

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the)
 Application of Ohio Edison) CASE NOS.
 Company, The Cleveland) 07-551-EL-AIR
 Electric Illuminating Company) 07-552-EL-ATA
 and The Toledo Edison Company) 07-553-EL-AAM
 for Authority to Increase) 07-554-EL-UNC
 Rates for Distribution Service,)
 Modify Certain Accounting)
 Practices and for Tariff)
 Approvals.)

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BE IT REMEMBERED, that upon the hearing of
 the above-entitled matter, held at the Shaker
 Heights City Hall, 3400 Lee Road, Shaker
 Heights, Ohio, before Kimberly W. Bojko and
 Gregory Price, Attorney Examiners, and
 commencing on Thursday, the 13th day of March,
 2008, at 6:30 o'clock p.m., at which time the
 following proceedings were had.

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1 **APPEARANCES:**

2 On Behalf of the Public Utilities Commission
3 Of Ohio:

4 PUBLIC UTILITIES COMMISSION OF OHIO

5 BY: Kimberly W. Bojko, Attorney Examiner

6 Gregory Price, Attorney Examiner

7 180 East Broad Street

8 Columbus, Ohio 43215-3793

9 614/752-7999

10 On Behalf of Ohio Consumers' Counsel:

11 OFFICE OF THE OHIO CONSUMERS' COUNSEL

12 BY: Jeffrey L. Small

13 Assistant Consumers' Counsel

14 10 West Broad Street, Suite 1800

15 Columbus, Ohio 43215-3485

16 614/466-8574

17 On Behalf of FirstEnergy:

18 Arthur E. Korkosz, Senior Attorney

19 James W. Burk, Senior Attorney

20 76 South Main Street

21 Akron, Ohio 44308

22 330/384-5861

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24

25

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

2 MS. BOJKO: The Public
3 Utilities Commission of Ohio has assigned for
4 public hearing at this time and Case numbers
5 07-551-EL-AIR, 07-552-EL-ATA, 07-553-EL-AAM and
6 07-554-EL-UNC being captioned in the matter of
7 the application of Ohio Edison Company, The
8 Cleveland Electric Illuminating Company and The
9 Toledo Edison Company for authority to increase
10 rates for distribution service, modify certain
11 accounting practices, and for tariff approvals.
12 My name is Kimberly Bojko. With me today is
13 Gregory Price. We are the attorney examiners
14 that have been assigned to this proceeding. At
15 this time, I would like to take appearances of
16 the parties that have intervened in the case.
17 We'll begin with the applicant company.

18 MR. BURK: Thank you, Your
19 Honor. On behalf of the applicants, James W.
20 Burk.

21 MS. BOJKO: Consumers' Counsel.

22 MR. SMALL: On behalf of the
23 residential customers of the FirstEnergy
24 Companies, Jeffrey Small, Assistant Consumers'
25 Counsel, Office of the Ohio Consumers' Counsel.

1 10 West Broad Street, Suite 1800, Columbus,
2 Ohio. Thank you.

3 MS. BOJKO: Any other parties
4 present that are interveners in the case that
5 would like to make an appearance?

6 At the hearing tonight, there are
7 representatives from the Commission Service
8 Monitoring and Enforcement Department. They
9 were out at the table. They would be happy to
10 help or answer any questions that you may have.
11 There are also representatives here from
12 FirstEnergy and from the Office of Ohio
13 Consumers' Counsel. If you have any questions
14 about issues other than the rate case pending
15 before the Commission, please ask those
16 representatives and they will try to assist you
17 the best that they can.

18 On June 7, 2007, Ohio Edison, Toledo
19 Edison and The Cleveland Electric Illuminating
20 Company filed applications with the Commission
21 to each increase their electric distribution
22 rates, and as part of that rate case proceeding,
23 the Commission staff prepared and filed a staff
24 report for each company, and they filed that
25 staff report on December 7, 2007. This is the

1 staff report for the Cleveland Electric
2 Illuminating Company and the staff of the
3 Commission does an independent review of the
4 company's application, and then they put
5 together a staff report where they discuss the
6 company's application and issue comments and
7 recommendations on the application as well as
8 the approval of such application. If you would
9 like to get a copy of the application, you can
10 go to the Commission's web site which is
11 www.puco.ohio.gov or you can call
12 1-800-686-PUCO.

13 This is one of 11 public hearings
14 that we are holding in the FirstEnergy service
15 territories, and this is only one aspect of the
16 rate case. The other aspect is the evidentiary
17 hearing in this case which began on January 29,
18 2008 at the Commission offices in Columbus, and
19 that evidentiary hearing lasted approximately
20 three weeks and entailed receiving the written
21 testimony, oral testimony of approximately 60
22 witnesses from all the interveners of the case
23 and including the company's witnesses.

24 The purpose of tonight's public
25 hearing is to receive comments from the public

1 regarding FirstEnergy's proposed rates. We will
2 not be hearing from the companies today, from
3 any interveners or parties from the case or from
4 staff of the Commission. Tonight is the
5 opportunity to hear from you, from the public.
6 And when you arrived, you were offered the
7 opportunity to sign in on the sheet out there at
8 the table. And we will call the witnesses that
9 we have on the sheet in the order that they
10 appear, the order they signed up. But if you
11 missed that opportunity to sign up and you would
12 like to speak tonight and testify, please go
13 back out to the table and they have an
14 additional sheet you may sign up for.

15 Before you begin your statement, we
16 will ask for your name and address. Please
17 state your name and spell your last name for the
18 record and court reporter, and your testimony
19 will then be considered part of the official
20 record of the case to be reviewed by the
21 Commissioners before they make their final
22 decision. There are five Commissioners of the
23 Public Utilities Commission, and they are the
24 ones that render the final decision on this
25 matter.

1 All testimony tonight will be under
2 oath, and attorneys for the company and/or other
3 parties will be allowed to ask you questions
4 about your statement while you are under oath.
5 Should you decide that you do not want to
6 testify, even though you've already signed up,
7 please just say "pass" when we call your name
8 and we'll move on to the next witness.

9 As we've stated, tonight's hearing is
10 being transcribed by a court reporter, so please
11 speak clearly so the court reporter can
12 accurately reflect your statements on the
13 record. If you have a prepared written
14 statement, it is helpful if you could provide
15 that to the court reporter as well as the bench
16 as well. We appreciate your participation in
17 tonight's hearing and we want everyone who
18 wishes to make a public statement to have the
19 opportunity, so we appreciate your courtesy and
20 your patience as we go through our witness list.
21 We will begin with our first witness.

22 MR. PRICE: Connie Kline.
23 Please state your name and address for the
24 record.

25 (Thereupon, Ms. Kline was sworn.)

1 **MS. KLINE:** My name is Connie
2 Kline, 38531 Dodd's Landing, Willoughby Hills,
3 Ohio.

4 Thank you for conducting these public
5 hearings and the opportunity to address the PUCO
6 this evening. I have long been a glutton for
7 punishment. I've long been a thorn in,
8 FirstEnergy now, side. I took a break for a
9 number of years to lower my blood pressure, but
10 I'm back.

11 I am representing the Concerned
12 Citizens Network of Lake, Geauga, Cuyahoga and
13 Ashtabula counties. A grassroots advocacy group
14 that supports energy conservation, efficiency
15 and least polluting alternate non-nuclear
16 sources. My comments will be brief.

17 We unequivocally oppose FirstEnergy's
18 application for 25 percent, \$340 million annual
19 revenue distribution rate Increase, (Case number
20 07-551-EL-AIR), a large percentage of which will
21 be borne by residential customers. We further
22 oppose any increase in distribution rates even
23 the lesser 12 to 14 increase that the PUCO staff
24 has recommended.

25 This rate increase isn't needed by a

1 company that has had recent record billion
2 dollar profits that have placed FirstEnergy in,
3 quote, the best financial position I have seen
4 in my 34 years, according to its Chief Executive
5 Officer, Anthony Alexander.

6 The unfortunate fact that we pay the
7 highest electric rates in the State of Ohio and
8 some of the highest in the country is due to
9 past PUCO decisions. At least part of
10 FirstEnergy's record profits are the result of
11 the PUCO allowing FirstEnergy to continue
12 charging customers for Perry and Beaver Valley
13 nuclear power plant construction cost overruns
14 that were 1,000 percent over original
15 projections and have been paid off three times.
16 First in the rate case deal in 1989, then in the
17 market development period from 2001 to 2005, and
18 now under the Rate Stabilization Plan of 2005 to
19 2008. FirstEnergy has been setting record
20 profits by gouging rate payers out of 12 billion
21 dollars for the rate stabilization charge,
22 formerly called the transition or stranded costs
23 for the Perry and Beaver Valley reactors. That
24 charge is still on our bills even though the
25 plants have been paid for three times over. And

1 if approved by the Ohio General Assembly as
2 written, Governor Strickland's proposed energy
3 legislation (Senate Bill 221) for the post
4 Market Development Period starting January 1,
5 2009 permits FirstEnergy to continue to recover
6 these costs.

7 Although technically outside the
8 scope of this hearing, the Concerned Citizens
9 Network supports portions of Governor
10 Strickland's bill and has suggested changes made
11 by House Speaker Jon Husted. We do not consider
12 nuclear power an acceptable alternative energy
13 source by any circumstances, and we support
14 complete regulation of Ohio's electric
15 utilities. We do not want rates subject to
16 wholesale markets. I know that's outside the
17 scope of this.

18 In conclusion, it is unconscionable
19 and hypocritical for FirstEnergy to seek a
20 distribution rate increase when they are flushed
21 with record-setting profits. Is it coincidental
22 that service quality in many areas has declined
23 in the past few years while FirstEnergy's
24 profits have soared? The PUCO should deny this
25 rate increase. FirstEnergy should take some of

1 its record profits to cover any shortages in
2 distribution costs. Furthermore, FirstEnergy
3 should consider new energy efficiency and
4 demand-side management programs which would
5 potentially reduce wear and tear on distribution
6 equipment. However, we oppose charging rate
7 payers to conserve energy as FirstEnergy has
8 proposed.

9 And our family itself has been a
10 victim of power interruptions by CEI. A number
11 of years ago, at the suggestion of the PUCO
12 actually, we filed a formal complaint with the
13 PUCO. And the process is the PUCO then
14 investigates, and at least in our case, the PUCO
15 required that the utility account for every
16 power interruption that we -- over a certain
17 number of seconds I think it was or minutes, but
18 they had to account for every power
19 interruption, because I kept records on a
20 calendar for over a year. The PUCO also
21 required them to -- we have underground wiring
22 where we live. The PUCO also required them to
23 replace that underground wiring. The PUCO also
24 suggested that we sue them because we lost
25 our -- we lost power to -- our refrigerator was

1 ruined and our heat pump was ruined. We chose
2 not to do that. That would have been a long
3 protracted thing that we would have lost. We
4 would have been setting ourselves up for a loss,
5 but that option -- I know Shaker Heights has
6 experienced a lot of power outages, so that is
7 an option that consumers can do. That's it.
8 Thank you.

9 **MR. PRICE:** Dave Puffer.
10 (Thereupon, Mr. Puffer was sworn.)

11 **MR. PUFFER:** David Puffer,
12 P-u-f-f-e-r, 19923 Idlewood Trail, Strongsville,
13 44149.

14 Good evening. As I said, my name is
15 Dave Puffer. I'm the Director of Business
16 Affairs in the Westlake City School District.
17 I'd like to thank the Commission for allowing me
18 to explain how the rate increase will impact the
19 education of the children of Westlake City
20 School District.

21 As you know, school funding is a
22 major issue in our state. Any increase in the
23 basic cost of operating our district will take
24 dollars away from other education and budgetary
25 items. We are very appreciative of the support

1 FirstEnergy has provided Westlake City Schools
2 in the past. The Energy For Education program
3 that's been in effect for the last ten years has
4 been very helpful in keeping the electric rates
5 down and costs down. These savings have been
6 used to increase teaching and learning
7 opportunities for our children. The current
8 Energy for Education program will expire on
9 December 31, 2008. Losing this program will
10 cause our electric rates to automatically
11 increase by approximately 13 percent. Any new
12 distribution rate authorized by the Public
13 Utilities Commission of Ohio and any generation
14 increase authorized by the legislature will
15 result in additional increases, as will
16 FirstEnergy's proposal to abolish their current
17 school rate and treat school districts the same
18 as all other commercial customers. The Ohio
19 School Council's analysis concludes that if the
20 new distribution rate is authorized, it will
21 increase our costs by approximately 10 percent,
22 \$55,000, equivalent to a little bit over one
23 first-year teacher. Additionally, if all these
24 other rates occur, our total electric costs
25 could increase by 30 by 40 percent beginning

1 January 2009. Based on this analysis, our
2 electric costs would go up by 165,000 to 220,000
3 or the equivalent of roughly four and a half to
4 roughly 6 entry-level teachers. The Ohio School
5 Council's analysis has also concluded that
6 school districts' load characteristics are more
7 favorable than other commercial customers.
8 Schools do not peak during the three summer
9 months like other commercial customers since we
10 are largely not in session during that time.
11 Therefore, the special school rates which
12 currently exists with FirstEnergy and CEI
13 customers are justified and should be continued.

14 I'd like to thank you again for
15 taking the time to listen to my concerns about
16 these possible rate increases and their impact
17 on the dollars needed for the education of the
18 children in the Westlake City School District.
19 I hope the Commission would understand and be
20 sympathetic towards our situation and view
21 schools as a succinct group worthy of discussion
22 which are currently in effect. Thank you.

23 **MR. PRICE:** Mr. Gruber.

24 (Thereupon, Mr. Gruber was sworn.)

25 **MR. GRUBER:** Thank you very

1 much. Good evening to everyone. I'm Bill
2 Gruber. I'm Chief Counsel for the City of
3 Shaker Heights, and on behalf of Mayor Earl
4 Leiken and The City of Shaker Heights, I'd like
5 to welcome all of you and our attorney examiners
6 and attorneys for the various parties tonight to
7 Shaker Heights and our historic City Hall for
8 this public hearing.

9 As you know, The City of Shaker
10 Heights has had over the past five years, a
11 significant problem with reliability of electric
12 distribution service throughout the community.
13 That is why we were very pleased that the
14 Commission has taken the issue of service
15 reliability so seriously that it has become a
16 significant issue in this rate case. As in all
17 rate cases, the Commission staff is required to
18 provide a report that Your Honor showed a little
19 bit ago, the staff report for CEI, and in that
20 they must include an analysis of CEI's
21 operations, including CEI's reliability of
22 performance. We understand from the report of
23 the Commission staff in this case that during
24 2005, after lengthy discussions concerning the
25 sufficiency of CEI's actions for meeting its

1 reliability target, the staff and company agreed
2 on a set of interim targets for CEI to meet
3 during 2006 and 2007. The company agreed that
4 if it missed any interim targets, it would hire
5 a consultant to provide the Commission an
6 independent assessment of CEI's infrastructure
7 and operational practices. The consultant would
8 also recommend steps for CEI to take to improve
9 performance. We also understand that during
10 2006, CEI missed all of its interim targets
11 which triggered the hiring of the consultant
12 that it agreed to, and that the investigation
13 was completed in October of last year.

14 We congratulate the Commission on
15 ensuring that this investigation was undertaken
16 and completed, and the report of the
17 investigation recommended many actions by CEI to
18 improve reliability. In fact, the Commission
19 staff recommended that the Commission order CEI
20 to immediately implement all the consultant's
21 short-term and long-term recommendations in
22 accordance with their recommended completion
23 dates, and we agreed with the staff's
24 recommendation in this regard and urged the
25 Commission to take those steps. The Office of

1 Consumers' Counsel and has urged the Commission
2 to reduce CEI's rate increase because of CEI's
3 poor reliability and performance, and we believe
4 that the Commission must carefully consider the
5 Consumer Counsel's recommendation due to the
6 seriousness of the reliability problems
7 identified.

8 Now, in Shaker Heights, we've worked
9 with CEI very closely on the reliability and
10 outage issues since 2005, including with their
11 local representative Mr. Johnson who has been
12 very helpful and cooperative and communicative
13 with the city. So we really appreciate that
14 working relationship that we have here in the
15 city, and we've continued to monitor and meet
16 with CEI periodically on this issue. We've
17 appreciated their efforts to not only do work in
18 the city, but keep us informed of what they're
19 doing. We even leased vacant retail office
20 space that the city owns to FirstEnergy to allow
21 it to stage its work in the city to correct the
22 outage and reliability problems. We believe
23 that reliability has improved in the city over
24 the past three years; however, this improvement
25 did not come about without a lot of hard work by

1 the city, its citizens and CEI working together.
2 After a number of public and private meetings
3 with the company, CEI promised the city and
4 Commission that it would implement a complete
5 upgrade of the entire electric distribution
6 system in the city. In August of 2005, the city
7 was promised by about April 2006 all old wire
8 would be replaced in the city with aluminum
9 constructed steel reinforced wire and new poles
10 to be installed where needed throughout the
11 city. New transformers on new brackets would be
12 installed and CEI would get rid of crossarms
13 wherever possible or where needed. And CEI
14 would use four foot long crossarms, if
15 necessary, rather than the eight foot long ones.
16 In addition, by approximately August of 2007 CEI
17 pledged that the entire CEI electric
18 distribution in the city would be completely
19 rebuilt. CEI also informed the city that at a
20 later unspecified date automation to isolate
21 circuits and tie one area to another would be
22 installed in selective areas, and CEI would tie
23 certain circuits together that were 13KV.

24 However, by May of 2006, although 91
25 percent of the engineering work and 52 percent

1 of the tree trimming work had been done, just
2 24 percent of the actual construction work for
3 the upgrade had been completed by CEI. And by
4 July 2007, which was after the date when all the
5 upgrade was expected to be completed, CEI had
6 completed 93 percent of the engineering work and
7 just about all of the tree trimming work, but
8 only 39 percent of the construction work. And
9 as of today, through February 2008, almost nine
10 months after the promised completion date, only
11 49 percent of the construction work has been
12 completed. We hope and expect that CEI would
13 promptly complete a system upgrade in the city
14 and use our city's distribution system as a
15 model for the work that it will need to do
16 throughout its territory to ensure reliability.

17 Now, on another issue, an objection
18 has been raised in the rate case about
19 FirstEnergy's use of payday lender as places
20 where electric bills can be paid. Payday
21 lenders charge unconscionable interest rates, up
22 to 391 percent and they are currently the focus
23 of review by the General Assembly.
24 Nevertheless, with the closure of
25 utility-operated customer service centers, CEI

1 and other companies have opted to work with
2 merchants to provide authorized payment centers
3 for customers. Unfortunately, some of these
4 authorized payment centers are also payday
5 lenders. Using payday lenders as authorized
6 payment centers creates too great of risk that
7 customers will use loans from those entities to
8 pay for essential energy services, trapping
9 themselves into a spiral of debt that ultimately
10 results in greater levels of bad debt which is
11 paid for by all customers. The Commission
12 should prohibit the use of payday lenders as
13 authorized payment centers.

14 Finally, another issue that is not
15 typical to a rate case, but which has been
16 raised by the Commission staff concerns the
17 situation of we'd all call two-pole conditions,
18 where electric service has been moved from one
19 pole and placed on a new pole, yet the old pole
20 remains in place for several months or longer,
21 up to several years after the transfer of the
22 electric service because there are other wires
23 on it or just because no one has removed the
24 pole, and this has been a recurring probably in
25 Shaker Heights. The Commission staff

1 inspections revealed the increase in the number
2 of two-pole conditions and they investigated the
3 cause of the increase. There are joint service
4 agreements setting forth the responsibilities
5 for who will remove poles and when, and the
6 Commission found that communication and
7 cooperation varied between companies. The staff
8 set of goal of developing measurements for this
9 activity, facilitating solutions, eliminating
10 old (pre2006) two-pole conditions by 2010, and
11 resolving all future two-pole conditions within
12 12 months of their creation. FirstEnergy has
13 indicated it does not know how many two-pole
14 conditions currently exist and that a systematic
15 tracking system for identifying and remediating
16 them has not been developed. It is, of course,
17 a minor issue compared with reliability and, of
18 course, compared to the rates that the customers
19 may end up paying from this rate case. However,
20 it is a significant source of irritation for
21 residents and the city government in Shaker
22 Heights that utility companies cannot seem to
23 resolve the problem of old poles being left
24 standing when new poles are installed. CEI has
25 essentially washed its hands of the problem when

1 contacted by the city and its residents. We're
2 not blaming CEI or any particular utility for
3 the problem. However, as between the city and
4 its residents and the utility companies
5 altogether, it is clearly not the city's or
6 resident's problem to take care of. The
7 Commission should require CEI and all other
8 involved utility companies, to the extent it can
9 to cooperate and work together to get the poles
10 removed as quickly as possible after each new
11 pole is installed, and because allowing them to
12 remain is not only unsightly, but is unsafe.
13 And we agree with the Commission staff
14 recommendation that CEI should develop a
15 systematic means of tracking all such
16 conditions, the location, dates of transfer,
17 dates of pole removal, et cetera. And the staff
18 recommends also that CEI develop a process
19 whereby it either retains the right of pole
20 removal or simply executes the removal of the
21 old pole, including, if necessary, a charge back
22 of costs to other pole-attaching companies as a
23 result of inactivity of the attaching parties,
24 and the Commission should adopt these
25 recommendations.

1 So thank you very much for letting
2 the city address some of these issues in the
3 rate case. I appreciate the opportunity, and
4 welcome you to the city.

5 **MR. SMALL:** Your Honor, I have
6 a question. Mr. Gruber, I'd like to put a
7 comment in historical perspective. You
8 mentioned certain activities between Shaker
9 Heights and the company going back to 2005.
10 When was your first contact with Shaker Heights
11 with reliability issues?

12 **MR. GRUBER:** Well, I've been
13 with the city since 2002 and I know the big
14 issue was present even at that time. My first
15 awareness of contact with the company didn't
16 come until about 2004, 2005 time period, but
17 there have been correspondence back and forth
18 with the company and the city before that. And
19 I think what occurred in 2004 and 2005 was a
20 culmination with a series of outages that were
21 unexplained and unexplainable because they were
22 happening at times like on a sunny, quiet,
23 windless July summer day when nothing was
24 happening weatherwise, no reason for trees to be
25 falling or anything like that and we would have

1 extensive outages in the city. So that was
2 happening in 2005 and 2006 that really brought
3 it to a head.

4 **MR. SMALL:** And there were a
5 number of meetings with the company in 2005?

6 **MR. GRUBER:** We had public
7 meetings in this room with not only our City
8 Council, but also with our safety and public
9 works committee of council, and also private
10 meetings with representatives of the company.

11 **MR. SMALL:** I have a couple of
12 handouts I'd like to present to the witness.
13 I would like to have this marked as Exhibit 30.

14 **MS. BOJKO:** So marked.

15 **MR. SMALL:** And I'll describe
16 them briefly. Pages 1 and 2 of this exhibit is
17 on Shaker Heights stationery. The third page
18 which is the second document on a FirstEnergy
19 letterhead dated July 22, 2005 -- I'm sorry, the
20 first one for Shaker Heights is dated July 20,
21 2005, and then there's a letter dated August 9,
22 2005 on Public Utilities Commission of Ohio
23 stationery. Turning to the first two-page
24 document, Mr. Gruber, are you familiar with that
25 announcement?

1 **MR. GRUBER:** Yes, I am.

2 **MR. SMALL:** Is the July 20,
3 2005 date approximately correct?

4 **MR. GRUBER:** Yes, that makes
5 sense.

6 **MR. SMALL:** Was this in the
7 period of, I think you used the word,
8 culmination of these efforts by Shaker Heights
9 to improve their reliability?

10 **MR. GRUBER:** Yes. This would
11 have occurred after -- if I recall, right
12 after -- and according to the terms I'm reading
13 here, right after several meetings, not only --
14 and correspondence not only with the company,
15 but also with the Public Utilities Commission.

16 **MR. SMALL:** On the second page,
17 there's a statement about efforts to move
18 forward. Are these the efforts that you were
19 talking about as far as a plan to rework the
20 electrical work in Shaker Heights?

21 **MR. GRUBER:** Yes. I
22 specifically referred to an August 2005 date,
23 and I see here it says number 3 that FirstEnergy
24 will present the revised plan to the City in
25 early August. Once the PUCO reviews and

1 assesses the plan on the City's behalf,
2 FirstEnergy will share it with the community.
3 So this all happened before we got the final
4 plan in August of 2005.

5 **MR. SMALL:** If you could turn
6 to the next page of the letter dated July 22,
7 2005 on FirstEnergy stationery.

8 **MR. GRUBER:** Yes.

9 **MR. SMALL:** Have you seen that
10 document before?

11 **MR. GRUBER:** Yes, I have.

12 **MR. SMALL:** Where have you seen
13 that document before?

14 **MR. GRUBER:** I believe I was
15 given a copy of this when it was received -- I'm
16 guessing, if I recall right, that I got a copy
17 of this before it went out because we were
18 working with the company, and they were very
19 cooperative in working with us so that anything
20 that they sent out, we got to see beforehand,
21 and vice versa, so we would have seen this
22 before it went out probably to customers, and
23 then we may have posted this on our web site or
24 at least the mayor may have sent it out in an
25 e-mail blast to residents -- I think it was

1 actually mailed to all residents of the city, if
2 I recall.

3 MR. SMALL: Are you a resident
4 of the City of Shaker Heights?

5 MR. GRUBER: Yes.

6 MR. SMALL: Did you receive
7 this letter as a customer as well?

8 MR. GRUBER: Yes.

9 MR. SMALL: Turning to the next
10 page. It's a letter dated August 9, 2005. Have
11 you seen that before?

12 MR. GRUBER: Yes, I have.

13 MR. SMALL: And you're noted at
14 the top as a recipient. Did you see this
15 approximately August 16, 2005?

16 MR. GRUBER: Yes.

17 MR. SMALL: Now, this letter
18 refers to the PUCO's investigation or the words
19 "utility's commitment very seriously" I see in
20 paragraph 3. Do you see that?

21 MR. GRUBER: Yes.

22 MR. SMALL: So my question has
23 to do with the follow-up with the Public
24 Utilities Commission of Ohio. Did you have
25 contact subsequent to this letter on August 9,

1 2005 with the Public Utilities Commission? I
2 don't imply Mr. Schriber himself, but did you
3 have contact with the staff as far as
4 reliability matters were concerned?

5 **MR. GRUBER:** I know we conducted
6 a public records request. I can't remember
7 whether it was before or after August 9, 2005.
8 It might have been after, an extensive request
9 where we gathered a lot of documents that were
10 on file with the Commission related to
11 reliability of the company, and so I had contact
12 with the staff in that process of trying to get
13 those documents, and I think there were some
14 other conversations. I haven't had any contact
15 with them in the last year or so, at least, or
16 maybe even two years, so it was around that time
17 we had several contacts.

18 **MR. SMALL:** You were asking for
19 information from the Public Utilities
20 Commission.

21 **MR. GRUBER:** Yes. We did a
22 public records request of documents about the
23 company's reliability -- it's SAIDI or CAIDI --
24 reliability reports and that kind of thing, so
25 we did an extensive public records request.

1 **MR. SMALL:** And that was around
2 2005 mark as well?

3 **MR. GRUBER:** Yes.

4 **MR. SMALL:** Has there been
5 contact with the Commission staff subsequent to
6 that concerning their reliability in Shaker
7 Heights?

8 **MR. GRUBER:** Not that I recall.
9 It's possible the mayor had contacts that I
10 didn't know about, but not to my knowledge.

11 **MR. SMALL:** Have you been, for
12 lack of a better word, spearheading the city's
13 efforts in this or -- I'll ask you the question.
14 What has your role been in this reliability
15 matter in the Shaker Heights and CEI?

16 **MR. GRUBER:** We have a new mayor
17 now, Mayor Leiken and the previous mayor, Mayor
18 Rosten was very much in the lead on this issue,
19 and she was spearheading this issue for the
20 community more than anybody, and so whatever she
21 wanted assistance on, I assisted her. I have
22 the same role with Mayor Leiken, so he would be
23 the lead person on the issue of the city
24 directly and I would do whatever he needed to
25 assist, like attending this tonight in his

1 absence.

2 **MR. SMALL:** Do you think you
3 would have been aware of a contact with the
4 Public Utilities Commission's staff regarding
5 reliability if it had occurred since the 2005
6 contact that you referred to?

7 **MR. GRUBER:** Probably, yes.

8 **MR. SMALL:** I have no further
9 questions. And if there will be no further
10 questions, I move for admission of Exhibit 30.

11 **MR. PRICE:** When you say you're
12 not aware of any contacts, did the City of
13 Shaker Heights provide updates to the staff
14 regarding the progress that you've laid out in
15 your testimony prior to today?

16 **MR. GRUBER:** No. There wasn't
17 a back and forth. What happened in 2005 really
18 was we were getting frustrated, the city was.
19 We contacted the Commission. The Commission may
20 have spoken to the company itself, I don't know,
21 but certainly communicated with us that it
22 was -- it wanted the company to take some
23 action, the company did take action, and so we
24 didn't feel the need to contact the Commission
25 or the staff again other than through the public

1 records request that I've mentioned.

2 **MR. PRICE:** So you've never
3 asked the staff to take action that they have
4 not followed up on in 2005?

5 Questions.

6 **MR. BURK:** We have no
7 questions, Your Honor. We have no objection to
8 OCC Exhibit 30.

9 **MR. PRICE:** We'll go ahead and
10 admit OCC Exhibit 30.

11 Pierce Leary.

12 (Thereupon, Mr. Leary was sworn.)

13 **MR. PRICE:** Please state your
14 name and address for the record.

15 **MR. LEARY:** My name is Pierce
16 Leary, L-e-a-r-y, 7720 Blackford Drive, Chagrin
17 Falls, Ohio. I am president of the Board of
18 Education Chagrin Falls and I've been on the
19 Board of Education there for some 19 years and
20 I'd simply like to echo or second the comments
21 made by Mr. Puffer more eloquently than I could
22 have because that's what he does for a living.
23 But we're a smaller district than Westlake City
24 School District. For us the determination of
25 this program and rate increase would increase

1 our budget by some \$100,000 plus, which for us
2 would be two, two and a half entry-level
3 teachers with benefits which would have a
4 significant impact on our school system. We are
5 a community that historically has been
6 supportive of schools. This past year is the
7 first time in over 40 years we failed the school
8 levy. We are feeling the pressure from our
9 community members as every school district is in
10 terms of funding quality education for the
11 children that live in our district.

12 So tomorrow the vice president of the
13 Board and I -- the vice president fortunately is
14 a CPA which is very helpful -- we will be
15 meeting with superintendent/treasurer going over
16 our budget line by line trying to find ways to
17 save money. I would simply ask that the
18 Commission consider the pressure that is on
19 school districts, the financial pressure that is
20 on school district for education and the
21 additional pressure that this rate increase and
22 elimination of that program will have on school
23 districts. Thank you.

24 **MR. PRICE:** The next witness is
25 Gail Long.

1 (Thereupon, Ms. Long was sworn.)

2 MR. PRICE: Please state your
3 name and address for the record.

4 MS. LONG: My name is Gail
5 Long, L-o-n-g, and I live 17012 Lomond Boulevard
6 here in Shaker Heights.

7 To echo something that Ms. Kline said
8 earlier, I was concerned when I was reading some
9 background information to this issue that CEI
10 had earned record profits in the last two years,
11 and that stockholders had seen the value of
12 their stock go up by something like 40 percent.
13 And I thought to myself, well, in my family over
14 the last two years our household income has been
15 decreased by one-half because I'm now retired
16 and I'm on a fixed income with little bit of
17 part-time income, but basically I'm now on a
18 fixed income.

19 I think utilities, all of us would
20 agree, are an essential human need just like
21 housing, just like food. And my belief is that
22 utilities should be owned by the government
23 because of that, but it is not, and I don't
24 think we're going to get into that debate this
25 evening. There are only a limited number of

1 cities in the State of Ohio that have owned
2 their utility companies and they have been under
3 a lot of stress over the last several years.

4 I oppose the annual increase that has
5 been requested by the utility electric company.
6 And I believe that the Commission, if it does
7 approve any increase at all, should not have an
8 increase more than what our cost-of-living
9 increase was here in the State of Ohio or in the
10 regions that we're talking about.

11 I'm particularly concerned that in
12 our area annual incomes have fallen,
13 foreclosures continue to go up, and I don't
14 think we've seen the bubble burst on that one
15 yet, and, in fact, here in our own city we have
16 had hearings around that issue over the last
17 several months. Cleveland is the poorest major
18 city in the country, and jobs continue to leave
19 Ohio, and I think Northeast Ohio has suffered
20 particularly in that area.

21 In addition, I feel that greed is out
22 of control, and that corporations, such as the
23 electric company, have to absorb more of the
24 costs of doing business and that it should not
25 be put solely on the shoulders of the users,

1 whether they're other businesses, homeowners or
2 renters or school districts or governments, for
3 that matter.

4 And, finally, I think that there's
5 been a lot of discussion over the last several
6 years about the increase in the number of people
7 going to retire, the baby boomers reaching
8 retirement age, and that number is going to
9 continue to go up over the next several years
10 and that will increase the number of people
11 living on fixed incomes. So I think that there
12 has to be some concern about that and that the
13 need for profits to continue to go up needs to
14 be harnessed and we need to think about those
15 other kinds of things because ultimately I think
16 we defeat ourselves when we do that -- when we
17 don't think about that.

18 So I guess my message to the
19 Commission is pretty obvious: I don't think
20 there should be an increase at all, and if there
21 is one, it should be limited to the inflation
22 rate. Thank you.

23 MR. PRICE: Stan Lopinsky.

24 (Thereupon, Mr. Lopinsky was sworn.)

25 MR. PRICE: State your name and

1 address for the record.

2 **MR. LOPINSKY:** My name is Stan
3 Lopinsky, 7539 Ohio Street in Mentor, Ohio.

4 First of all, I'd like to thank my
5 colleagues from the Chagrin Falls Schools and
6 Westlake Schools for being here.

7 As I said, Dr. Stan Lopinsky. I am
8 the superintendent of Kirtland Public Schools
9 located in Lake County.

10 We are very appreciative of the
11 support FirstEnergy has provided to the Kirtland
12 schools in the past and to the other 248 school
13 districts in the Energy for Education program.
14 We have had two Energy for Education programs in
15 the last two years which have been very helpful
16 in keeping electric rates down. These savings
17 have been used for increased learning
18 opportunities for all of our students. The
19 current Energy for Education program, which has
20 helped schools for so many years, will expire at
21 the end of this calendar year, December 31,
22 2008, which will cause our electric rates to
23 automatically go up approximately 13 percent.
24 Any new distribution rate increases authorized
25 by the PUCO, and any generation increases

1 resulting from the Ohio legislature will be on
2 top of these increases. Ohio School Council
3 expert witnesses estimated the average
4 distribution costs of electricity will increase
5 between 40 to 60 percent for Ohio schools
6 beginning on January 1st, 2009.

7 Collectively, the loss of the current
8 Energy for Education program will cost 249
9 participating Ohio School Districts over \$11
10 million per year. FirstEnergy's distribution
11 rate increase in this PUCO case and any
12 generation increase will be in addition to that
13 \$11 million. This is, in some regards, an
14 unfunded mandate over which public schools have
15 no control. We will have to cut elsewhere in
16 our budget in order to fund this increase. For
17 our district, this increase is equivalent of
18 about one teacher per year. We must prepare a
19 budget appropriation for the next fiscal year
20 and plant on the total cost of increasing
21 between 30 and 40 percent starting in January
22 2009 as a result of the factors mentioned.

23 At a time when gas prices are
24 increasing, health care insurance costs are
25 increasing, and other educational costs, most

1 school districts are already working diligently
2 to maximize their limited resources. Taxpayers
3 cannot afford these increases in electric rates
4 for your public schools. The taxpayers across
5 our state are frequently saying no to school
6 district requests for monies. I do not believe
7 this is because they do not support your
8 schools, but because the economic climate and
9 their own personal funds are becoming
10 increasingly challenged. We are in a period of
11 educational reform and frequent calls for
12 schools to improve. We often hear the phrases
13 "world-class schools" and "world-class
14 standards" often echoed from the business
15 community. The vast majority of our schools
16 today are working exceedingly hard and with
17 concentrated focus on student achievement. Our
18 public schools have never had a finer cadre of
19 teachers who diligently every day work on behalf
20 of our students.

21 Cleveland Clinic CEO Dr. Toby
22 Cosgrove recently stated when discussing the
23 economic climate of Northeastern Ohio that our
24 schools are our hope to develop the intellectual
25 capacity, were his words, of our students.

1 As these requested increases are
2 considered, morally and ethically we must also
3 be advocates for our school children who are not
4 participants in this discussion tonight. We owe
5 our school children nothing less. These
6 projected increases on school budgets will
7 impact, perhaps, the education of your children,
8 your grandchildren, or the children and
9 grandchildren of your friends and neighbors.
10 Will you hear their voices as these increases
11 are contemplated?

12 Thank you for providing me with the
13 opportunity to speak on this issue on behalf of
14 all the children in your school districts.
15 Thank you.

16 **MR. PRICE:** Our next witness is
17 Gordon Shilling.

18 (Thereupon, Mr. Shilling affirmed.)

19 **MR. PRICE:** Please state your
20 name and address for the record.

21 **MR. SHILLING:** My name is Gordon
22 Shilling. I live at 7400 Ohio Street. I'm a
23 neighbor with Stan and I didn't even know -- we
24 could have commuted together. It's Mentor.
25 Ohio, 44060.

1 First of all, I'd like to
2 congratulate FirstEnergy on the service they
3 provide and the power to generate even though
4 there are constraints by the governmental
5 agencies that may not allow them to produce
6 energy the best way they can. I started my
7 career -- I'm a chemical engineer. I started it
8 with General Electric in California. I was
9 involved in fuel-rod development. Nuclear
10 energy is the best way to produce energy. Most
11 of the world does it that way. Because of a few
12 incidents and liberal thinkers in this country,
13 we do not do that.

14 My father was a stationary engineer,
15 worked at Ohio Edison and produced energy the
16 best way they could in those days and it was
17 with coal. Coal in Ohio is still about -- these
18 facts are not -- these numbers that I quote are
19 probably not real accurate, but they're close --
20 two cents kilowatt hour versus a wind generation
21 of 14-plus cents kilowatt hour, all to conserve
22 and be on the liberal side of our environment.
23 I am a staunch conservative. What we are doing
24 to this nation with the liberal mandates coming
25 out of our federal government is atrocious. I

1 think the American way we would produce energy a
2 lot less if we could do it by the people, not in
3 our backyard, not generated by the government,
4 but by people who study and know how to do that.

5 I don't know what part of the total
6 cost of my utility is distribution versus
7 generation, I didn't know that they break it
8 down that way, but I would imagine it would be a
9 lot less, the distribution part of it, than the
10 generation.

11 Materials are going up. We're not
12 allowed to use our natural resources such as
13 oil, gas, which we have in this country. God
14 has blessed this nation with unbelievable
15 resources, yet we are -- because of the Sierra
16 Club, which I knew in the '60s and some other
17 ongoing people that think they're going to save
18 the environment which God created and we could
19 not touch a bit of it unless he so deems it.

20 Excuse my dress. I do own suits, and
21 the next hearing I testify at I'll dress
22 appropriately, but I probably still will not
23 talk legalese, but I thank you for your time.

24 **MR. PRICE:** Our next witness is
25 Victor Stewart.

1 (Thereupon, Mr. Stewart was sworn.)

2 **MR. PRICE:** Please state your
3 name and address for the record.

4 **MR. STEWART:** My name is Victor
5 L. Stewart, Jr. I live at 3581 Pennington,
6 Shaker Heights, Ohio, 44120.

7 Forgive me if I'm a little informal
8 here or don't follow procedures. I've never
9 done this before, but I felt I needed to speak
10 out here. Although I agree with Mr. Lopinsky.

11 **MR. SHILLING:** Mr. Shilling.

12 **MR. STEWART:** Mr. Shilling. I
13 mean, electricity is so cheap and we use it to
14 power everything, we take it for granted, and
15 FirstEnergy is probably one of the best
16 companies that does that. However, I'm opposed
17 to this rate increase because they made record
18 profits last year, and instead of showing us an
19 intent to reinvest in the infrastructure, they
20 took that money and divided it up among the
21 shareholders and everybody else, and now they're
22 coming back to us to pay for power generation.
23 I don't mind doing it if they had reinvested
24 some of that money. The problem I have with
25 this is -- and I have selfish motives here --

1 I'm a contractor, and being that I'm intimately
2 aware that the infrastructure of 89,000 miles of
3 distribution lines that FirstEnergy has, at
4 least 70 percent are way beyond their life
5 expectancy. The cables are corroded, you've got
6 all the wires in the air, we just had an ice
7 storm the other day. Most of that should be
8 underground. The cables that are underground
9 need to be replaced. Again, my selfish motives.
10 Being a contractor, I've done a lot of work for
11 FirstEnergy. I probably won't do anymore after
12 this, but it doesn't matter anyway. I do what
13 they call directional drilling. I put in the
14 underground cables. And in order not to tear up
15 the streets is we build a pit on either side of
16 the road. We drill under the road from one pit
17 to the other so we don't have to tear up traffic
18 or anything in between. I had one drill that
19 cost me \$100,000 plus the equipment support and
20 crews and everything to operate it, but we were
21 doing quite a bit of work for FirstEnergy last
22 year and they kept pressuring me to get another
23 one, and I refused and I objected and told them,
24 you know, it's not a sound business decision. I
25 can't buy a drill in the middle of the winter.

1 "Man, we have all this work. This
2 cable has to be replaced. It's going to be
3 done. Budget hearings are in place. We have
4 X-amount of millions of dollars. There's not
5 enough contractors to do all this work we need
6 to get done. Go ahead and buy the drill."

7 "I don't want to buy the drill in the
8 middle of the winter. You may have all this
9 work, but I'm constrained by winter conditions.
10 When I can't work, I still have to pay for this
11 drill."

12 "Mr. Stewart, we promise. What
13 happened to you four years ago is not going to
14 happen again. We guarantee these cables have to
15 be replaced. They're only good for 15, 20
16 years. Most of them are 30 years or better.
17 We're going to have a serious problem if we
18 don't make these capital improvements."

19 The day I sign for the drill to order
20 my second drill, \$100,000, I get a letter from
21 guys at FirstEnergy telling me to cease all the
22 work that I'm doing until further notice. I'm
23 saying, okay, it's wintertime, they're doing
24 their budget re-evaluations. We've seen this
25 before. It will be okay.

1 A month later, still hadn't heard
2 anything. I finally got a letter that says, out
3 of what we thought you were going to get, you're
4 going to get 1 percent. We put in a request for
5 \$500 million and management decided to only
6 award us 86. I'm here to tell you, ladies and
7 gentlemen, they're not sincere. If they had
8 reinvested some of these profits into rebuilding
9 this infrastructure, I'd be all for this, but I
10 feel, as a consumer, take my contractor hat
11 aside, that we're paying for something that they
12 may not do. We've seen it before. I'm not sure
13 what's going to happen with this money. I don't
14 know what's happening with Davis Besse and the
15 other plants, but I have a sneaky suspicion that
16 this money is not going to go to redevelop the
17 infrastructure and we're going to get burnt
18 again. That's my opinion, and I hope it sticks.
19 Thank you very much.

20 **MR. PRICE:** Is there anybody
21 who would like to testify who has not signed up
22 to testify at this time?

23 Is there anybody that signed up that
24 we've missed?

25 Thank you all for coming tonight.

1 With that, we are adjourned.

2 (Thereupon, the proceedings were
3 concluded at 7:30 o'clock p.m.)

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C E R T I F I C A T E

STATE OF OHIO,)
) SS:
SUMMIT COUNTY,)

I, Stephanie R. Dean, Court Reporter and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that these proceedings were taken by me and reduced to Stenotypy, afterwards prepared and produced by means of Computer-Aided Transcription and that the foregoing is a true and correct transcription of the proceedings so taken as aforesaid.

I do further certify that these proceedings were taken at the time and place in the foregoing caption specified.

I do further certify that I am not a relative, employee of or attorney for any party or counsel, or otherwise financially interested in this action.

I do further certify that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio on this 27th day of March, 2008.


Stephanie R. Dean

My commission expires August 30, 2010.

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A				
abolish (1) 13:16	46:1 admission (1) 30:10	17:20 40:5 allowed (2) 7:3 41:12	1:5 3:7 5:4,6,7,8 5:9 8:18	5:15,16 Assembly (2) 10:1 19:23
above-entitled... 1:18	admit (1) 31:10	allowing (3) 9:11 12:17	applications (1) 4:20	assesses (1) 26:1
absence (1) 30:1	adopt (1) 22:24	22:11 alternate (1) 8:15	appreciate (4) 7:16,19 17:13	assessment (1) 16:6
absorb (1) 34:23	advocacy (1) 8:13	alternative (1) 10:12	appreciated (1) 17:17	assigned (2) 3:3,14
acceptable (1) 10:12	advocates (1) 39:3	altogether (1) 22:5	appreciative (2) 12:25 36:10	assist (2) 4:16 29:25
account (2) 11:15,18	Affairs (1) 12:16	aluminum (1) 18:8	appropriately ... 41:22	assistance (1) 29:21
accounting (2) 1:11 3:11	affiliated (1) 47:14	American (1) 41:1	appropriation ... 37:19	Assistant (2) 2:13 3:24
accurate (1) 40:19	affirmed (1) 39:18	analysis (4) 13:19 14:1,5	approval (1) 5:8	assisted (1) 29:21
accurately (1) 7:12	affixed (1) 47:16	15:20 and/or (1) 7:2	approvals (2) 1:13 3:11	atrocious (1) 40:25
achievement (1) 38:17	afford (1) 38:3	announcemen... 24:25	approve (1) 34:7	attaching (1) 22:23
action (4) 30:23,23 31:3	aforesaid (1) 47:9	annual (3) 8:18 34:4,12	approved (1) 10:1	attending (1) 29:25
47:13	age (1) 35:8	answer (1) 4:10	approximately... 5:19,21 13:11,21	attorney (8) 1:21 2:5,6,18,19
actions (2) 15:25 16:17	agencies (1) 40:5	Anthony (1) 9:5	18:16 25:3	3:13 15:5
activities (1) 23:8	ago (3) 11:11 15:19	anybody (3) 29:20 45:20,23	27:15 36:23	47:12
activity (1) 21:9	44:13	anymore (1) 43:11	April (1) 18:7	attorneys (2) 7:2 15:6
actual (1) 19:2	agree (3) 22:13 33:20	anyway (1) 43:12	area (3) 18:21 34:12,20	August (11) 18:6,16 24:21
addition (3) 18:16 34:21	42:10	appear (1) 6:10	areas (2) 10:22 18:22	25:22,25 26:4
37:12	agreed (4) 16:1,3,12,23	appearance (1) 4:5	arrived (1) 6:6	27:10,15,25
additional (3) 6:14 13:15	agreements (1) 21:4	appearances (2) 2:1 3:15	Arthur (1) 2:18	28:7 47:23
32:21	ahead (2) 31:9 44:6	applicant (1) 3:17	Ashtabula (1) 8:13	authority (2) 1:9 3:9
Additionally (1) 13:23	air (1) 43:6	applicants (1) 3:19	aside (1) 45:11	authorized (8) 13:12,14,20 20:2
address (9) 6:16 7:23 8:5	Akron (2) 2:21 47:16	application (8)	asked (1) 31:3	20:4,5,13
23:2 31:14	Alexander (1) 9:5		asking (1) 28:18	36:24
33:3 36:1	allow (2)		aspect (2)	automatically ... 13:10 36:23
39:20 42:3				automation (1) 18:20
adjourned (1)				average (1) 37:3

award (1) 45:6	32:3	8:8 41:7	calendar (2) 11:20 36:21	18:12,13,16,17
aware (3) 30:3,12 43:2	Besse (1) 45:14	brief (1) 8:16	California (1) 40:8	18:19,22 19:3
awareness (1) 23:15	best (6) 4:17 9:3 40:6,10 40:16 42:15	briefly (1) 24:16	call (5) 5:11 6:8 7:7 20:17 43:13	19:5,12,25 21:24 22:2,7 22:14,18 29:15 33:9
B	better (2) 29:12 44:16	Broad (3) 2:7,14 4:1	called (1) 9:22	CEI's (6) 15:20,21,25 16:6 17:2,2
baby (1) 35:7	beyond (1) 43:4	brought (1) 24:2	calls (1) 38:11	centers (5) 19:25 20:2,4,6 20:13
back (7) 6:13 8:10 22:21 23:9,17 30:17 42:22	big (1) 23:13	bubble (1) 34:14	capacity (1) 38:25	cents (2) 40:20,21
background (1) 33:9	bill (3) 10:3,10 15:1	budget (6) 32:1,16 37:16,19 44:3,24	capital (1) 44:18	CEO (1) 38:21
backyard (1) 41:3	billion (2) 9:1,20	budgetary (1) 12:24	caption (1) 47:11	certain (5) 1:11 3:10 11:16 18:23 23:8
bad (1) 20:10	bills (2) 9:24 19:20	budgets (1) 39:6	captioned (1) 3:6	certainly (1) 30:21
Based (1) 14:1	bit (5) 13:22 15:19 33:16 41:19 43:21	build (1) 43:15	care (2) 22:6 37:24	certify (4) 47:7,10,11,13
basic (1) 12:23	Blackford (1) 31:16	Burk (4) 2:19 3:18,20 31:6	career (1) 40:7	cetera (1) 22:17
basically (1) 33:17	blaming (1) 22:2	burnt (1) 45:17	carefully (1) 17:4	Chagrin (3) 31:16,18 36:5
Beaver (2) 9:12,23	blast (1) 26:25	burst (1) 34:14	case (21) 1:5 3:4,16 4:4 4:14,22 5:16 5:17,22 6:3,20 8:19 9:16 11:14 15:16,23 19:18 20:15 21:19 23:3 37:11	challenged (1) 38:10
becoming (1) 38:9	blessed (1) 41:14	business (4) 12:15 34:24 38:14 43:24	cases (1) 15:17	changes (1) 10:10
began (1) 5:17	blood (1) 8:9	businesses (1) 35:1	cause (3) 13:10 21:3 36:22	characteristics... 14:6
beginning (2) 13:25 37:6	Board (3) 31:17,19 32:13	buy (3) 43:25 44:6,7	cease (1) 44:21	charge (4) 9:21,24 19:21 22:21
behalf (9) 2:2,10,17 3:19 3:22 15:3 26:1 38:19 39:13	Bojko (7) 1:20 2:5 3:2,12 3:21 4:3 24:14	C	CEI (29) 11:10 14:12 15:19 16:2,8 16:10,17,19 17:9,16 18:1,3	charging (2) 9:12 11:6
belief (1) 33:21	boomers (1) 35:7	C (3) 3:1 47:1,1		cheap (1) 42:13
believe (5) 17:3,22 26:14 34:6 38:6	borne (1) 8:21	cable (1) 44:2		chemical (1) 40:7
bench (1) 7:15	Boulevard (1) 33:5	cables (4) 43:5,8,14 44:14		Chief (2) 9:4 15:2
benefits (1)	brackets (1) 18:11	cadre (1) 38:18		children (9) 12:19 13:7
	break (2)	CAIDI (1) 28:23		

14:18 32:11 39:3,5,7,8,14 chose (1) 12:1 circuits (2) 18:21,23 circumstances... 10:13 cities (1) 34:1 citizens (3) 8:12 10:8 18:1 city (42) 1:19 12:16,19 13:1 14:18 15:2,4,7,9 17:13,15,18,20 17:21,23 18:1 18:3,6,6,8,11 18:18,19 19:13 21:21 22:1,3 23:2,4,13,18 24:1,7 25:24 27:1,4 29:23 30:12,18 31:23 34:15,18 city's (4) 19:14 22:5 26:1 29:12 Civil (1) 47:14 clearly (2) 7:11 22:5 Cleveland (6) 1:6 3:8 4:19 5:1 34:17 38:21 climate (2) 38:8,23 Clinic (1) 38:21 close (1) 40:19 closely (1) 17:9 closure (1) 19:24	Club (1) 41:16 coal (2) 40:17,17 coincidental (1) 10:21 colleagues (1) 36:5 Collectively (1) 37:7 Columbus (4) 2:8,15 4:1 5:18 come (2) 17:25 23:16 coming (3) 40:24 42:22 45:25 commencing (1) 1:22 comment (1) 23:7 comments (4) 5:6,25 8:16 31:20 commercial (3) 13:18 14:7,9 commission (47) 1:2 2:2,4 3:3 4:7 4:15,20,23 5:3 5:18 6:4,23 12:17 13:13 14:19 15:14,17 15:23 16:5,14 16:18,19,25 17:1,4 18:4 20:11,16,25 21:6 22:7,13 22:24 24:22 25:15 27:24 28:1,10,20 29:5 30:19,19 30:24 32:18 34:6 35:19 47:23 commissioned ... 47:6	Commissioner... 6:21,22 Commission's ... 5:10 30:4 commitment (1) 27:19 committee (1) 24:9 communicated... 30:21 communicatio... 21:6 communicativ... 17:12 community (6) 15:12 26:2 29:20 32:5,9 38:15 commuted (1) 39:24 companies (10) 3:24 6:2 20:1 21:7,22 22:4,8 22:22 34:2 42:16 company (28) 1:6,7,8 3:7,8,9 3:17 4:20,24 5:2 7:2 9:1 16:1,3 18:3 23:9,15,18 24:5,10 25:14 26:18 28:11 30:20,22,23 34:5,23 company's (4) 5:4,6,23 28:23 compared (2) 21:17,18 complaint (1) 11:12 complete (3) 10:14 18:4 19:13 completed (6) 16:13,16 19:3,5	19:6,12 completely (1) 18:18 completion (2) 16:22 19:10 Computer-Aid... 47:8 concentrated (1) 38:17 concern (1) 35:12 concerned (5) 8:11 10:8 28:4 33:8 34:11 concerning (2) 15:24 29:6 concerns (2) 14:15 20:16 concluded (2) 14:5 46:3 concludes (1) 13:19 conclusion (1) 10:18 conditions (7) 20:17 21:2,10,11 21:14 22:16 44:9 conducted (1) 28:5 conducting (1) 8:4 congratulate (2) 16:14 40:2 Connie (2) 7:22 8:1 conservation (1) 8:14 conservative (1) 40:23 conserve (2) 11:7 40:21 consider (4) 10:11 11:3 17:4 32:18 considered (2)	6:19 39:2 constrained (1) 44:9 constraints (1) 40:4 constructed (1) 18:9 construction (4) 9:13 19:2,8,11 consultant (3) 16:5,7,11 consultant's (1) 16:20 consumer (2) 17:5 45:10 consumers (9) 2:10,11,13 3:21 3:24,25 4:13 12:7 17:1 contact (10) 23:10,15 27:25 28:3,11,14 29:5 30:3,6,24 contacted (2) 22:1 30:19 contacts (3) 28:17 29:9 30:12 contemplated ... 39:11 continue (6) 9:11 10:5 34:13 34:18 35:9,13 continued (2) 14:13 17:15 contract (1) 47:14 contractor (3) 43:1,10 45:10 contractors (1) 44:5 control (2) 34:22 37:15 conversations ... 28:14 cooperate (1)
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

22:9	36:9 47:3	D (1)	defeat (1)	district (11)
cooperation (1)	couple (1)	3:1	35:16	12:16,20,23
21:7	24:11	date (5)	defined (1)	14:18 31:23,24
cooperative (2)	course (2)	18:20 19:4,10	47:14	32:9,11,20
17:12 26:19	21:16,18	25:3,22	demand-side (1)	37:17 38:6
copy (3)	court (6)	dated (5)	11:4	districts (9)
5:9 26:15,16	6:18 7:10,11,15	24:19,20,21 26:6	deny (1)	13:17 14:6
corporations (1)	47:5,14	27:10	10:24	32:19,23 35:2
34:22	courtesy (1)	dates (3)	Department (1)	36:13 37:9
correct (3)	7:19	16:23 22:16,17	4:8	38:1 39:14
17:21 25:3 47:9	cover (1)	Dave (2)	describe (1)	divided (1)
corresponden...	11:1	12:9,15	24:15	42:20
23:17 25:14	CPA (1)	David (1)	determination...	document (4)
corroded (1)	32:14	12:11	31:24	24:18,24 26:10
43:5	created (1)	Davis (1)	develop (3)	26:13
Cosgrove (1)	41:18	45:14	22:14,18 38:24	documents (3)
38:22	creates (1)	day (6)	developed (1)	28:9,13,22
cost (6)	20:6	1:22 23:23	21:16	Dodd's (1)
9:13 12:23 37:8	creation (1)	38:19 43:7	developing (1)	8:2
37:20 41:6	21:12	44:19 47:16	21:8	doing (7)
43:19	crews (1)	days (1)	development (3)	17:19 34:24
costs (12)	43:20	40:16	9:17 10:4 40:9	40:23 42:23
9:22 10:6 11:2	crossarms (2)	deal (1)	diligently (2)	43:21 44:22,23
13:5,21,24	18:12,14	9:16	38:1,19	dollar (1)
14:2 22:22	culmination (2)	Dean (2)	directional (1)	9:2
34:24 37:4,24	23:20 25:8	47:5,22	43:13	dollars (4)
37:25	current (4)	debate (1)	directly (1)	9:21 12:24
cost-of-living (1)	13:7,16 36:19	33:24	29:24	14:17 44:4
34:8	37:7	debt (2)	Director (1)	Dr (2)
council (3)	currently (4)	20:9,10	12:15	36:7 38:21
24:8,9 37:2	14:12,22 19:22	December (3)	discuss (1)	dress (2)
Council's (2)	21:14	4:25 13:9 36:21	5:5	41:20,21
13:19 14:5	customer (2)	decide (1)	discussing (1)	drill (8)
counsel (10)	19:25 27:7	7:5	38:22	43:16,18,25 44:6
2:10,11,13 3:21	customers (12)	decided (1)	discussion (3)	44:7,11,19,20
3:25,25 4:13	3:23 8:21 9:12	45:5	14:21 35:5 39:4	drilling (1)
15:2 17:1	13:18 14:7,9	decision (3)	discussions (1)	43:13
47:12	14:13 20:3,7	6:22,24 43:24	15:24	Drive (1)
Counsel's (1)	20:11 21:18	decisions (1)	distribution (20)	31:16
17:5	26:22	9:9	1:10 3:10 4:21	due (2)
counties (1)	cut (1)	declined (1)	8:19,22 10:20	9:8 17:5
8:13	37:15	10:22	11:2,5 13:12	duly (1)
country (4)	Cuyahoga (1)	decreased (1)	13:20 15:12	47:6
9:8 34:18 40:12	8:12	33:15	18:5,18 19:14	
41:13		deems (1)	36:24 37:4,10	E
County (2)	D	41:19	41:6,9 43:3	E (5)

2:18 3:1,1 47:1	14:2 15:11	equivalent (3)	12:6	19:9
47:1	18:5,17 19:20	13:22 14:3	expert (1)	federal (1)
Earl (1)	20:18,22 34:5	37:17	37:3	40:25
15:3	34:23 36:16,22	essential (2)	expire (2)	feel (3)
earlier (1)	38:3 40:8	20:8 33:20	13:8 36:20	30:24 34:21
33:8	electrical (1)	essentially (1)	expires (1)	45:10
early (1)	25:20	21:25	47:23	feeling (1)
25:25	electricity (2)	estimated (1)	explain (1)	32:8
earned (1)	37:4 42:13	37:3	12:18	felt (1)
33:10	eliminating (1)	et (1)	extensive (3)	42:9
East (1)	21:9	22:17	24:1 28:8,25	file (1)
2:7	elimination (1)	ethically (1)	extent (1)	28:10
echo (2)	32:22	39:2	22:8	filed (4)
31:20 33:7	eloquently (1)	evening (4)	e-mail (1)	4:20,23,24 11:12
echoed (1)	31:21	8:6 12:14 15:1	26:25	final (3)
38:14	employee (1)	33:25		6:21,24 26:3
economic (2)	47:12	everybody (1)	F	finally (3)
38:8,23	energy (17)	42:21	F (1)	20:14 35:4 45:2
Edison (7)	8:14 10:2,12	evidentiary (2)	47:1	financial (2)
1:5,8 3:7,9 4:18	11:3,7 13:2,8	5:16,19	facilitating (1)	9:3 32:19
4:19 40:15	20:8 36:13,14	Examiner (2)	21:9	financially (1)
education (13)	36:19 37:8	2:5,6	fact (3)	47:12
12:19,24 13:2	40:6,10,10,15	examiners (3)	9:6 16:18 34:15	find (1)
14:17 31:18,19	41:1	1:21 3:13 15:5	factors (1)	32:16
32:10,20 36:13	Enforcement (1)	exceedingly (1)	37:22	finer (1)
36:14,19 37:8	4:8	38:16	facts (1)	38:18
39:7	engineer (2)	Excuse (1)	40:18	firm (1)
educational (2)	40:7,14	41:20	failed (1)	47:14
37:25 38:11	engineering (2)	executes (1)	32:7	first (9)
Eduction (1)	18:25 19:6	22:20	fallen (1)	7:21 9:16 23:10
13:8	ensure (1)	Executive (1)	34:12	23:14 24:20,23
effect (2)	19:16	9:4	falling (1)	32:7 36:4 40:1
13:3 14:22	ensuring (1)	exhibit (5)	23:25	FirstEnergy (2...
efficiency (2)	16:15	24:13,16 30:10	Falls (3)	2:17 3:23 4:12
8:14 11:3	entailed (1)	31:8,10	31:17,18 36:5	5:14 8:8 9:2,11
efforts (5)	5:20	exist (1)	familiar (1)	9:19 10:5,19
17:17 25:8,17,18	entire (2)	21:14	24:24	10:25 11:2,7
29:13	18:5,17	exists (1)	family (2)	13:1 14:12
eight (1)	entities (1)	14:12	11:9 33:13	17:20 21:12
18:15	20:7	expect (1)	far (2)	24:18 25:23
either (2)	entry-level (2)	19:12	25:19 28:3	26:2,7 36:11
22:19 43:15	14:4 32:2	expectancy (1)	father (1)	40:2 42:15
electric (23)	environment (2)	43:5	40:14	43:3,11,21
1:7 3:8 4:19,21	40:22 41:18	expected (1)	favorable (1)	44:21
5:1 9:7 10:14	equipment (2)	19:5	14:7	FirstEnergy's ...
13:4,10,24	11:6 43:19	experienced (1)	February (1)	6:1 8:17 9:10

10:23 13:16 19:19 37:10 first-year (1) 13:23 fiscal (1) 37:19 five (2) 6:22 15:10 fixed (3) 33:16,18 35:11 flushed (1) 10:20 focus (2) 19:22 38:17 follow (1) 42:8 followed (1) 31:4 following (1) 1:24 follow-up (1) 27:23 food (1) 33:21 foot (2) 18:14,15 foreclosures (1) 34:13 foregoing (2) 47:8,11 Forgive (1) 42:7 formal (1) 11:12 formerly (1) 9:22 forth (3) 21:4 23:17 30:17 fortunately (1) 32:13 forward (1) 25:18 found (1) 21:6 four (3)	14:3 18:14 44:13 frequent (1) 38:11 frequently (1) 38:5 friends (1) 39:9 frustrated (1) 30:18 fuel-rod (1) 40:9 fund (1) 37:16 funding (2) 12:21 32:10 funds (1) 38:9 further (7) 8:21 30:8,9 44:22 47:10,11 47:13 Furthermore (1) 11:2 future (1) 21:11 <hr/> G <hr/> G (1) 3:1 Gail (2) 32:25 33:4 gas (2) 37:23 41:13 gathered (1) 28:9 Geauga (1) 8:12 General (3) 10:1 19:23 40:8 generate (1) 40:3 generated (1) 41:3 generation (7) 13:13 36:25	37:12 40:20 41:7,10 42:22 gentlemen (1) 45:7 getting (1) 30:18 given (1) 26:15 glutton (1) 8:6 go (12) 5:10 6:12 7:20 14:2 31:9 33:12 34:13 35:9,13 36:23 44:6 45:16 goal (1) 21:8 God (2) 41:13,18 going (15) 23:9 32:15 33:24 35:7,8 41:11,17 44:2 44:13,17 45:3 45:4,13,16,17 good (3) 12:14 15:1 44:15 Gordon (2) 39:17,21 gouging (1) 9:20 government (4) 21:21 33:22 40:25 41:3 governmental ... 40:4 governments (1) 35:2 Governor (2) 10:2,9 grandchildren... 39:8,9 granted (1) 42:14	grassroots (1) 8:13 great (1) 20:6 greater (1) 20:10 greed (1) 34:21 Gregory (3) 1:21 2:6 3:13 group (2) 8:13 14:21 Gruber (27) 14:23,24,25 15:2 23:6,12 24:6 24:24 25:1,4 25:10,21 26:8 26:11,14 27:5 27:8,12,16,21 28:5,21 29:3,8 29:16 30:7,16 guarantee (1) 44:14 guess (1) 35:18 guessing (1) 26:16 guys (1) 44:21 <hr/> H <hr/> half (2) 14:3 32:2 Hall (2) 1:19 15:7 hand (1) 47:16 handouts (1) 24:12 hands (1) 21:25 happen (2) 44:14 45:13 happened (3) 26:3 30:17 44:13	happening (4) 23:22,24 24:2 45:14 happy (1) 4:9 hard (2) 17:25 38:16 harnessed (1) 35:14 hat (1) 45:10 head (1) 24:3 health (1) 37:24 hear (3) 6:5 38:12 39:10 heard (1) 45:1 hearing (12) 1:17 3:4 4:6 5:17,19,25 6:2 7:9,17 10:8 15:8 41:21 hearings (4) 5:13 8:5 34:16 44:3 heat (1) 12:1 Heights (22) 1:19,20 12:5 15:3,4,7,10 17:8 20:25 21:22 23:9,10 24:17,20 25:8 25:20 27:4 29:7,15 30:13 33:6 42:6 held (1) 1:18 help (1) 4:10 helped (1) 36:20 helpful (5) 7:14 13:4 17:12
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

32:14 36:15	17:7	17:2 21:1,3	interim (3)	2:12 3:24
hereunto (1)	identifying (1)	31:25,25 32:21	16:2,4,10	jobs (1)
47:15	21:15	34:4,7,8,9 35:6	interruption (2)	34:18
highest (2)	Idlewood (1)	35:10,20 37:4	11:16,19	Johnson (1)
9:7,8	12:12	37:11,12,16,17	interruptions (...)	17:11
Hills (1)	Illuminating (4)	42:17	11:10	joint (1)
8:2	1:7 3:8 4:19 5:2	increased (1)	intervened (1)	21:3
hire (1)	imagine (1)	36:17	3:16	Jon (1)
16:4	41:8	increases (9)	interveners (3)	10:11
hiring (1)	immediately (1)	13:15 14:16	4:4 5:22 6:3	Jr (1)
16:11	16:20	36:24,25 37:2	intimately (1)	42:5
historic (1)	impact (4)	38:3 39:1,6,10	43:1	July (6)
15:7	12:18 14:16	increasing (3)	investigated (1)	19:4 23:23
historical (1)	32:4 39:7	37:20,24,25	21:2	24:19,20 25:2
23:7	implement (2)	increasingly (1)	investigates (1)	26:6
historically (1)	16:20 18:4	38:10	11:14	June (1)
32:5	imply (1)	independent (2)	investigation (4)	4:18
holding (1)	28:2	5:3 16:6	16:12,15,17	justified (1)
5:14	improve (4)	indicated (1)	27:18	14:13
homeowners (1)	16:8,18 25:9	21:13	involved (2)	
35:1	38:12	inflation (1)	22:8 40:9	K
Honor (4)	improved (1)	35:21	irritation (1)	keep (1)
3:19 15:18 23:5	17:23	informal (1)	21:20	17:18
31:7	improvement ...	42:7	isolate (1)	keeping (2)
hope (4)	17:24	information (2)	18:20	13:4 36:16
14:19 19:12	improvements...	28:19 33:9	issue (15)	kept (2)
38:24 45:18	44:18	informed (2)	5:6 12:22 15:14	11:19 43:22
hour (2)	inactivity (1)	17:18 18:19	15:16 17:16	kilowatt (2)
40:20,21	22:23	infrastructure...	19:17 20:14	40:20,21
House (1)	incidents (1)	16:6 42:19 43:2	21:17 23:14	Kimberly (3)
10:11	40:12	45:9,17	29:18,19,23	1:20 2:5 3:12
household (1)	include (1)	inspections (1)	33:9 34:16	kind (1)
33:14	15:20	21:1	39:13	28:24
housing (1)	including (4)	installed (5)	issues (4)	kinds (1)
33:21	5:23 15:21	18:10,12,22	4:14 17:10 23:2	35:15
human (1)	17:10 22:21	21:24 22:11	23:11	Kirtland (2)
33:20	income (4)	insurance (1)	items (1)	36:8,11
Husted (1)	33:14,16,17,18	37:24	12:25	Kline (5)
10:11	incomes (2)	intellectual (1)		7:22,25 8:1,2
hypocritical (1)	34:12 35:11	38:24	J	33:7
10:19	increase (35)	intent (1)	James (2)	knew (1)
	1:9 3:9 4:21	42:19	2:19 3:19	41:16
I	8:19,22,23,25	interest (1)	January (5)	know (15)
ice (1)	10:20,25 12:18	19:21	5:17 10:4 14:1	10:16 12:5,21
43:6	12:22 13:6,11	interested (1)	37:6,21	15:9 21:13
identified (1)	13:14,21,25	47:12	Jeffrey (2)	23:13 28:5

29:10 30:20 39:23 41:4,5,7 43:24 45:14 knowledge (1) 29:10 Korkosz (1) 2:18	13:14 37:1 Leiken (3) 15:4 29:17,22 lender (1) 19:19 lenders (4) 19:21 20:5,5,12 lengthy (1) 15:24 lesser (1) 8:23 letter (8) 24:21 26:6 27:7 27:10,17,25 44:20 45:2 letterhead (1) 24:19 letting (1) 23:1 levels (1) 20:10 levy (1) 32:8 liberal (3) 40:12,22,24 life (1) 43:4 limited (3) 33:25 35:21 38:2 line (2) 32:16,16 lines (1) 43:3 list (1) 7:20 listen (1) 14:15 little (4) 13:22 15:18 33:16 42:7 live (5) 11:22 32:11 33:5 39:22 42:5 living (2)	31:22 35:11 load (1) 14:6 loans (1) 20:7 local (1) 17:11 located (1) 36:9 location (1) 22:16 Lomond (1) 33:5 long (9) 8:6,7 12:2 18:14 18:15 32:25 33:1,4,5 longer (1) 20:20 long-term (1) 16:21 Lopinsky (6) 35:23,24 36:2,3 36:7 42:10 Losing (1) 13:9 loss (2) 12:4 37:7 lost (3) 11:24,25 12:3 lot (8) 12:6 17:25 28:9 34:3 35:5 41:2 41:9 43:10 lower (1) 8:9 L-e-a-r-y (1) 31:16 L-o-n-g (1) 33:5	major (2) 12:22 34:17 majority (1) 38:15 Man (1) 44:1 management (2) 11:4 45:5 mandate (1) 37:14 mandates (1) 40:24 March (2) 1:22 47:16 mark (1) 29:2 marked (2) 24:13,14 market (2) 9:17 10:4 markets (1) 10:16 Materials (1) 41:11 matter (7) 1:4,18 3:6 6:25 29:15 35:3 43:12 matters (1) 28:4 maximize (1) 38:2 mayor (8) 15:3 26:24 29:9 29:16,17,17,17 29:22 mean (1) 42:13 means (2) 22:15 47:8 measurements... 21:8 meet (2) 16:2 17:15 meeting (2) 15:25 32:15	meetings (5) 18:2 24:5,7,10 25:13 members (1) 32:9 mentioned (3) 23:8 31:1 37:22 Mentor (2) 36:3 39:24 merchants (1) 20:2 message (1) 35:18 middle (2) 43:25 44:8 miles (1) 43:2 million (4) 8:18 37:10,13 45:5 millions (1) 44:4 mind (1) 42:23 minor (1) 21:17 minutes (1) 11:17 missed (4) 6:11 16:4,10 45:24 model (1) 19:15 modify (2) 1:11 3:10 money (5) 32:17 42:20,24 45:13,16 monies (1) 38:6 monitor (1) 17:15 Monitoring (1) 4:8 month (1) 45:1
<hr/> L (2) 2:12 42:5 lack (1) 29:12 ladies (1) 45:6 laid (1) 30:14 Lake (2) 8:12 36:9 Landing (1) 8:2 large (1) 8:20 largely (1) 14:10 lasted (1) 5:19 lead (2) 29:18,23 learning (2) 13:6 36:17 Leary (4) 31:11,12,15,16 leased (1) 17:19 leave (1) 34:18 Lee (1) 1:19 left (1) 21:23 legalese (1) 41:23 legislation (1) 10:3 legislature (2)				
		<hr/> M		
		mailed (1) 27:1 Main (1) 2:20		

months (5) 14:9 19:10 20:20 21:12 34:17	31:2 38:18 42:8 Nevertheless (1) 19:24 new (11) 11:3 13:11,20 18:9,11,11 20:19 21:24 22:10 29:16 36:24	OCC (2) 31:8,10 occur (1) 13:24 occurred (3) 23:19 25:11 30:5 October (1) 16:13 offered (1) 6:6 office (6) 2:11 3:25 4:12 16:25 17:19 47:16	ones (2) 6:24 18:15 one-half (1) 33:15 ongoing (1) 41:17 operate (1) 43:20 operating (1) 12:23 operational (1) 16:7 operations (1) 15:21 opinion (1) 45:18 opportunities ... 13:7 36:18 opportunity (7) 6:5,7,11 7:19 8:5 23:3 39:13 oppose (4) 8:17,22 11:6 34:4 opposed (1) 42:16 opted (1) 20:1 option (2) 12:5,7 oral (1) 5:21 order (6) 6:9,10 16:19 37:16 43:14 44:19 original (1) 9:14 outage (2) 17:10,22 outages (3) 12:6 23:20 24:1 outside (2) 10:7,16 overruns (1) 9:13	owe (1) 39:4 owned (2) 33:22 34:1 owns (1) 17:20 o'clock (2) 1:23 46:3
<hr/>				
N				
N (1) 3:1 name (18) 3:12 6:16,17,17 7:7,23 8:1 12:14 31:14,15 33:3,4 35:25 36:2 39:20,21 42:3,4 nation (2) 40:24 41:14 natural (1) 41:12 necessary (2) 18:15 22:21 need (7) 19:15 30:24 33:20 35:13,14 43:9 44:5 needed (6) 8:25 14:17 18:10,13 29:24 42:9 needs (1) 35:13 neighbor (1) 39:23 neighbors (1) 39:9 Network (2) 8:12 10:9 never (3)	nine (1) 19:9 non-nuclear (1) 8:15 Northeast (1) 34:19 Northeastern (...) 38:23 NOS (1) 1:5 Notary (1) 47:6 noted (1) 27:13 notice (1) 44:22 nuclear (3) 9:13 10:12 40:9 number (12) 8:9,19 11:10,17 18:2 21:1 24:5 25:23 33:25 35:6,8,10 numbers (2) 3:4 40:18	Officer (1) 9:5 offices (1) 5:18 official (1) 6:19 Ohio (44) 1:2,5,20 2:3,4,8 2:10,11,15,21 3:3,7,25 4:2,12 4:18 8:3 9:7 10:1 13:13,18 14:4 24:22 27:24 31:17 34:1,9,19,19 36:3,3 37:1,2,5 37:9 38:23 39:22,25 40:15 40:17 42:6 47:2,6,16 Ohio's (1) 10:14 oil (1) 41:13 okay (2) 44:23,25 old (5) 18:7 20:19 21:10,23 22:21 Once (1) 25:25	ones (2) 6:24 18:15 one-half (1) 33:15 ongoing (1) 41:17 operate (1) 43:20 operating (1) 12:23 operational (1) 16:7 operations (1) 15:21 opinion (1) 45:18 opportunities ... 13:7 36:18 opportunity (7) 6:5,7,11 7:19 8:5 23:3 39:13 oppose (4) 8:17,22 11:6 34:4 opposed (1) 42:16 opted (1) 20:1 option (2) 12:5,7 oral (1) 5:21 order (6) 6:9,10 16:19 37:16 43:14 44:19 original (1) 9:14 outage (2) 17:10,22 outages (3) 12:6 23:20 24:1 outside (2) 10:7,16 overruns (1) 9:13	P P (1) 3:1 page (4) 24:17 25:16 26:6 27:10 Pages (1) 24:16 paid (4) 9:15,25 19:20 20:11 paragraph (1) 27:20 part (5) 4:22 6:19 9:9 41:5,9 participants (1) 39:4 participating (1) 37:9 participation (1) 7:16 particular (1) 22:2 particularly (2) 34:11,20 parties (6) 3:16 4:3 6:3 7:3 15:6 22:23 party (1) 47:12 part-time (1) 33:17 pass (1) 7:7 patience (1) 7:20

pay (4) 9:6 20:8 42:22 44:10	23:7	portions (1) 10:9	35:23,25 39:16	30:14
payday (5) 19:19,20 20:4,5 20:12	phrases (1) 38:12	position (1) 9:3	39:19 41:24	prohibit (1) 20:12
payers (2) 9:20 11:7	Pierce (2) 31:11,15	possible (4) 14:16 18:13 22:10 29:9	42:2 45:20	projected (1) 39:6
paying (2) 21:19 45:11	pit (2) 43:15,16	post (1) 10:3	prices (1) 37:23	projections (1) 9:15
payment (4) 20:2,4,6,13	place (3) 20:20 44:3 47:10	posted (1) 26:23	prior (1) 30:15	promise (1) 44:12
peak (1) 14:8	placed (2) 9:2 20:19	potentially (1) 11:5	private (2) 18:2 24:9	promised (3) 18:3,7 19:10
pending (1) 4:14	places (1) 19:19	power (10) 9:13 10:12 11:10,16,18,25 12:6 40:3 42:14,22	probably (7) 20:24 26:22 30:7 40:19 41:22 42:15 43:11	promptly (1) 19:13
Pennington (1) 42:5	plan (5) 9:18 25:19,24 26:1,4	practices (3) 1:12 3:11 16:7	problem (7) 15:11 21:23,25 22:3,6 42:24 44:17	proposal (1) 13:16
people (5) 35:6,10 41:2,4 41:17	plant (2) 9:13 37:20	prepare (1) 37:18	problems (2) 17:6,22	proposed (3) 6:1 10:2 11:8
percent (18) 8:18 9:14 13:11 13:21,25 18:25 18:25 19:2,6,8 19:11,22 33:12 36:23 37:5,21 43:4 45:4	plants (2) 9:25 45:15	prepared (3) 4:23 7:13 47:7	procedures (1) 42:8	protracted (1) 12:3
percentage (1) 8:20	please (10) 4:15 6:12,16 7:7 7:10,23 31:13 33:2 39:19 42:2	present (4) 4:4 23:14 24:12 25:24	proceeding (2) 3:14 4:22	provide (6) 7:14 15:18 16:5 20:2 30:13 40:3
performance (3) 15:22 16:9 17:3	pledged (1) 18:17	president (3) 31:17 32:12,13	proceedings (5) 1:24 46:2 47:7,9 47:10	provided (2) 13:1 36:11
period (5) 9:17 10:4 23:16 25:7 38:10	plus (2) 32:1 43:19	pressure (5) 8:9 32:8,18,19 32:21	process (3) 11:13 22:18 28:12	providing (1) 39:12
periodically (1) 17:16	pole (8) 20:19,19,19,24 22:11,17,19,21	pressuring (1) 43:22	produce (3) 40:5,10 41:1	public (32) 1:2 2:2,4 3:2,4 5:13,24,25 6:5 6:23 7:18 8:4 13:12 15:8 18:2 24:6,8,22 25:15 27:23 28:1,6,19,22 28:25 30:4,25 36:8 37:14 38:4,18 47:6
permits (1) 10:5	poles (5) 18:9 21:5,23,24 22:9	pretty (1) 35:19	produced (2) 40:15 47:8	PUCO (15) 8:5,23 9:9,11 10:24 11:11,13 11:13,14,20,22 11:23 25:25 36:25 37:11
Perry (2) 9:12,23	pole-attaching... 22:22	previous (1) 29:17	profits (10) 9:2,10,20 10:21 10:24 11:1 33:10 35:13 42:18 45:8	PUCO's (1) 27:18
person (1) 29:23	polluting (1) 8:15	pre2006 (1) 21:10	program (8) 13:2,8,9 31:25 32:22 36:13,19 37:8	
personal (1) 38:9	poor (1) 17:3	Price (19) 1:21 2:6 3:13 7:22 12:9 14:23 30:11 31:2,9,13 32:24 33:2	programs (2) 11:4 36:14	
perspective (1)	poorest (1) 34:17		progress (1)	

Puffer (6) 12:9,10,11,11,15 31:21	12:18 13:12,17 13:20 14:16 15:16,17 17:2 19:18 20:15 21:19 23:3 31:25 32:21 35:22 36:24 37:11 42:17	16:24 17:5 22:14 recommendati... 5:7 16:21 22:25 recommended... 8:24 16:17,19,22 recommends (1) 22:18 record (15) 6:18,20 7:13,24 9:1,10,19 11:1 31:14 33:3,10 36:1 39:20 42:3,17 records (5) 11:19 28:6,22,25 31:1 record-setting ... 10:21 recover (1) 10:5 recurring (1) 20:24 redevelop (1) 45:16 reduce (2) 11:5 17:2 reduced (1) 47:7 referred (2) 25:22 30:6 refers (1) 27:18 reflect (1) 7:12 reform (1) 38:11 refrigerator (1) 11:25 refused (1) 43:23 regard (1) 16:24 regarding (3) 6:1 30:4,14 regards (1)	37:13 regions (1) 34:10 regulation (1) 10:14 reinforced (1) 18:9 reinvest (1) 42:19 reinvested (2) 42:23 45:8 related (1) 28:10 relationship (1) 17:14 relative (1) 47:12 reliability (21) 15:11,15,21 16:1 16:18 17:3,6,9 17:22,23 19:16 21:17 23:11 25:9 28:4,11 28:23,24 29:6 29:14 30:5 remain (1) 22:12 remains (1) 20:20 remediating (1) 21:15 remember (1) 28:6 REMEMBER... 1:17 removal (3) 22:17,20,20 remove (1) 21:5 removed (2) 20:23 22:10 render (1) 6:24 renters (1) 35:2 replace (1)	11:23 replaced (4) 18:8 43:9 44:2 44:15 report (8) 4:24,25 5:1,5 15:18,19,22 16:16 reporter (5) 6:18 7:10,11,15 47:5 reporting (1) 47:14 reports (1) 28:24 representative... 17:11 representative... 4:7,11,16 24:10 representing (1) 8:11 request (6) 28:6,8,22,25 31:1 45:4 requested (2) 34:5 39:1 requests (1) 38:6 require (1) 22:7 required (4) 11:15,21,22 15:17 resident (1) 27:3 residential (2) 3:23 8:21 residents (5) 21:21 22:1,4 26:25 27:1 resident's (1) 22:6 resolve (1) 21:23 resolving (1) 21:11
put (5) 5:4 23:6 34:25 43:13 45:4 P-u-f-f-e-r (1) 12:12 p.m (2) 1:23 46:3	rates (16) 1:10 3:10 4:22 6:1 8:22 9:7 10:15 13:4,10 13:24 14:11 19:21 21:18 36:16,22 38:3 reaching (1) 35:7 reactors (1) 9:23 reading (2) 25:12 33:8 real (1) 40:19 really (3) 17:13 24:2 30:17 reason (1) 23:24 rebuilding (1) 45:8 rebuilt (1) 18:19 recall (4) 25:11 26:16 27:2 29:8 receive (2) 5:25 27:6 received (1) 26:15 receiving (1) 5:20 recipient (1) 27:14 recommend (1) 16:8 recommendati...	reach (1) 35:7 reactors (1) 9:23 reading (2) 25:12 33:8 real (1) 40:19 really (3) 17:13 24:2 30:17 reason (1) 23:24 rebuilding (1) 45:8 rebuilt (1) 18:19 recall (4) 25:11 26:16 27:2 29:8 receive (2) 5:25 27:6 received (1) 26:15 receiving (1) 5:20 recipient (1) 27:14 recommend (1) 16:8 recommendati...	regions (1) 34:10 regulation (1) 10:14 reinforced (1) 18:9 reinvest (1) 42:19 reinvested (2) 42:23 45:8 related (1) 28:10 relationship (1) 17:14 relative (1) 47:12 reliability (21) 15:11,15,21 16:1 16:18 17:3,6,9 17:22,23 19:16 21:17 23:11 25:9 28:4,11 28:23,24 29:6 29:14 30:5 remain (1) 22:12 remains (1) 20:20 remediating (1) 21:15 remember (1) 28:6 REMEMBER... 1:17 removal (3) 22:17,20,20 remove (1) 21:5 removed (2) 20:23 22:10 render (1) 6:24 renters (1) 35:2 replace (1)	replaced (4) 18:8 43:9 44:2 44:15 report (8) 4:24,25 5:1,5 15:18,19,22 16:16 reporter (5) 6:18 7:10,11,15 47:5 reporting (1) 47:14 reports (1) 28:24 representative... 17:11 representative... 4:7,11,16 24:10 representing (1) 8:11 request (6) 28:6,8,22,25 31:1 45:4 requested (2) 34:5 39:1 requests (1) 38:6 require (1) 22:7 required (4) 11:15,21,22 15:17 resident (1) 27:3 residential (2) 3:23 8:21 residents (5) 21:21 22:1,4 26:25 27:1 resident's (1) 22:6 resolve (1) 21:23 resolving (1) 21:11
Q				
qualified (1) 47:6 quality (2) 10:22 32:10 question (3) 23:6 27:22 29:13 questions (7) 4:10,13 7:3 30:9 30:10 31:5,7 quickly (1) 22:10 quiet (1) 23:22 quite (1) 43:21 quote (2) 9:3 40:18				
R				
R (4) 3:1 47:1,5,22 raised (2) 19:18 20:16 rate (30) 4:14,22 5:16 8:19,25 9:16 9:18,20,21 10:20,25 11:6				

resources (3) 38:2 41:12,15	role (2) 29:14,22	scope (2) 10:8,17	20:8	32:4
responsibilitie... 21:4	room (1) 24:7	seal (1) 47:16	session (1) 14:10	simply (3) 22:20 31:20
result (4) 9:10 13:15 22:23 37:22	Rosten (1) 29:18	second (4) 24:18 25:16 31:20 44:20	set (3) 16:2 21:8 47:15	32:17
resulting (1) 37:1	roughly (2) 14:3,4	seconds (1) 11:17	setting (3) 9:19 12:4 21:4	sincere (1) 45:7
results (1) 20:10	ruined (2) 12:1,1	see (5) 25:23 26:20 27:14,19,20	Shaker (22) 1:18,19 12:5 15:3,4,7,9 17:8 20:25 21:21 23:8,10 24:17 24:20 25:8,20 27:4 29:6,15 30:13 33:6 42:6	site (2) 5:10 26:23
retail (1) 17:19	Rule (1) 47:15	seek (1) 10:19	share (1) 26:2	situation (2) 14:20 20:17
retains (1) 22:19	S	seen (9) 9:3 26:9,12,21 27:11 33:11 34:14 44:24 45:12	shareholders (1) 42:21	Small (25) 2:12 3:22,24 23:5 24:4,11 24:15 25:2,6 25:16 26:5,9 26:12 27:3,6,9 27:13,17,22 28:18 29:1,4 29:11 30:2,8
retire (1) 35:7	S (1) 3:1	selective (1) 18:22	sheet (3) 6:7,9,14	smaller (1) 31:23
retired (1) 33:15	safety (1) 24:8	selfish (2) 42:25 43:9	Shilling (7) 39:17,18,21,22 42:11,11,12	sneaky (1) 45:15
retirement (1) 35:8	SAIDI (1) 28:23	Senate (1) 10:3	shortages (1) 11:1	soared (1) 10:24
revealed (1) 21:1	save (2) 32:17 41:17	Senior (2) 2:18,19	short-term (1) 16:21	solely (1) 34:25
revenue (1) 8:19	savings (2) 13:5 36:16	sense (1) 25:5	shoulders (1) 34:25	solutions (1) 21:9
review (2) 5:3 19:23	saying (2) 38:5 44:23	sent (2) 26:20,24	showed (1) 15:18	sorry (1) 24:19
reviewed (1) 6:20	says (2) 25:23 45:2	series (1) 23:20	showing (1) 42:18	sound (1) 43:24
reviews (1) 25:25	school (27) 12:16,20,21 13:17,17,19 14:4,6,11,18 31:24 32:4,7,9 32:19,20,22 35:2 36:12 37:2,9 38:1,5 39:3,5,6,14	serious (1) 44:17	side (3) 8:8 40:22 43:15	source (2) 10:13 21:20
revised (1) 25:24	schools (18) 13:1 14:8,21 32:6 36:5,6,8 36:12,20 37:5 37:14 38:4,8 38:12,13,15,18 38:24	seriously (2) 15:15 27:19	Sierra (1) 41:15	sources (1) 8:16
rework (1) 25:19	Schriber (1) 28:2	seriousness (1) 17:6	sign (4) 6:7,11,14 44:19	South (1) 2:20
re-evaluations... 44:24		service (12) 1:10 3:10 4:7 5:14 10:22 15:12,14 19:25 20:18,22 21:3 40:2	signed (4) 6:10 7:6 45:21 45:23	space (1) 17:20
rid (1) 18:12		services (1)	significant (4) 15:11,16 21:20	speak (4) 6:12 7:11 39:13 42:9
right (4) 22:19 25:11,13 26:16				Speaker (1) 10:11
risk (1) 20:6				
road (3) 1:19 43:16,16				

spearheading ... 29:12,19	33:2 34:1,9 35:25 38:5	10:2,10	8:14 10:9	14:4 32:3 38:19
special (1) 14:11	39:19 42:2 47:2,6	Strongsville (1) 12:12	sure (1) 45:12	teaching (1) 13:6
specifically (1) 25:22	stated (2) 7:9 38:22	student (1) 38:17	suspicion (1) 45:15	tear (3) 11:5 43:14,17
specified (1) 47:11	statement (5) 6:15 7:4,14,18 25:17	students (3) 36:18 38:20,25	sworn (7) 7:25 12:10 14:24 31:12 33:1 35:24 42:1	technically (1) 10:7
spell (1) 6:17	statements (1) 7:12	study (1) 41:4	sympathetic (1) 14:20	tell (1) 45:6
spiral (1) 20:9	stationary (1) 40:14	subject (1) 10:15	system (5) 18:6 19:13,14 21:15 32:4	telling (1) 44:21
spoken (1) 30:20	stationery (3) 24:17,23 26:7	subsequent (2) 27:25 29:5	systematic (2) 21:14 22:15	ten (1) 13:3
SS (1) 47:3	staunch (1) 40:23	succinct (1) 14:21	<hr/>	terms (2) 25:12 32:10
stabilization (2) 9:18,21	steel (1) 18:9	sue (1) 11:24	T	territories (1) 5:15
staff (25) 4:23,23,25 5:1,2 5:5 6:4 8:23 15:17,19,23 16:1,19 20:16 20:25 21:7 22:13,17 28:3 28:12 29:5 30:4,13,25 31:3	Stenotypy (1) 47:7	suffered (1) 34:19	T (2) 47:1,1	territory (1) 19:16
staff's (1) 16:23	Stephanie (2) 47:5,22	sufficiency (1) 15:25	table (3) 4:9 6:8,13	testify (5) 6:12 7:6 41:21 45:21,22
stage (1) 17:21	steps (2) 16:8,25	suggested (2) 10:10 11:24	take (11) 3:15 10:25 12:23 16:8,25 22:6 30:22,23 31:3 42:14 45:10	testimony (5) 5:21,21 6:18 7:1 30:15
Stan (4) 35:23 36:2,7 39:23	Stewart (6) 41:25 42:1,4,5 42:12 44:12	suggestion (1) 11:11	taken (4) 15:14 47:7,9,10	thank (17) 3:18 4:2 8:4 12:8,17 14:14 14:22,25 23:1 32:23 35:22 36:4 39:12,15 41:23 45:19,25
standards (1) 38:14	sticks (1) 45:18	Sulte (2) 2:14 4:1	talk (1) 41:23	thing (2) 12:3 28:24
standing (1) 21:24	stock (1) 33:12	suits (1) 41:20	talking (2) 25:19 34:10	things (1) 35:15
started (2) 40:6,7	stockholders (1) 33:11	SUMMIT (1) 47:3	target (1) 16:1	think (18) 11:17 23:19 25:7 26:25 28:13 30:2 33:19,24 34:14 34:19 35:4,11 35:14,15,17,19 41:1,17
starting (2) 10:4 37:21	storm (1) 43:7	sunny (1) 23:22	targets (3) 16:2,4,10	thinkers (1) 40:12
state (14) 6:17 7:23 9:7 12:22 31:13	stranded (1) 9:22	superintenden... 36:8	tariff (2) 1:12 3:11	
	Street (6) 2:7,14,20 4:1 36:3 39:22	superintenden... 32:15	taxpayers (2) 38:2,4	
	streets (1) 43:15	support (5) 10:13 12:25 36:11 38:7 43:19	teacher (2) 13:23 37:18	
	stress (1) 34:3	supportive (1) 32:6	teachers (3)	
	Strickland's (2)	supports (2)		

third (1) 24:17	tracking (2) 21:15 22:15	21:13	42:13	W
thorn (1) 8:7	traffic (1) 43:17	typical (1) 20:15	users (1) 34:25	W (4) 1:20 2:5,19 3:19
thought (2) 33:13 45:3	Trail (1) 12:12	U	utilities (15) 1:2 2:2,4 3:3	want (4) 7:5,17 10:15
three (5) 5:20 9:15,25 14:8 17:24	transcribed (1) 7:10	ultimately (2) 20:9 35:15	6:23 10:15	44:7
Thursday (1) 1:22	transcription (...) 47:8,9	unbelievable (1) 41:14	13:13 24:22	wanted (2) 29:21 30:22
tie (2) 18:21,22	transfer (2) 20:21 22:16	unconscionabl... 10:18 19:21	25:15 27:24	washed (1) 21:25
time (13) 1:23 3:4,15 14:10,15 23:14	transformers (1) 18:11	underground (...) 11:21,23 43:8,8	28:1,19 30:4	wasn't (1) 30:16
23:16 28:16	transition (1) 9:22	43:14	33:19,22	way (7) 40:6,10,11,16
32:7 37:23	trapping (1) 20:8	understand (3) 14:19 15:22	utility (8) 11:15 21:22	41:1,8 43:4
41:23 45:22	treat (1) 13:17	16:9	22:2,4,8 34:2,5	ways (1) 32:16
47:10	tree (2) 19:1,7	undertaken (1) 16:15	41:6	wear (1) 11:5
times (3) 9:15,25 23:22	trees (1) 23:24	unequivocally ... 8:17	utility's (1) 27:19	weatherwise (1) 23:24
Toby (1) 38:21	triggered (1) 16:11	unexplainable... 23:21	utility-operate... 19:25	web (2) 5:10 26:23
today (5) 3:12 6:2 19:9 30:15 38:16	trimming (2) 19:1,7	unexplained (1) 23:21	V	weeks (1) 5:20
told (1) 43:23	true (1) 47:8	unfortunate (1) 9:6	vacant (1) 17:19	welcome (2) 15:5 23:4
Toledo (3) 1:8 3:9 4:18	try (1) 4:16	Unfortunately... 20:3	Valley (2) 9:12,23	went (2) 26:17,22
tomorrow (1) 32:12	trying (2) 28:12 32:16	unfunded (1) 37:14	value (1) 33:11	West (2) 2:14 4:1
tonight (8) 4:6 6:4,12 7:1 15:6 29:25 39:4 45:25	turn (1) 26:5	unsafe (1) 22:12	varied (1) 21:7	Westlake (6) 12:16,19 13:1
tonight's (3) 5:24 7:9,17	Turning (2) 24:23 27:9	unsightly (1) 22:12	various (1) 15:6	14:18 31:23
top (2) 27:14 37:2	two (8) 28:16 32:2,2 33:10,14 36:14	unspecified (1) 18:20	vast (1) 38:15	36:6
total (3) 13:24 37:20	36:15 40:20	updates (1) 30:13	versa (1) 26:21	we'll (3) 3:17 7:8 31:9
41:5	two-page (1) 24:23	upgrade (4) 18:5 19:3,5,13	versus (2) 40:20 41:6	we're (8) 22:1 31:23
touch (1) 41:19	two-pole (5) 20:17 21:2,10,11	urged (2) 16:24 17:1	victim (1) 11:10	33:24 34:10
		use (7) 18:14 19:14,19 20:7,12 41:12	Victor (2) 41:25 42:4	41:11 44:17
			view (1) 14:20	45:11,17
			voices (1) 39:10	we've (8) 7:9 17:8,15,16 34:14 44:24 45:12,24

WHEREOF (1) 47:15	works (1) 24:9	0 07-551-EL-AI... 1:6 3:5 8:20	2:14 4:1	24:19 26:6
wholesale (1) 10:16	world (1) 40:11	07-552-EL-AT... 1:7 3:5	19 (1) 31:19	220,000 (1) 14:2
Willoughby (1) 8:2	world-class (2) 38:13,13	07-553-EL-A... 1:8 3:5	1989 (1) 9:16	221 (1) 10:3
wind (1) 40:20	worthy (1) 14:21	07-554-EL-U... 1:9 3:6	19923 (1) 12:12	24 (1) 19:2
windless (1) 23:23	written (3) 5:20 7:13 10:2		2	248 (1) 36:12
winter (3) 43:25 44:8,9	www.puco.ohi... 5:11	1	2 (1) 24:16	249 (1) 37:8
wintertime (1) 44:23	X	1 (3) 10:4 24:16 45:4	20 (3) 24:20 25:2	25 (1) 8:18
wire (2) 18:7,9	X-amount (1) 44:4	1st (1) 37:6	44:15	27th (1) 47:16
wires (2) 20:22 43:6	Y	1,000 (1) 9:14	2001 (1) 9:17	28(D) (1) 47:15
wiring (2) 11:21,23	year (10) 11:20 16:13	1-800-686-PU... 5:12	2002 (1) 23:13	29 (1) 5:17
wishes (1) 7:18	28:15 32:6	10 (3) 2:14 4:1 13:21	2004 (2) 23:16,19	3
witness (8) 7:8,20,21 24:12	36:21 37:10,18	11 (1) 5:13	2005 (25) 9:17,18 15:24	3 (2) 25:23 27:20
32:24 39:16	37:19 42:18	12 (3) 8:23 9:20 21:12	17:10 18:6	30 (8) 13:25 24:13
41:24 47:15	43:22	13 (2) 13:11 36:23	23:9,16,19	30:10 31:8,10
witnesses (4) 5:22,23 6:8 37:3	years (21) 8:9 9:4 10:23	13KV (1) 18:23	24:2,5,19,21	37:21 44:16
word (2) 25:7 29:12	11:11 13:3	13th (1) 1:22	24:22 25:3,22	47:23
words (2) 27:18 38:25	15:10 17:24	14 (1) 8:23	26:4,7 27:10	31 (2) 13:9 36:21
work (22) 17:17,21,25	20:21 28:16	14-plus (1) 40:21	27:15 28:1,7	330/384-5861 (...) 2:22
18:25 19:1,2,6	31:19 32:7	15 (1) 44:15	29:2 30:5,17	34 (1) 9:4
19:7,8,11,15	33:10,14 34:3	16 (1) 27:15	31:4	3400 (1) 1:19
20:1 22:9	35:6,9 36:15	165,000 (1) 14:2	2006 (5) 16:3,10 18:7,24	3581 (1) 42:5
25:20 38:19	36:20 44:13,16	17012 (1) 33:5	24:2	38531 (1) 8:2
43:10,21 44:1	44:16	180 (1) 2:7	2007 (5) 4:18,25 16:3	39 (1) 19:8
44:5,9,10,22		1800 (2)	18:16 19:4	391 (1) 19:22
worked (2) 17:8 40:15	\$		2008 (7) 1:23 5:18 9:19	4
working (6) 17:14 18:1	\$100,000 (3) 32:1 43:19		13:9 19:9	40 (5)
26:18,19 38:1	44:20		36:22 47:16	
38:16	\$11 (2) 37:9,13		2009 (4) 10:5 14:1 37:6	
	\$340 (1) 8:18		37:22	
	\$500 (1) 45:5		2010 (2) 21:10 47:23	
	\$55,000 (1) 13:22		22 (2)	

13:25 32:7	2:20			
33:12 37:5,21	7720 (1)			
43215-3485 (1)	31:16			
2:15				
43215-3793 (1)	8			
2:8	86 (1)			
44060 (1)	45:6			
39:25	89,000 (1)			
44120 (1)	43:2			
42:6				
44149 (1)	9			
12:13	9 (4)			
44308 (1)	24:21 27:10,25			
2:21	28:7			
49 (1)	91 (1)			
19:11	18:24			
	93 (1)			
5	19:6			
52 (1)				
18:25				
6				
6 (1)				
14:4				
6:30 (1)				
1:23				
60 (2)				
5:21 37:5				
60s (1)				
41:16				
614/466-8574 (...)				
2:16				
614/752-7999 (...)				
2:9				
7				
7 (2)				
4:18,25				
7:30 (1)				
46:3				
70 (1)				
43:4				
7400 (1)				
39:22				
7539 (1)				
36:3				
76 (1)				