but the timeframe that we're talking about  
2           here is a short timeframe. But I understand that  
3           you would not want to publish a rule that says  
4           LCOT of \$4.00 is okay and then we find out two  
5           years from now that the average market LCOT is a  
6           dollar and a half. So we're in agreement on  
7           that.

8                       But I guess the -- what I would  
9           hope to see is a general -- some general guidance  
10          to market participants, so they have an idea  
11          about what the rules of the road are.

12   Q    Thank you. That's helpful. Let me ask you one  
13          other thing. If I had the Phase 1 estimate and I  
14          knew who had been studied in Phase 1 and I knew  
15          the total cost that had been allocated to those  
16          projects studied in Phase 1 and I knew how much  
17          was allocated to your project, then I would have  
18          two numbers, would I not? I would know what the  
19          number would be allocated in phase 1 to your  
20          project and then I would know what the maximum  
21          number your project might have been assigned if  
22          everyone else had dropped out of Phase 1. I  
23          could see the upper bound in Phase 1 too,  
24          couldn't I? And I might look at that -- I might

1 look at that and say you know even at that number  
2 I think it's warranted. I'd have that  
3 information too, wouldn't I?

4 A Yeah. Yes, sir. I think that would be helpful  
5 information. I think the problem that we face is  
6 how do we get to Phase 2 with certainty about our  
7 certification so that we don't face a  
8 \$2.25 million withdrawal penalty because you  
9 decided to withdraw or revoke the CPCN at some  
10 future time.

11 Q I hear you and understand. Thank you. I have  
12 one more question.

13 COMMISSIONER CLODFELTER: I have some  
14 questions for Ms. Miller, but I'm going to stop with  
15 my questions with Mr. Levitas because of the time and  
16 then see --

17 COMMISSIONER DUFFLEY: That's fine.

18 COMMISSIONER CLODFELTER: -- I have other  
19 questions later for Ms. Miller.

20 BY COMMISSIONER CLODFELTER:

21 Q I'm just -- this is a question purely out of  
22 curiosity. So, last year in the report from the  
23 North Carolina Transmission Planning  
24 Collaborative they reported a special case study

1 on transmission projects that might be required  
2 in Cabarrus and Union Counties under certain  
3 conditions. Has Pine Gate or Juno or anyone else  
4 to your knowledge ever asked the Transmission  
5 Planning Collaborative to conduct a special  
6 policy case study on southeastern North Carolina?

7 A (Mr. Levitas) Not to my knowledge, but I'm not  
8 associated with our Transmission Planning Group.  
9 I will say that I was a little surprised to learn  
10 in the course of the Friesian litigation that, as  
11 I understand it, that Transmission Planning Group  
12 really focuses on replacement needs to  
13 accommodate age and wear and tear of the system  
14 and it's not particularly focused on planning to  
15 accommodate new growth --

16 Q Actually, the Cabarrus and Union study was  
17 premised on precisely that. The policy case  
18 studies are not simply on replacements or  
19 reliability, they're on actually looking ahead  
20 under different scenarios of what might be  
21 required to bring offshore wind into North  
22 Carolina or in this case what would happen if  
23 growth projections in Cabarrus and Union exceeded  
24 current estimates.

1 A I'm glad to know that --

2 Q I just was curious if anyone in your group has  
3 ever considered drawing upon that resource.

4 A Well, I think we should. I'm not -- perhaps we  
5 have. I'm just not aware of it.

6 Q I'm just thinking about the policy problem you've  
7 presented today and thinking about having  
8 these --

9 A Thank you.

10 Q Thank you. That's all I have for you.

11 COMMISSIONER DUFFLEY: Thank you. Do you  
12 have questions, Chair Mitchell?

13 CHAIR MITCHELL: I do, just a few.

14 EXAMINATION BY CHAIR MITCHELL:

15 Q Mr. Levitas, talk some about the  
16 constitutionality concern that you have. Just  
17 help me understand what the legal issue there.

18 A (Mr. Levitas) Well, I -- first of all, I'll tell  
19 you my belief. My belief is leaving aside the  
20 preemption issue that's on appeal that I thought  
21 it was generally recognized certainly by the  
22 Public Staff. I've had these conversations with  
23 Public Staff that this Commission, any state  
24 Commission, cannot say permissibly,

1 constitutionally that we simply don't like the  
2 federal policy and we're going to refuse to  
3 acknowledge it and we're going to deny a permit  
4 for any project that would benefit from it. And  
5 that instead and what I believe you undertook to  
6 do in Friesian, was to say what we can do is as  
7 part of our siting authority, and I think  
8 Commissioner Clodfelter used some of these words,  
9 can make a decision about whether we think a  
10 particular project is appropriately sited in  
11 light of the cost that it would impose on the  
12 system and the ratepayers.

13 So, anything that to me amounts to  
14 an absolute ban on FERC-jurisdictional projects  
15 in the State of North Carolina because of a  
16 blanket objection to the Crediting Policy I think  
17 is really problematic.

18 Q Okay. And is that -- that's the constitutional  
19 concern of which you speak in regards to Public  
20 Staff's position on LCOT?

21 A Yes.

22 Q Okay. Just a few more for you. Can you help me  
23 understand the Transitional Cluster? How is it  
24 going to work? My understanding is fairly

1           limited, you know, pursuant to that which y'all  
2           have put -- which the parties have put in front  
3           of us, but it's going to be open for a finite  
4           period of time and projects can apply. You've  
5           testified today that you're concerned that it  
6           could -- the Transitional Cluster could implode.  
7           So I need to understand that testimony and I also  
8           want to understand how the Transitional Cluster  
9           is actually going to work in practice.

10    A     Sure. So the window has closed and there's a  
11           defined universe of projects that are now in the  
12           Transitional Cluster Study. That -- the actual  
13           Phase 1 study will begin -- can you help me out?

14    A     (Ms. Miller) December 1st, I believe.

15    A     (Mr. Levitas) -- December 1st the actual study is  
16           going to begin leading to the Phase 1 power flow  
17           results.

18                       At that point, the costs that are  
19           identified will be allocated to the participants  
20           in the cluster study and they will be advised of  
21           their share based on the allocation methodology  
22           and the procedures that you approved and those  
23           customers will then elect either to proceed to  
24           Phase 2 or to withdraw. If they proceed to Phase

1        2, they then become subject to various withdrawal  
2 penalties.

3                    I have been in regular  
4 conversations with Duke throughout the year about  
5 the pipeline, and Duke has done a good bit of  
6 work to try to analyze the pipeline including  
7 conversations that I had since the window closed  
8 all with the goal of trying to determine do we  
9 have a Transitional Cluster Study that will work.  
10 Does it look like there are enough megawatts in  
11 here that they could -- the costs could be spread  
12 so we would have a reasonable LCOT for the  
13 FERC-jurisdictional projects. And so the  
14 state-jurisdictional projects which will have to  
15 bear their own costs are getting an allocation  
16 that is financially viable. Because if the  
17 amount comes back too high for a state project  
18 and that project is no longer financeable, it's  
19 going to fall out.

20                   And so I've tried very hard to  
21 confirm that we were on a track for having this  
22 thing work, because we've all invested a lot in  
23 it and it's really important that it be  
24 successful. And at least all the indications



1       that I've gotten is looks like it could work. We  
2       don't know -- we don't know who will drop out  
3       when they get their number. Somebody could, you  
4       know, their pro rata share could come back at \$1  
5       million on a 10-MW project to a state  
6       jurisdictional project and the developer could  
7       say I can't handle it, I'm gone. And so what  
8       happens is when projects drop out, you reallocate  
9       the pie.

10               And, of course, the risk is that  
11       as projects drop out and other projects get a  
12       larger share, then they in turn won't be able to  
13       bear those costs, they drop out too. That's what  
14       I refer to as the implosion, the downward spiral.

15               But the indications that I've had  
16       is that if we can keep all of the megawatts that  
17       are currently signed up for Transitional Cluster  
18       in the cluster we have a reasonable chance of  
19       getting this thing to work and that the pro rata  
20       allocation to all of these projects will be  
21       reasonable both from the standpoint of what  
22       state-jurisdictional projects can bear on their  
23       own and within the LCOT kind of parameters of  
24       what you all at least have seemed to find

1           acceptable in the past.

2                       So I've got my fingers crossed,  
3           because it's really important to the state that  
4           we make this work.

5   Q   All right. Thank you for that explanation. So  
6       help me understand, just keeping in mind that I'm  
7       not an engineer, so help me understand how the  
8       projects that have -- the universe of projects,  
9       interconnection requests that we now have in the  
10      Transitional Cluster process. How do -- how was  
11      there any assurance of sort of geographic  
12      proximity on the grid? I mean, how was -- how do  
13      you we know that there are going to be projects  
14      that actually are clustered that should  
15      rightfully or appropriately share in costs?

16   A   Well, all that is done -- as part of the Power  
17       Flow Study all of that is looked at.

18   Q   But in terms of who applied to participate in the  
19       Transitional Cluster.

20   A   Right. So Duke will take the universe of all  
21       those projects. They will run a Power Flow  
22       Analysis assuming all of those projects are  
23       coming onto the system and will be onto the  
24       system and they will do interdependency studies.

1 And an important thing to keep in mind is that  
2 there's not a single upgrade that's required.  
3 There's many upgrades that are required as part  
4 of to resolve these constraints, and so some  
5 projects may contribute to two of those. Some  
6 projects may contribute to six of those. And  
7 Duke has a formula that was, again, part of the  
8 procedures for how those get allocated among  
9 those various projects. But when the dust  
10 settles at the end of Phase 1, Duke will give a  
11 number to each one of those projects and say here  
12 is your pro rata upgrade cost for which you will  
13 be responsible if you stay in this Transitional  
14 Cluster. Are you in? And if you raise your hand  
15 say you're in, then you then within 30 days or  
16 some defined period of time have to put up your  
17 money to cover the cost of those upgrades.

18 Q Okay. And so do we have -- what can you tell me  
19 about what projects? What is this universe of  
20 projects that has elected to participate in the  
21 Transitional Cluster? Are there -- that at least  
22 have been studied by Duke?

23 A My understanding is that it's on the order of  
24 1,500 MW in the -- honestly, I'm not sure if

1       that's the full Transitional Cluster or the ones  
2       that are potentially interdependent on the  
3       southeast upgrades, but it's a significant  
4       number. And Duke has continued to, as I said, to  
5       express optimism to me that this could all work.  
6       But, you know, my sense is it's precarious and if  
7       any significant number of megawatts drop out,  
8       there's a real chance that it won't work. .

9               And one of the other things that I  
10       just said in this context is that if we were to  
11       decide with Juno to go ahead and go forward with  
12       Phase 1 even in the absence of a CPCN and then we  
13       come back with a number that's \$3.00 and we're  
14       concerned. Well, we still don't know what the  
15       Commission is going to do. That's a little too  
16       close for comfort. We better drop out. Then  
17       there's a real good chance that that's going to  
18       throw the whole cluster into -- at least into  
19       restudy and possibly into non-viability.

20   Q       Okay. And just so I'm clear what happens, follow  
21       that through to its logical conclusion. And then  
22       what?

23   A       Well, so as projects start dropping out, because  
24       they have too high a share based on Phase 1,

1       you'll iterate down and see if anybody is left  
2       and if everybody drops out, then nothing happens  
3       in Transitional Cluster. All those projects will  
4       now be out of the queue and will have to reapply  
5       to the queue for DISIS in the spring. And now we  
6       will be back with some new universe of projects  
7       back in the same boat with another year of study  
8       ahead of us to figure out whether we can make  
9       this work the next time around. And, you know, I  
10      don't know of any reason to be more optimistic at  
11      that stage.

12                   I sort of feel like this is the  
13      best chance we've got and we need to take it. We  
14      need to be sure we don't lose it. And as I said,  
15      I'm particularly concerned about any delays as it  
16      relates to 951 because the timeline is so crucial  
17      that we get on with the business of adding new  
18      non-carbon resources in order to achieve the  
19      goals.

20   Q     Okay. Thank you for that additional explanation.  
21         You've talked about --

22                   COMMISSIONER CLODFELTER: Chair Mitchell,  
23      can I interrupt? Just a detail on one question you  
24      asked.

1 CHAIR MITCHELL: Sure.

2 COMMISSIONER CLODFELTER: Of the megawatts  
3 that you identified for Chair Mitchell, what  
4 proportion of those require CPCNs in South Carolina?

5 THE WITNESS: Well, South Carolina only  
6 requires CPCNs above 75 megawatts and I'm not aware  
7 that there are a bunch of those.

8 COMMISSIONER CLODFELTER: In that group?

9 THE WITNESS: Yeah.

10 COMMISSIONER CLODFELTER: Thanks for letting  
11 me interrupt.

12 CHAIR MITCHELL: Uh-huh (yes).

13 BY CHAIR MITCHELL:

14 Q You've testified about the criticality of  
15 southeastern North Carolina, as it relates to  
16 meeting the many requirements of 951. Help me  
17 understand why. I mean, how are you -- why are  
18 you so certain in your testimony that  
19 southeastern North Carolina is critical and the  
20 solar development in southeastern North Carolina  
21 is critical to meeting 951?

22 I mean, solar development is  
23 occurring all over the state. There is  
24 significant amount occurring in the northeastern

1       portion of the state. It seems to me that solar  
2       developers have had success in developing all  
3       over the state. Why is this one particular area  
4       that has significant transmission congestion  
5       critical?

6     A   Well, I'm going to ask Ms. Miller to supplement  
7       what I say, but what I'll tell you is this. It's  
8       a very large area first of all. It's 13 - 15  
9       counties. It is absolutely the best plan for  
10      doing solar. And once you get into the Piedmont  
11      and certainly beyond, there are huge challenges  
12      that are faced in siting solar facilities:  
13      Topography, continuous land availability,  
14      population centers which lead to potential for  
15      local opposition or just other issues that have  
16      to be addressed.

17                   I can tell you that, you know,  
18      it's been -- since CPRE was adopted where the  
19      heavy focus of procurement was in Duke, all the  
20      solar developers have been trying to find sites  
21      in DEC's territory, because that's where CPRE is  
22      focused. It is extremely difficult. There are  
23      people who really know this business who have  
24      been scouring the landscape for years and what

1       they've come up with is limited and it's nowhere  
2       near this volume of capacity that is needed to  
3       achieve the goals of 951.

4               And I think Ms. Miller touched on  
5       it, the other thing that we really need to be  
6       thinking about is the least-cost mandate of 951.  
7       And in the solar business least cost means bigger  
8       and it's just basic economy of scale. And the  
9       only way that we're going to be able to drive  
10      cost of 951 compliance down for ratepayers is if  
11      we build bigger sites and those can pretty much  
12      only be built in the east.

13              Do you want to add anything?

14    A       (Ms. Miller) Yeah. And I think you covered it  
15       very well. I would just also note that most of  
16       the facilities that we do see in DEC as Steve  
17       mentioned are quite a bit smaller and even within  
18       what is participating in the Transitional Cluster  
19       they tend to be closer to like the 30 to 40 - 50  
20       MW range and I would say 50 MW sometimes even on  
21       the higher end. Whereas in DEP, we tend to see  
22       projects that are able to be quite a bit more  
23       sizable and more cost-effective from just a land  
24       perspective. There tends to be flatter land,



1 better solar irradiant, so we have higher yield,  
2 better production in that portion of the state.

3 And also, you know, solar  
4 facilities, of course, is very dependent on  
5 proximity to infrastructure as well. And we tend  
6 to find better parcels of open land with close  
7 proximity to the transmission infrastructure  
8 needed in the DEP system than we do in the DEC  
9 system.

10 Q Thank you for that.

11 All right Mr. Levitas, a couple  
12 more for you. The -- let's see. As I understand  
13 Juno's position in this docket, it would agree to  
14 or it has proposed a Conditional CPCN with the  
15 \$4.00 sort of being that -- the threshold above  
16 which the CPCN would terminate or become void.  
17 And this is something that Juno has proposed and  
18 presumably would agree to.

19 Are you aware or have you -- are  
20 you aware of the American Beech proceeding at the  
21 FERC?

22 A (Mr. Levitas) I'm aware that it's pending. I'm  
23 not aware of the details.

24 Q So you're not aware of sort of the -- you're not

1           aware of the nature of the issue before the FERC  
2           and American Beech?

3   A       Not with any confidence. You might refresh my  
4           recollection.

5   Q       That's okay. We'll just -- I'll just move on.

6   A       Yeah.

7   Q       All right. Let's see. I think I understand your  
8           testimony about the Transitional Cluster how it  
9           works with respect to sort of the -- at least  
10          your testimony about the necessity of the 275 MW  
11          propping up -- propping up the development. But  
12          you talk about the state-jurisdictional projects  
13          in the pipeline or in that universe in the  
14          Transitional Cluster universe that would absorb  
15          their share of or their allocation of upgrade  
16          costs. Help me understand the nature of those  
17          state-jurisdictional projects. Are they QFs?

18   A       There are certainly a number of QFs including  
19          ones that we're involved with. I don't --

20   Q       And you don't have -- I mean, just generally. I  
21          don't expect you to know specifically, but --

22   A       Yeah. In the Transitional Cluster I guess there  
23          are some potential GSA projects in Transitional  
24          Cluster --

1 A (Ms. Miller) Yeah, it would have several offtake  
2 options, but generally there are I would say  
3 primarily QFs.

4 Q Okay. And that was -- that's -- you're getting  
5 at my question which is who is going to -- what  
6 would be the power sale arrangements for these  
7 state-jurisdictional projects?

8 A (Mr. Levitas) Well, they would either be QFs with  
9 five-year PPAs or GSA projects with 20-year PPAs.

10 Q Okay.

11 A I guess I should also say that it's -- it is  
12 possible that a Transitional Cluster Study  
13 project could potentially participate in some  
14 future competitive solicitation as well.

15 Q Okay.

16 A It would not -- it would not be in the CPRE  
17 Tranche 3, because that is going to be studied  
18 through a separate resource solicitation cluster.  
19 But it's possible that you could have a project  
20 come through Transitional Cluster Study and just  
21 be ahead of the game in terms of whatever  
22 procurement may occur in 2022.

23 Q Okay. Thank you, Mr. Levitas.

24 CHAIR MITCHELL: I have nothing further.

1           COMMISSIONER DUFFLEY: Okay. Looking at the  
2 time, we're just going to move forward with Mr.  
3 Levitas and come back to Ms. Miller.

4 EXAMINATION BY COMMISSIONER DUFFLEY:

5 Q     So, with respect to this defined universe of  
6 projects, do all the participants know who is in  
7 this universe or only Duke?

8 A     I don't know whether that information has been  
9 made public or is accessible by other parties or  
10 not.

11 A     (Ms. Miller) There's no information about the  
12 owners of the projects, so it should be primarily  
13 known by Duke. But presumably with research  
14 people could put two and two together about the  
15 owners.

16 Q     Okay. And would there be any objection from the  
17 parties for the Commission to obtain that defined  
18 universe of projects from Duke without sharing  
19 with the parties obviously?

20           MS. KEMERAIT: We have no objection so long  
21 as Duke is willing to provide it, but we have no  
22 objection.

23           MR. JOSEY: Public Staff has no objection.  
24 We will point the Commission to Public Staff Miller

1 Cross Exhibit 1 which does have the queue -- the  
2 transition queue projects as of yesterday.

3 COMMISSIONER DUFFLEY: Okay. Thank you.

4 THE WITNESS: (Ms. Miller) And we do have  
5 the list with the names. It's confidential, but we do  
6 have that information.

7 COMMISSIONER DUFFLEY: Okay. Thank you for  
8 that information.

9 A (Mr. Levitas) And if I might, Commissioner  
10 Duffley, I have not seen this exhibit and it's  
11 dated yesterday, so it's possible that there is  
12 more current information than what I had when I  
13 was responding to Chair Mitchell's questions in  
14 terms of the status of the Transitional Cluster.  
15 Looks like there's a lot of information here.

16 COMMISSIONER DUFFLEY: Okay. Thank you.  
17 And Juno is within this. Is this the phase 1 list of  
18 the -- so Juno is part of phase 1 at this point?

19 MR. JOSEY: Yes. I believe that these --

20 COMMISSIONER DUFFLEY: Mr. Levitas?

21 MR. JOSEY: Oh, sorry.

22 A (Ms. Miller) I'm happy to answer --

23 BY COMMISSIONER DUFFLEY:

24 Q Yeah, Ms. Miller, if you can answer.

1 A Yes, Juno is part of the Phase 1 study. And this  
2 should be comprehensive of Phase 1, although I  
3 will note that projects I believe had up until  
4 November 30th, until today to elect to withdraw  
5 without penalty, so it's possible that some  
6 projects have changed since yesterday.

7 Q Okay. And when the study results, as I  
8 understand in my review, maybe the study results  
9 for Phase 1 will be issued on March 31st, 2022.  
10 And how long do the participants have to elect to  
11 move into Phase 2? Is it the full 30 days or do  
12 they have to elect at some time prior to that  
13 30-day period?

14 A (Ms. Miller) My assumption is that you are given  
15 30 days, but there is -- Duke has encouraged  
16 participants to make an election and post a  
17 deposit as quickly as possible so that they are  
18 not, you know, working up until the enth (sic)  
19 hour trying to put everything together. So there  
20 will likely be motivation and pressure to move  
21 forward as quickly as possible within the 30  
22 days.

23 Q Okay. Thank you.

24 And then Mr. Levitas, going to

1 your constitutional concerns, as I understand the  
2 Public Staff's concern in looking at all of the  
3 projects versus one project is the fact that the  
4 process has changed from a first to cause to this  
5 type of cluster study process and I just want to  
6 throw out a hypothetical to you and then ask you  
7 the question.

8 So, let's assume many projects are  
9 built, state and federal projects, and there's an  
10 increase in wholesale rates of 70 percent and as  
11 you know that increase will trickle down to  
12 retail rates and Public Staff is charged with  
13 protecting consumers for affordable rates and not  
14 to have overbuild of the system.

15 So, I've heard you say that  
16 levelized cost of transmission should be the  
17 metric to use, but do you have another suggestion  
18 for the Commission? Are there any other metrics  
19 or any other types of review that the Commission  
20 can do holistically so that the rates do not rise  
21 to an unaffordable level?

22 A (Mr. Levitas) I don't have a thought about that  
23 off the top of my head. I guess the concern -- a  
24 concern that I expressed is and to reiterate is

1 the Commission has opined in the Friesian case  
2 with the support of Public Staff that in terms of  
3 the federalism and balance of allocation of  
4 authority between federal and state that the  
5 Commission retains siting authority with respect  
6 to particular projects. And so my thought about  
7 that has been that that requires a decision to  
8 deny a CPCN to be based on information about  
9 characteristics of that project and that it would  
10 not be permissible to say we've just got too many  
11 of these federal projects in our state, we're  
12 closing our borders and not allowing any more in.

13 Q Thank you. And so this is to both of you. In  
14 Mr. Metz's testimony he discusses need. And  
15 obviously there are no -- we don't have any cost  
16 yet, so his interpretation of need does not  
17 really -- is not based upon any type of upgrade  
18 cost. So, and the Public Staff found that the  
19 Applicant has not made a sufficient showing of  
20 need for the facility. And I just wanted to hear  
21 what your response is to this determination by  
22 the Public Staff.

23 A (Ms. Miller) Yeah, I think we -- I think we  
24 would disagree. I think we feel there is a



1 significant need for the facility shown by the  
2 demand in PJM for solar resources, especially of  
3 this size and type that would likely be very cost  
4 effective.

5 And, of course, we've got the  
6 preliminary term sheet executed with a large  
7 commercial buyer that indicates their interest,  
8 their strong interest, in the full output of the  
9 facility.

10 And, in addition, with the  
11 enactment of House Bill 951, as we've mentioned  
12 previously there will be a strong need for  
13 substantial additions of solar and Juno is not  
14 only a solar facility, but also a solar-plus  
15 solar facility, so it has the capability to  
16 provide flexible generation as well, which is an  
17 added benefit amongst other ancillary services.

18 And due to its size and other  
19 factors, it is likely the most cost-effective  
20 facility to contribute to those goals at this  
21 point in time, or one of the most cost-effective  
22 facilities. So, we see that as several strong  
23 avenues for need for the facility.

24 Q Okay. Thank you. And we may come back to that,

1 but I want to get through Staff questions. My  
2 fellow Commissioners asked most of my questions.

3 So, if Juno ultimately ends up  
4 selling its output to a commercial customer  
5 within PJM, the PJM region, there will be some  
6 wheeling that needs to occur and it's Staff's  
7 understanding that there would be additional  
8 studies regarding how to wheel it and that would  
9 add potentially to additional transmission  
10 upgrades. Has Juno initiated those studies?

11 A Correct. So Juno would need to work with DEP to  
12 conduct a transmission study which would function  
13 very similar to an interconnection study in some  
14 ways. We have had preliminary discussions with  
15 DEP about that. We intend to initiate a  
16 transmission study in the near future.

17 DEP does publish their current  
18 available transmission capacity online and based  
19 on what they've published today and in the past  
20 we believe that there should be more than  
21 sufficient transmission service available for the  
22 Juno facility. But correct, we would conduct  
23 that study to be aware of any requirements there.

24 Q Okay. And if there were upgrades that would be

1           needed, would that be part of the levelized cost  
2           of transmission?

3       A     I don't believe we've discussed that previously,  
4           but we have committed to the \$4.00 LCOT cap be  
5           inclusive of any system upgrades required and any  
6           affected system studies in Duke. So, I believe  
7           that would be inclusive of those as well.

8       Q     Thank you. And the next question is let's assume  
9           that the ultimate buyer ends up being DEP, would  
10          it then turn the Interconnection Agreement --  
11          would it become state jurisdictional rather than  
12          FERC jurisdictional?

13      A     (Mr. Levitas) I was under the impression which  
14           may be incorrect because I haven't dealt with the  
15           siting and permitting of Duke-owned facilities,  
16           but I was under the impression that their  
17           facilities were FERC jurisdictional by nature,  
18           but maybe I'm wrong about that.

19      Q     Okay.

20      A     Commissioner Duffley, while I'm speaking, having  
21           not previously seen this Exhibit 7, could I just  
22           point out a couple of things to you that seem of  
23           interest to my earlier testimony?

24      Q     You may.

1 A I'm looking at page -- it's a two-sided exhibit,  
2 so I guess I'm looking at page 5. And this is  
3 information about what's in the Transitional  
4 Cluster, which you were asking about, and I just  
5 point out a couple of things.

6 First of all, you'll see that the  
7 solar projects in DEC and DEP consistent with  
8 what you've heard from Ms. Miller and me that  
9 there's about four times as many projects in DEP  
10 as DEC, which is consistent with what we've said  
11 about the difficulty in siting projects on the  
12 DEC side.

13 In addition, if you look at the  
14 DEP breakdown, you'll see that there are roughly  
15 1,300 MW of state-jurisdictional projects and  
16 735 MW of FERC-jurisdictional projects, so about  
17 two to one state to federal.

18 So that tells me two things. One  
19 is that if things proceed and these  
20 FERC-jurisdictional projects are able to  
21 participate, you will potentially have  
22 reimbursement under the Crediting Policy, but  
23 you're getting two-thirds of the cost of these  
24 upgrades potentially paid for by parties other

1           than North Carolina ratepayers, which seems very  
2           attractive to me.

3                       I also would say just looking at  
4           these numbers where you've got an aggregate in  
5           DEP of around 2 GW. I think that is consistent  
6           with my suggestion that there's not a lot of  
7           margin for error to have a large project drop out  
8           accounting for 10 percent or more of the total  
9           without running a risk of the other projects  
10          start spiraling downward.

11                      So I just wanted to make those  
12          observations. I appreciate you letting me do  
13          that.

14    Q     You're welcome. And my last Staff question is  
15          for Ms. Miller, so I'm going to hold that  
16          question.

17                      COMMISSIONER DUFFLEY: Questions on  
18          Commission questions?

19                      COMMISSIONER CLODFELTER: May I also  
20          observe, Mr. Levitas, that too, it answers one of my  
21          questions, which is there are two very large  
22          FERC-jurisdictional projects in South Carolina and the  
23          transitional queue that aggregate 14 percent of the  
24          total. Both of them connect to the Florence King

1 Street line.

2 So, thank you for getting the answer to my  
3 earlier question.

4 MS. CUMMINGS: I do have a few questions for  
5 witness Levitas based on Chair Mitchell's questions  
6 regarding, you know, transition queue and the purpose  
7 of transition queue and maybe perhaps it would implode  
8 if you don't go forward with a Conditional CPCN.

9 EXAMINATION BY MS. CUMMINGS:

10 Q Your assertion seems to be that the purpose of  
11 the transition queue is to resolve the congestion  
12 in southeastern North Carolina. But isn't it  
13 true that the purpose of the transition queue as  
14 it's been described in, you know, FERC filings is  
15 really that the current serial study process has  
16 resulted in numerous delays because we have a lot  
17 of high number queued projects that are nonviable  
18 and speculative and are holding up the queue so  
19 that these lower numbered viable projects can't  
20 be studied, they can't move forward, and this is  
21 really a transition mechanism? You have to pick  
22 serial or you have to pick transition cluster.  
23 You have an option right now. And this process,  
24 this first transition, the purpose of it really

1 is to clear the queue, so that you can proceed  
2 with Transitional Cluster Studies. And if  
3 transition queue does not result in, you know,  
4 what you're hoping it will result in which is  
5 building the upgrades to resolve this congestion,  
6 it can -- there is no other opportunity and basis  
7 to do so. In fact, it's probably likely more  
8 projects will proceed in DISIS where the  
9 withdrawal penalties are lower. Is that a  
10 reasonable assumption?

11 A (Mr. Levitas) Well, you covered a lot of ground  
12 there. Let me respond first by saying I will  
13 certainly agree that the primary purpose, the  
14 reason for Queue Reform and for Transitional  
15 Cluster was to clear the queue, the backlog, move  
16 to a more workable, more viable system of  
17 interconnection study. And you'll notice from  
18 your exhibit that I believe -- if I looked at  
19 it -- just looked at it quickly, I think 13,500  
20 MW of projects that were in the queue have  
21 dropped out rather than moving forward in the  
22 transition process. So it is accomplishing its  
23 purpose.

24 That said, recognizing that that

1 process was underway and that we simultaneously  
2 have this problem that is related to transmission  
3 constraints, every problem related to  
4 transmission constraints, that we many of us  
5 including Duke believe need to be solved, and  
6 these were the conversations that we had sometime  
7 ago, it was perceived, determined, concluded that  
8 the best available solution to that problem was  
9 to try to create a transition cluster that was  
10 sufficient to spread these costs in a way that  
11 would be acceptable so that these upgrades could  
12 go forward.

13 Your last question to me was about  
14 well, doesn't DISIS do that just as well. And I  
15 think there are a couple of problems with that.  
16 One is timing. If we don't do -- get this  
17 problem solved now, we will lose a year and we  
18 can't afford to lose a year. I say we. The  
19 people of the State of North Carolina whose  
20 interests have been established by the  
21 legislature in creating an urgency towards  
22 decarbonization. We can't afford to lose that  
23 year.

24 We will also increase cost and I



1 think there's no question that delaying this  
2 further will further increase the cost. It also,  
3 I would submit to you, said that these  
4 state-jurisdictional projects two-thirds of  
5 what's in the Transitional Cluster now may not  
6 come into DISIS as state-jurisdictional projects  
7 bearing their own costs. So you may be looking  
8 at a situation with DISIS where all of those  
9 costs are going to be borne by ratepayers,  
10 because everything that is in that future  
11 procurement is going to be procured pursuant to  
12 951.

13 Q And just to follow up on 951. If we proceed as  
14 you envision with two silos of competitive  
15 procurement and a CPRE-like process, we'll have  
16 an approved carbon plan by the end of next year,  
17 we'll start DISIS January 1st, 2023, and we'll  
18 probably have a lot of projects coming in, right?

19 A The DISIS study is going to start in the middle  
20 of 2022 I believe. But if you're -- if what  
21 you're saying is that they're going to somehow be  
22 a lot more projects, one of the things that is a  
23 consideration here and I think Duke spoke to this  
24 in their comments on the Friesian proceeding, is

1           that it would be a whole lot easier from a study  
2           standpoint to take these 65 projects that are  
3           there now, get them studied, get them processed  
4           and moving through the Interconnection  
5           Agreements, and then deal with whatever is coming  
6           in, than starting over, losing all the benefit of  
7           transition cluster, starting over and having a  
8           DISIS cluster that consists of 200 projects.  
9           That is going to be a massive undertaking for  
10          Duke to study.

11                           And so I think getting the study  
12          done now, getting us on a path to getting  
13          whatever upgrades are called for done now greatly  
14          facilitates not only 951 implementation, but the  
15          successful implementation of DISIS going forward.

16                   MS. CUMMINGS: That's all my questions.

17                   COMMISSIONER DUFFLEY: Ms. Kemerait?

18                   MS. KEMERAIT: Mr. Levitas, I want to follow  
19          up on two lines of questioning.

20          EXAMINATION BY MS. KEMERAIT:

21          Q        The first questions came from both Commissioner  
22                   Clodfelter and Commissioner Duffley and it  
23                   relates to I think one of the initial questions  
24                   that Commissioner Clodfelter asked about I think

1 he said wouldn't it be better to wait to issue  
2 the CPCN until after the Phase 1 results are  
3 provided. And your response -- part of your  
4 response was about the narrow window of 30 days  
5 between Phase 1 and having to pay security for  
6 Phase 2. And can you provide any information  
7 about whether you think it's feasible or  
8 problematic to be able to obtain a CPCN within a  
9 very short 30-day period?

10 A Well, I don't have all of the timelines in my  
11 head of the Commission's CPCN rules. I just --  
12 but just off the top of my head, I don't see how  
13 it is possible. And also keeping in mind that  
14 there's some lag time, I think Ms. Miller could  
15 speak to it, between the time that we would get  
16 the decision and all of the things that we have  
17 to be doing to secure financing and making  
18 arrangements to participate in Phase 2, because  
19 we will have to make a significant posting.

20 So, it just seems like an  
21 extraordinarily tight timeframe. And I'm just  
22 not sure from the Commission's standpoint how  
23 they make that decision, you know, is there going  
24 -- is there going to be further proceedings, is

1           there going to be opportunity for hearing. It  
2           seems incredibly compressed.

3       Q     Ms. Miller, were you wanting go to add something  
4           about the financing aspect?

5       A     (Ms. Miller) Yes. Just to -- for some further  
6           color. Like you mentioned, it would be probably  
7           \$2 million at a minimum and \$5 million at a  
8           maximum that we would need to prepare to post  
9           within that 30-day period and given the size of  
10          that deposit, we would need to be engaged with  
11          our, you know, financing parties, development  
12          lender well in advance of that date and team them  
13          up to pay that. So, I do agree that it's a very  
14          compressed timeline.

15      Q     And Mr. Levitas, my last question I'll go ahead  
16           and ask you to expedite this, to look under Tab 7  
17           of the notebook that I prepared and on page 9,  
18           and this is the Public Staff's response to June  
19           Solar's Data Request Number 1.

20      A     (Ms. Levitas) Okay.

21      Q     And this is following up -- my question follows  
22           up the questions that came from Commissioner  
23           Duffley about whether you had any thoughts about  
24           whether there is another test that might be

1           reasonable to assess the reasonable network  
2           upgrade costs. And do you recall that we  
3           provided to the Public Staff question number 20  
4           in which we tried to obtain information about  
5           whether any other state commission has utilized a  
6           test in addition to or other than LCOT? Do you  
7           recall that question?

8    A     I certainly see that question.

9    Q     And can you describe to the Commission what we  
10          learned from the Public Staff's response?

11   A     Do you want me to read the response?

12   Q     Please do.

13   A     "No, the Public Staff is not aware of any other  
14          tests used by other state commissions. We also  
15          have not done any search or survey of other state  
16          commission approaches. The Commission authority  
17          to grant or deny specific State Law G.S.  
18          62-110.1."

19   Q     Okay. And is that consistent with your  
20          understanding of law in other jurisdictions as  
21          well?

22   A     Well, I too have not done a survey, but I'm not  
23          aware of any other jurisdiction that uses a  
24          different test.

1 Q Thank you.

2 MS. KEMERAIT: That's all the questions that  
3 I have.

4 COMMISSIONER DUFFLEY: Okay. Thank you.  
5 Any other questions for Mr. Levitas before we allow  
6 him to be excused? Seeing none, you're excused. Safe  
7 travels.

8 MR. LEVITAS: Thank you very, very much for  
9 accommodating my schedule. I really appreciate it.

10 COMMISSIONER DUFFLEY: You're welcome.

11 Okay. Now, we'll turn to  
12 Commission questions for Ms. Miller.

13 COMMISSIONER CLODFELTER: In the interest of  
14 time, I think I'll not pursue any questions.

15 CHAIR MITCHELL: All right. Ms. Miller,  
16 just one or two for you.

17 EXAMINATION BY CHAIR MITCHELL:

18 Q You testified today about the C&I demand and PJM  
19 for renewable energy. Talk a little bit about  
20 what you mean by demand for renewable energy. I  
21 mean, the transactions being entered into between  
22 a solar generator and a C&I customer that's  
23 located somewhere within the PJM footprint, it's  
24 not a power sale arrangement, is it?

1 A (Ms. Miller) It's -- it could be a physical power  
2 sale arrangement or a virtual power sale  
3 arrangement. Either case it represents a  
4 physical need for power of renewable source even  
5 if not being directly delivered by the facility  
6 itself, they would just procure that energy on  
7 the open market where they are located.

8 Q Okay. But the customer would still be taking  
9 power from whatever load-serving entity serves;  
10 is that correct?

11 A That is correct.

12 Q Okay. And so when you say there is demand for  
13 this type of product, it's sort of would the --  
14 help me understand what you mean by demand.

15 A Sure. So, we're seeing a lot of large commercial  
16 industrial customers increasingly create their  
17 own carbon reduction goals or renewable goals in  
18 the pursuit of their own, you know, environmental  
19 and sustainability goals. So that is driving a  
20 lot of increased interest in contracting directly  
21 with renewable facilities and especially solar  
22 plus storage facilities.

23 Q So the solar -- a solar generator that enters  
24 into a contract as you've described with a C&I

1 customer would that solar generator also  
2 participate as a -- as a seller in the PJM energy  
3 market?

4 A They --

5 Q Generator. I'm sorry.

6 A Correct. They would.

7 Q Okay. And what about as -- would the generator  
8 be able to participate in the capacity market?

9 A They could if so for -- specifically for a  
10 facility like Juno Solar that is wheeling power  
11 to PJM, there is kind of two-part wheel required  
12 to participate in the PJM capacity market. So we  
13 would not only to procure from point to point  
14 from DEP to the PJM interface, but also for our  
15 point-to-point transmission on the PJM side of  
16 the system. So there is an opportunity for a  
17 facility to participate in the capacity market of  
18 PJM.

19 Q All right. Okay. Okay. I have nothing further.  
20 Thank you.

21 EXAMINATION BY COMMISSIONER DUFFLEY:

22 Q So, when was the Juno project first initiated? I  
23 don't mean the CPCN, but when was it first  
24 envisioned?



1 A (Ms. Miller) So Juno Solar was formed, I believe,  
2 in October of 2020 and entered the queue at the  
3 end of the year of 2020.

4 Q Thank you. So you mentioned the Juno project is  
5 one of the most cost-effective options for Duke  
6 to achieve its compliance with House Bill 951,  
7 but you're in negotiations with PJM offtaker. So  
8 how -- how did it -- how do you square that  
9 statement, I guess?

10 A Correct. I think with any facility we always  
11 look for offtake optionality and where there are  
12 different cases of need. So with Juno, we  
13 currently intend to pursue, you know, initiating  
14 a transmission study, continuing discussions with  
15 that PJM offtaker, but a lot of that will largely  
16 depend, of course, on the interconnection study  
17 results as well, since a lot of those power  
18 contracts carry very significant financial  
19 security, so we don't anticipate, you know,  
20 signing a contract in the very near future for  
21 the contract -- for the sale of energy from the  
22 facility I should say.

23 We would explore concurrently a  
24 potential sale via House Bill 951 with Duke as an

1 option. And, you know, in likelihood would  
2 initiate those discussions or participate in any  
3 procurements that occurred in 2022 if not already  
4 contracted.

5 Q Have you already started those negotiations with  
6 Duke?

7 A We have had very preliminary discussions with  
8 Duke at this point.

9 Q Thank you. In your direct testimony on page 15,  
10 you mention level 10 energy which provides  
11 insight into renewable PPA pricing and you state  
12 that it notes that PPA prices in PJM are  
13 increasing because and there's a list. Number  
14 one is more challenging local and state  
15 permitting regimes. Which states and localities  
16 is that referring to?

17 A So PJM primarily has a lot of supply from  
18 Virginia, Pennsylvania, and those states have  
19 generally less land availability and produce  
20 smaller size solar facilities and have more of an  
21 uphill battle as it pertains to zoning and  
22 permitting, which often cuts off supply for  
23 projects that could otherwise move forward.

24 Q And are there any other issues?

1 A As it relates to permitting, I think that's the  
2 primary concern is that it's challenging to find  
3 projects of a significant size that carry cost,  
4 you know, cost efficiencies and economies of  
5 scale and difficult to get projects approved as  
6 well to be able to meet that demand.

7 Q Then the second point was it mentions  
8 prohibitively high grid upgrades. And then the,  
9 I guess, report goes on to say that the PJM  
10 market is short on solar project supply. What  
11 timeframe -- what's the timeframe when solar  
12 projects will be built within the PJM footprint  
13 or is that really not an option?

14 A So PJM projects are studied in the cluster  
15 process just like Duke is initiating, so there  
16 are kind of waves of projects that are able to  
17 proceed through that process and be built.

18 I think the issues that persist in  
19 PJM are not expected to diminish. There is also  
20 a active stakeholder proceeding occurring with,  
21 you know, a queue reform of its own if you will  
22 for PJM's interconnection process that has  
23 expected to backlog projects really throughout  
24 this decade for new projects being able to come

1 online if they are not already in receipt of an  
2 Interconnection Agreement.

3 Q And so -- but in your opinion do you see  
4 utility-scale solar as viable in the PJM  
5 footprint?

6 A There is certainly utility-scale solar I think  
7 being developed in the PJM footprint, but the  
8 question is, is there enough of it to meet the  
9 demand that is continuing to increase whereas  
10 supply is continuing to be constrained.

11 Q Thank you for that. And then the one Staff  
12 question, I don't understand this but they do,  
13 how will the facility be designed to ensure that  
14 storage component does not take power from the  
15 grid? If it does take power from the grid, the  
16 Interconnection Study would need to be conducted  
17 twice; once in the facility as a generator and  
18 once in the facility as a customer. What's your  
19 response to that?

20 A So the solar component of the facility is a  
21 closed-loop system meaning it's a DC coupled  
22 system, so it is designed only to charge from the  
23 facility itself and not to charge from the grid.

24 And it's our understanding that

1 Duke does not allow storage as it currently  
2 stands connected to a facility to charge directly  
3 from the grid.

4 Q And actually I do understand that.

5 COMMISSIONER DUFFLEY: You had a further  
6 question?

7 COMMISSIONER CLODFELTER: Well, I had a line  
8 of questioning that I wasn't going to pursue, and then  
9 you sort of got into it, so I have to ask.

10 EXAMINATION BY COMMISSIONER CLODFELTER:

11 Q It's a quasi-rhetorical question, so you don't  
12 have to answer it if you don't want to. But if  
13 you have a comment in response to it, you can and  
14 I'd be interested in your comment.

15 So, I'm hearing that it's really  
16 critical that we resolve the problem of  
17 transmission constraints in southeastern North  
18 Carolina which includes Richmond County, because  
19 it's going to be critical to our ability --  
20 absolutely essential to our ability to meet the  
21 goals of House Bill 951 that we be able to  
22 aggressively develop solar projects in  
23 southeastern North Carolina. They're the best  
24 locations. So I hear I have one my best

1 locations to meet my state policy goals and it's  
2 going to be selling into the PJM market. What am  
3 I supposed to do with that fact when making a  
4 decision about public convenience and necessity?

5 A Well, I think the facility still has a strong  
6 opportunity to be sold to Duke, so I would say  
7 that as we've mentioned throughout the hearing  
8 today, that is still absolutely an option for the  
9 facility.

10 Q I understand you and I take you at your word and  
11 I don't doubt you for one minute. I'm really --  
12 because I say quasi-rhetorically suggesting that  
13 the problem of optionality is not just in this  
14 case. We're seeing it constantly. And  
15 optionality presents us with a different --  
16 difficult situation. Suppose we were to find in  
17 one case that there is no showing of need but  
18 there is a showing of need in the other case for  
19 the other option. How should I deal with that in  
20 making a decision about whether to issue a CPCN  
21 when the optionality is still open and not yet  
22 closed?

23 Don't answer that. I don't expect  
24 you to answer that. It's simply a policy issue

1           that we have to grapple with.

2       A     Sure. Yeah, it's a complicated question. I will  
3           share that the thing that makes Juno Solar unique  
4           from other solar assets located in Dominion  
5           territory in North Carolina is the benefit of the  
6           wheeling revenues that Juno will be paying to  
7           Duke's transmission system. And as we've  
8           mentioned that revenue in all likelihood all of  
9           the dollar figures we've quoted are I would say  
10          quite conservative, because we are likely to also  
11          reserve non-firm transmission on top of whatever  
12          firm transmission we reserve but are, you know,  
13          substantial and a substantial benefit to Duke's  
14          system and to the transmission grid.

15                       And, of course, there's also the  
16          likelihood that if the facility has some sort of  
17          contracting arrangement in PJM, because it's  
18          physically located in the Duke system the firm  
19          transmission service is a minimum of one year and  
20          a maximum of five years, so there is optionality  
21          within that to, you know, to design the length of  
22          the contract and the length of the firm  
23          transmission to have the ability to serve the  
24          Duke system more directly in the future.

1 Q Thank you. I wasn't going to even start down  
2 that road.

3 COMMISSIONER CLODFELTER: I don't have  
4 anything else.

5 COMMISSIONER DUFFLEY: Questions on  
6 Commission questions?

7 MR. JOSEY: Just a few.

8 EXAMINATION BY MR. JOSEY:

9 Q First of all, you mentioned the battery that will  
10 be -- go along with the Juno facility. Has the  
11 battery entered any kind of study process?

12 A (Ms. Miller) The battery is included in the  
13 interconnection queue position with Juno, because  
14 it is DC coupled they can be studied as a single  
15 facility.

16 Q And you talk about when Chair Mitchell mentioned  
17 the C&I demand for renewable energy in PJM  
18 territory. Where is the majority of that demand  
19 within the PJM territory?

20 A I don't know that I can speak to that directly,  
21 but I think the demand is across PJM more  
22 broadly, but I would say Virginia and  
23 Pennsylvania which, of course, are extremely  
24 close to North Carolina is where a lot of the



1 demand is occurring.

2 Q Thank you. You spoke earlier about the timelines  
3 for the Wheeling Transmission Study or you spoke  
4 of a Wheeling Transmission Study. Do you know  
5 what the timeline for that study is?

6 A Yeah. So as we understand -- so we have spoken  
7 with Duke about this, their transmission team.  
8 The study itself is in some way tied to the  
9 interconnection process, so in any event we  
10 expect that the transmission study will be  
11 complete prior to the end of the actual  
12 Interconnection Study Process, but it will have  
13 some connection to that.

14 Q And then my last question is just as we talk  
15 about wheeling power from this facility into PJM  
16 territory, do you know if that will have any  
17 effect on the current affected systems issues  
18 that we are seeing in the northeastern part of  
19 the state?

20 A I believe we've looked at -- again, I don't want  
21 to speak out of turn, but I believe we have  
22 looked at this and we don't believe that it's  
23 going to impact that specific issue. But of all  
24 of the potential affected systems that Juno could

1 trigger, because it is, you know, importing power  
2 into PJM, it is most likely that it would be  
3 identified that there is potential PJM affected  
4 systems.

5 And actually, I'd like to point  
6 to, I believe in one of our data requests we had  
7 addressed this based on our injection analysis,  
8 and I am happy to point it out in a minute. All  
9 to say I believe we concluded somewhere in our  
10 data responses that although we expect -- oh,  
11 here. Okay. I'll just read it if that's okay.

12 Q Yeah, if you could identify which request.

13 A Sure. So this is Data Request Number 2. Data  
14 Request Number 2, question number 12A. And it  
15 says "Please provide documentation that ensures  
16 this project is not triggering any Affected  
17 System Study -- utility studies." And our  
18 response was "Through the course of Birch Creek's  
19 injection study, all tie lines to neighboring  
20 utilities were monitored for potential overloads  
21 and none were found to Juno's power flowing into  
22 adjacent systems other than PJM. It should be  
23 further noted that these potential violations  
24 delivering power into PJM are triggered by three

1           natural gas projects amounting to over 4 GW  
2           within a five bus radius of an area tie line  
3           between DEP and Dominion Virginia Power and PJM  
4           with Juno minimally contributing to and not  
5           causing the potential violations."

6   Q     Okay. Thank you very much.

7           MR. JOSEY: That's all. And just to make  
8           the Commission aware, that Data Request response she  
9           is referring to is within Public Staff Miller Cross  
10          Exhibit Number 2.

11          COMMISSIONER DUFFLEY: Thank you.  
12          Ms. Kemerait?

13          MS. KEMERAIT: Briefly, Ms. Miller.

14          EXAMINATION BY MS. KEMERAIT:

15   Q     In response Commissioner Clodfelter has asked you  
16           a question about the public convenience if Juno  
17           Solar is selling into PJM and you provided some  
18           information about the uniqueness of this project  
19           selling into PJM due to the transmission payments  
20           to DEP.

21   A     (Ms. Miller) Correct.

22   Q     Is that right? Are there -- assuming that Juno  
23           Solar does sell into PJM, if it facilitates the  
24           upgrades in southeastern North Carolina, will

1           there be any benefit to the state and to the  
2           ratepayers for compliance with House Bill 951?

3       A     Absolutely. So as we've mentioned several times  
4           throughout the course of the day, we believe that  
5           the Juno facility is critical as a critical  
6           component of unlocking the logjam as we say in  
7           the southeastern portion of the state where we  
8           believe much of the new solar generation could  
9           come online in the most cost-effective way to  
10          meet the goals outlined in House Bill 951.

11       Q     And my last question, Ms. Miller, is in response  
12           to a question from Mr. Josey about affected  
13           system upgrades, can you tell the Commission  
14           about the condition that Juno Solar is willing to  
15           agree to in regard to affected system cost?

16       A     Absolutely. So, in our -- I think it might've  
17           been my rebuttal testimony. In my rebuttal  
18           testimony we agreed that the \$4.00 LCOT cap would  
19           be inclusive of any system upgrades and any  
20           Affected System Studies that would impact North  
21           Carolina ratepayers so that would be inclusive in  
22           that \$4.00 LCOT request.

23       Q     And following up on that, Ms. Miller, was there  
24           another condition related to an agreement by Juno

1 Solar about seeking reimbursement for affected  
2 system costs?

3 A We agreed not to seek reimbursement for any  
4 affected system cost that would impact North  
5 Carolina ratepayers.

6 Q Okay. Thank you.

7 MS. KEMERAIT: That's all the questions that  
8 I have.

9 COMMISSIONER DUFFLEY: Thank you. I believe  
10 that ends your case in chief.

11 MS. KEMERAIT: Yes, it does. Thank you.

12 COMMISSIONER DUFFLEY: I'll take a motion  
13 from Public Staff regarding the cross exhibits.

14 MS. CUMMINGS: I move our cross -- can I  
15 move to have our cross exhibits 1 through 5 -- Public  
16 Staff Levitas Cross Exhibits 1 through 5 and Public  
17 Staff Miller Cross Exhibits 1 and 2 moved into the  
18 record.

19 COMMISSIONER DUFFLEY: Any objection?

20 MS. KEMERAIT: No objection.

21 COMMISSIONER DUFFLEY: Without objection, so  
22 moved.

23 (WHEREUPON, Public Staff Levitas  
24 Cross Exhibits 1 - 5 and Public

1                               Staff Miller Cross Exhibits 1 and  
2                               2 are received into evidence.)

3                   COMMISSIONER DUFFLEY:   So we have come --  
4   thank you very much.   You may step down.

5                   THE WITNESS:   (Ms. Miller)   Thank you very  
6   much.

7                   COMMISSIONER DUFFLEY:   So it is a little  
8   past 1:30.   Let's adjourn for lunch.   Let's come back  
9   at 2:05.   Let's please go off the record.

10                               (The hearing was recessed, to  
11                               reconvene at 2:15 p.m.)

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

## C E R T I F I C A T E

I, KIM T. MITCHELL, DO HEREBY CERTIFY that  
the Proceedings taken and reported by TONJA VINES in  
stenographic shorthand were transcribed under my  
direction, and that the Proceedings set forth herein  
and the foregoing pages are a true and correct  
transcription to the best of my ability.

Kim T. Mitchell

Kim T. Mitchell