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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to RC §4928.143 in the Form of an Electric Security Plan. : Case No. 08-935-EL-SSO

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DEPOSITION

of Kevin T. Warvell, taken before me, Karen Sue Gibson, a Notary Public in and for the State of Ohio, at the offices of FirstEnergy, 76 South Main Street, Akron, Ohio, on Thursday, September 25, 2008, at 9:00 a.m.

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APPEARANCES VIA SPEAKERPHONE: (Continued)

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On behalf of the Northwest Ohio Aggregation Coalition.

ALSO PRESENT VIA SPEAKERPHONE:

Mr. Mark Frye.

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Thursday Morning Session,

September 25, 2008.

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STIPULATIONS

It is stipulated by and among counsel for the respective parties that the deposition of Kevin T. Warvell, a witness called by Industrial Energy Users - Ohio under the applicable Rules of Civil Procedure, may be reduced to writing in stenotypy by the Notary, whose notes thereafter may be transcribed out of the presence of the witness; and that proof of the official character and qualification of the Notary is waived.

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(Witness sworn.)

MR. KUTIK: Why don't we state appearances. My name is David Kutik. I am here on behalf of the companies.

MR. BREITSCHWERDT: My name is Brett Breitschwerdt, Bricker & Eckler. I am here on behalf of the Northeast Ohio Public Energy Council and Ohio Schools Council.

MR. BURK: This is Jim Burk --

MS. ROBERTS: Jacqueline Roberts on behalf of the Ohio Consumers' Counsel.

MR. BURK: This is Jim Burk --

MS. McALISTER: Lisa McAlister on behalf of Industrial Energy Users-Ohio.

MR. PORTER: I am Andre Porter on behalf of the City of Cleveland, Ohio.

MR. STINSON: Dane Stinson, Bailey Cavalieri, on behalf of FPL Energy Power Marketing, Inc., and Gexa Energy Holdings, Inc.

MR. YURICK: Mark Yurick, Chester, Willcox & Saxbe, on behalf of The Kroger Company.

MR. LAVANGA: Mike Lavanga, Brickfield, Burchette, Ritts & Stone, on behalf of the Nucor Steel Marion. Also like to enter an appearance for

Garrett Stone.

MR. BURK: Jim Burk on behalf of the companies.

MR. KUTIK: So I think we agreed that Ms. McAlister will start the examination.

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KEVIN T. WARVELL

being by me first duly sworn, as hereinafter certified, deposes and says as follows:

EXAMINATION

By Ms. McAlister:

Q. Good morning, Mr. Warvell.

A. Good morning.

Q. This is a telephone deposition. Please let me know if you cannot hear or understand my questions and I will do my best to clarify.

A. Okay.

Q. Starting at page 7 of your testimony, there you state that the base generation charges include all required renewable energy resources during the plan; is that correct?

MR. KUTIK: Where are you referring to on page 8?

MS. McALISTER: I'm sorry, page 7.

MR. KUTIK: And where on page 7?

MS. McALISTER: The first question and answer.

A. Yes, that's true.

Q. The FirstEnergy estimated the costs of the renewable energy resource requirements for the plan period?

A. No.

Q. So FirstEnergy doesn't know at this time whether the costs to comply with the benchmarks will exceed its reasonably expected costs of otherwise producing or acquiring the electricity by 3 percent or more, right?

MR. KUTIK: May I have the question read, please.

(Question read.)

A. There's been no study done so, yes.

Q. Okay. If FirstEnergy determines that the costs to comply with the benchmarks will exceed the expected costs of otherwise producing or acquiring the energy by 3 percent or more and chooses not to meet the benchmark, is it reasonable for FirstEnergy to give customers a refund or a credit going forward for the costs that are included in the plan to meet the renewable energy requirements?

A. Could you rephrase that question?

Q. Sure. Basically what I am asking is since the costs to comply with the renewable energy requirements are already included in the cost of the plan, if FirstEnergy does not go forward with -- to meet the renewable energy requirements because the cost will exceed the benchmark, do you think it's reasonable for FirstEnergy to give customers a refund or credit for the costs that are included in the plan?

A. And, again, your question, I just don't agree with, I'm sorry.

Q. What part don't you agree with?

A. FirstEnergy will meet the requirements of the statute.

Q. Even if the cost exceeds the 3 percent benchmark?

A. We will meet the requirements of the statute.

Q. I am going to turn your attention to page 12 of your testimony.

A. Okay. I'm there.

Q. Okay. There at the bottom of the page you state that "FirstEnergy Solutions capacity at the Fremont Station will also be made available to meet the planning reserve requirements." What's the projected in-service date for the Fremont facility?

A. The current projection is to be ready by January 1, 2010.

Q. Isn't it true that customers may be at some financial risk at least for any slippage in the in-service date depending on the level of shopping?

A. Only if the slippage moves past May 1.

Q. Okay. I am going to direct your attention to page 11 of your testimony and there you describe the charge that's identified in the application at paragraph (A)(2)(h) which is a nonbypassable 1 cent per kilowatt default service charge, and you describe the charge as a hedge against the risk of customers leaving.

Then in contrast the application at paragraph (A)(2)(k) proposes a standby charge that varies by year for the risk of customers returning. FirstEnergy states that Section 4928.143(B) like boy (2)(d) like David of the Revised Code authorizes the minimum default service charge and a standby charge. My question is if the 1 cent per kilowatt hour charge is intended to compensate FirstEnergy for the hedging costs associated with serving FirstEnergy's entire retail load, what additional costs would result from shopping customers returning?

MR. KUTIK: Could I have the question read, please.

(Question read.)

A. I'm sorry, Lisa. Is there any way you can make that somewhat smaller of a question?

Q. I'm sorry. That was a lot of information there. I guess I wanted to make sure that you had in mind both the 1 cent per kilowatt hour minimal default service charge and the charge that varies for customers returning. And the basic question really is if the 1 cent per kilowatt hour charge compensates FirstEnergy for customers -- I'm sorry, for the hedging costs associated serving FirstEnergy's entire load, what other costs could result from shopping customers coming back to FirstEnergy?

A. Still I -- I still don't quite understand where you are -- what the question is asking me to answer. I'm sorry, Lisa.

Q. Okay. Put more simply what is the standby charge seeking to recover not in dollar amount but what risk is it covering FirstEnergy for?

A. The standby charge or the PSR rider is recovering the hedging costs for returning customers to the utility.

Q. Right. But if the 1 cent per kilowatt hour is covering FirstEnergy's risk for the entire retail load, are there any additional costs from returning customers?

A. And that's where I am getting confused on your question. There's -- there's two separate things there.

Q. What are the two separate things?

A. The PSR rider is for returning customers, and the minimum default rider is for customers leaving the utility.

Q. Aren't they really covering the same risk?

A. No.

Q. What's the difference?

A. One, the minimum default service is covering risk related to opportunity costs, administration costs, and loss of revenue due to customers leaving the utility. The PSR is for hedging for returning customers.

Q. Okay. I'll move on. Was the selection of 1 cent per kilowatt hour of the provider of last resort charge the result of any analytical study?

A. You would have to rephrase that question.

Q. How did you come up with the 1 cent per kilowatt hour?

A. The 1 percent per kilowatt hour was weighing a bunch of factors that I talked about earlier as far as risk concerning lost opportunity, hedging for shopping, and administrative costs.

Q. Did you do any analytic studies on those risk factors?

A. No.

Q. Okay. At pages 22 to 23 of your testimony you talk about the Rider ELR and OLR.

MR. KUTIK: Let's take a minute to get there.

A. Hold on a second, I'm sorry. Okay. I'm at 22, page 22. I'm sorry, Lisa.

Q. Okay. Just directing your attention to the Rider ELR and OLR and for each company the availability of service under the economic load response program rider which is the ELR is limited to customers served under interruptible service

arrangements as of July 31, 2008; is that correct?
A. For ELR, that is correct.
Q. What's the justification for restricting service to customers served as of July 31, 2008?
A. This program is for -- to match the current interruptible customers that we have today.
Q. Okay. And under both of those riders customers are foreclosed from participating in any other load curtailment programs including demand options that may be available through the Midwest ISO. What's the justification for restricting participation in other load curtailment programs?
MR. KUTIK: May I have the question read, please.
(Question read.)
A. An issue would be duplication.
Q. Okay. Given that the two interruptible riders are complimentary, shouldn't the customers be able to elect service under both riders?
A. You have to rephrase that question, Lisa. I'm sorry.
Q. That's okay. The OLR is associated with capacity requirements, and the ELR is based on energy prices so shouldn't customers be able to use both?

A. Once again, categorization. You would have to rephrase that.

Q. Okay. Why can't customers elect to participate under both riders?

A. I believe I answered that previously. The ELR is for -- to match our existing customers.

Q. Okay. And there is no other reason?

A. They are two separate -- two separate riders.

Q. Okay. But there is no other reason for customers not to be able to take service under both except that the ELR is to match current customers?

A. No. The difference is they are both -- one is for the economic rider which is the ELR, and the OLR is for emergency. You would have duplication if they were on both -- both riders. That's why they can't be at the same time.

Q. Aren't there instances where there wouldn't be duplication?

A. Administratively we see that there would be duplication.

Q. Okay, okay. I am going to direct your attention to page 24 of your testimony. Are you there?

A. Yes.

Q. Okay. On that page you talk about the companies not having much control over the transmission and ancillary service-related costs and congestion costs, right?

A. Are you -- can you direct me to where you are picking that up at in the testimony on this page?

Q. Just give me one second to check my reference.

Okay. I am looking specifically at lines 12 and 13.

A. Okay.

Q. Okay. And the EFP doesn't indicate FirstEnergy will take any action to protest or otherwise reduce the charges that could be imposed by the Midwest ISO or other RTOs, does it?

A. The company will continue to do its current practice, that we have a group of people that work in the area regarding tariff structures with FERC and also with MISO to represent the interests of the customer at this point in time.

Q. Okay. When you said company, did you mean the three operating companies?

A. They are a service organization, so they would represent not only the operating companies but also ATSI.

Q. Okay, okay. I am going to turn your attention to page 25.

A. Okay.

Q. And there you state the companies will continue to file annually to update the transmission rate; is that correct?

A. Yes.

Q. Okay. I might have just missed it in the ESP, but I didn't see anywhere where there would be continued PUCO staff review of the RTO costs as is currently required. Do you contemplate there would still be a staff audit process?

A. Yes.

Q. Okay. And if you know, is that actually in the ESP anywhere?

A. I would have to read through it and not specifically do I know.

Q. Okay. And FirstEnergy's application doesn't include partial service and cogeneration rate schedules similar to those that are currently in place, does it?

A. I don't believe I am supporting anything of that nature, so I don't recall at this point in time.

Q. Okay. What's the justification for making the generation charges all kilowatt based?

A. Currently that is the proposal of which way we would purchase it.

Q. Okay. And why didn't FirstEnergy recognize load shaping in its proposed kilowatt hour charges?

MR. KUTIK: Objection.

A. Could you rephrase that question?

Q. Well, most of the kilowatt hour charges don't include any type of load shaping, and I am just wondering what the justification was.

A. As answered previously, there's not a basis to do so.

Q. Would you explain your answer? What did you mean by there is not a basis?

A. There is not a fixed cost basis to develop a demand charge.

MS. McALISTER: Okay. I think that's all I have. Thank you very much, Mr. Warvell.

MR. KUTIK: Brett, I think Brett was next.

EXAMINATION

By Mr. Breitschwerdt:

Q. Good morning, Mr. Warvell. I am here on behalf of the Northeast Ohio Public Energy Council and the Ohio Schools Council.

If you could turn to page 5, very bottom of the page, line 23 of your testimony, and then that sentence going on to page 6. You note "The risk premiums" -- this is where you are talking about Dr. Jones and Dr. Graves' testimony. You note "The risk premiums include price risk, volatility risk with volume especially regarding governmental aggregation." I just -- the question I have is in constructing the electric security plan how does the electric security plan account for the risk of governmental aggregation that you note in your testimony here?

MR. KUTIK: Objection.

A. Could you rephrase that question?

Q. All right. I understand that this is explaining how Dr. Jones and Dr. Graves constructed the -- I guess the market retail offer that they expected the electric security plan to be compared to, but in constructing the electric security plan, how did the companies analyze this risk or address this risk regarding governmental aggregation?

A. As part of the overall plan, those are some of the parameters that are in the pricing that was developed.

Q. Can you give me a specific response -- I guess when you were speaking with Ms. McAlister earlier, you noted that the -- one of the purposes of the minimum default service rider was to compensate the companies for loss of revenue. Do you recall that?

MR. KUTIK: Objection. I don't think that's his testimony but go ahead.

A. Yeah. I think you need to be more specific.

Q. Okay. Could you explain what you meant when you were speaking with Ms. McAlister. You noted -- let me turn back to where I wrote this down. You know, that minimum default service rider charge is designed to compensate the companies for opportunity costs, administrative costs, and loss of revenue. Would loss of revenue in that context be related to the risk from governmental aggregation?

A. That's possible, yes.

Q. Did the companies contemplate that in the electric security plan -- in developing the electric security plan?

MR. KUTIK: Contemplate what?

Q. Contemplate the risk of governmental aggregation and the loss of revenues to the companies.

A. It's part of the overall risk that the companies looked at to develop the plan.

Q. Okay, okay. On page 8 of your testimony, lines 3 through 6, you discuss the development of the minimum default service charge, and then at the end of that sentence you say this charge is not subject to the phase-in. Can you explain why it's not subject to the phase-in?

A. I'm sorry. I didn't get to the page you were at. Could you repeat that question?

Q. Sure. Page 8 and then lines 3 through 6.

A. Okay.

Q. I will allow you to read it and then.

At the end of that sentence you say the minimum default service charge would not be subject to the phase-in. Can you explain why the electric security plan does not allow for the minimum default service charge to be phased-in?

A. As stated before, the risks that this cost risk -- that this is covering, it's just not part of the phase-in.

Q. And what would that cost risk be?

A. The opportunity costs, the administration costs, and also the loss of revenue from shopping.

Q. Okay. On page 9 of your testimony, lines No. 10 through No. 13.

A. Okay.

Q. You identify in that sentence essentially how the provision of the Ohio Revised Code Section 4928.20(I) is going to be -- you identify how the plan is going to address that provision. Do you -- do you understand what I am referring to when I say the Ohio Revised Code 4928.20(I)?

A. Not specifically, no.

Q. Okay. Well, within this sentence you say that the Rider DCG charge -- excuse me, DGC charge that is proportionate to the benefits of the electrical load center within the jurisdiction of the governmental aggregation as a group received. I am trying to find out how the companies within ESP will -- are calculating proportionate to the benefit, how they are calculating the benefit that the governmental aggregation group as a group receives. So can you explain to me how the companies are planning to implement that sentence?

A. I am going to ask you to rephrase it because I am not quite sure what you are asking me to do.

Q. Okay. In this sentence you say that members of a governmental aggregation group will only be responsible for the portion of Rider DCG which you discuss in lines 3 through 13 on page 9 to the extent that the benefit they -- that is -- they will only be responsible for the charge proportionate to the benefit of the electric load centers within the jurisdiction of the governmental aggregation as the group receives. My question is how are the companies going to address what the proportionate benefit that the governmental aggregations receive is?

A. And I believe it's stated there. It would be the proportionate benefit as far as time and amount of recipients that are involved receive.

Q. Stated in?

A. In that sentence.

Q. When you say "time," what do you mean "time"? I don't see where it says "time."

A. Proportionate benefits so in my simplistic world would be if they signed up in June of 2009, they would not be charged for all 12 months. That would be proportionated over a six-month period for those customers.

Q. So when you say sign up, you mean sign up with a third-party supplier through the governmental aggregation; is that correct?

A. Yes.

Q. Okay. And does the company have a current program in place within ESP to track the proportionate benefit that you discuss in this sentence?

MR. KUTIK: Well, since the ESP is not currently in effect I'll object.

Q. Okay. Excuse me. Can I rephrase then? Are they proposing a program within the electric security plan to track this proportionate benefit?

A. Not -- not that I am aware of.

Q. Who will be responsible for developing that program to address proportionate benefit that the governmental aggregation group receives?

A. I don't know.

Q. Okay. But it's your understanding that if this is approved, then there will be some sort of tracking program to assess what the proportionate benefit is?

A. Yes, that's -- yes.

Q. Okay. If you could turn to page 10 of your testimony starting on line 19.

A. Okay.

Q. We are back to the minimum default service rider, and you give an explanation of some of the things that is necessary to recover. How do the companies currently recover the costs proposed to be recovered under the minimum default service rider or charge?

A. I don't understand your question, I'm sorry.

Q. How do the companies -- how do they currently recover generation-related administrative costs, hedging costs, the costs of lost revenue that you noted earlier? I am just trying to find out you have a 1 cent per kilowatt charge that's set out in the ESP. I am trying to understand how that's going to change from the way they are currently recovered, those costs.

MR. KUTIK: And so your question is? There are several questions in what you just stated.

Q. My initial question -- I was trying to provide context for the initial question.

A. Okay. Could you, I guess, rephrase it or?

Q. Sure.

A. Which one would you want read back to me because I am not understanding?

Q. Okay. I can repeat the question.

A. Okay.

Q. In the current rates and tariffs how do the companies currently recover the costs which I just listed in the ones that you've put into your testimony that are proposed to be recovered under the minimum default service charge?

A. Due to the current nature of the PSA agreement I'm not fully aware of all the mechanisms that are done through that process.

Q. But there is not a separate charge such as the minimum default service charge to recover those costs, I guess, to your knowledge?

A. Currently there is not a separate charge, no.

Q. Okay. I am trying to understand how the -- can you explain to me how the 1 cent amount per kilowatt hour was developed for the MBS rider, how that specific 1 penny per kilowatt per hour was developed?

A. It was a decision, like I said before, considering a multitude of the three or four risk factors that I stated earlier and that was decided upon as far as the rate was concerned.

Q. Who made the decision?

A. It was a management decision based on groups being involved.

Q. Could you give me the -- a list or just kind of the major groups that were involved.

A. It would have been executive management rates, financial planning, and corporate risk.

Q. Was there a specific study -- any sort of specific study or analysis done to say that 1 cent is, you know, more reasonable than half a cent or 1-1/2 cents?

A. Not that I am aware.

Q. So these groups essentially came together and said that we perceive 1 cent to be more reasonable than a half a cent or 1-1/2 cents or some other value?

A. Yes.

Q. Do you know when this 1 cent was established, when these groups came together and established 1 cent as the reasonable?

A. I don't have a specific time frame.

Q. Okay.

A. This was worked on for months. I couldn't specify.

Q. Do you know who made the financial decision that the 1 cent would be the reasonable value or the value that ESP would contain?

A. Like I said before, this has been through significant management levels. I don't -- I don't think I have a person that I could point you to. I mean, that's -- overall the plan was reviewed by all those groups, and I assume in the -- in the process that's how it was done.

Q. Okay. So within the electric security plan are there any workpapers or analysis that explains why the MDS charge is 1 cent, anything that I could look to to understand that?

MR. KUTIK: Other than his testimony?

Q. Other than your testimony, yes.

A. No. All the workpapers that I am aware of are filed.

Q. Okay. Thank you. Can you turn to page 11, line 6, of your testimony. In your testimony you say "If more customers shop than anticipated, for any variety of reasons." Based on -- does the company have some anticipation of the number of customers that are -- that potentially could shop under the electric security plan?

A. No.

Q. Did they do any analysis of the number of customers that potentially could shop under the electric security plan?

MR. KUTIK: May I have the question read, please.

(Question read.)

A. What do you mean by analysis?

Q. Were there any estimates, projections, reviews, studies, or other evaluations performed by the companies related to the amount of shopping that would be done, could be -- or that would be done on an electric security plan?

A. I believe we looked at historical numbers.

Q. And what were the results of those analyses, if you recall?

A. I would not call it an analysis. I would say we reviewed historical numbers and that was it.

Q. A few lines above that, lines 4 and 5, you talk about the forecasts and assumptions that the company does regarding the number of customers and the amount of load that it has to serve. Did that analysis -- did those forecasts and assumptions take into account potential for shopping by customers?

A. No, not at this point.

Q. When you say not at this point, if -- are those forecasts and assumptions still being developed currently?

A. Forecasts are updated quarterly, and so they will be updated every quarter based on information that the forecasting group receives.

Q. Okay. So if the -- if that group receives new information that leads you to believe that there will be a large -- for example, a governmental aggregation that's planning to shop, would that -- that would impact those forecasts and assumptions?

A. I don't know how they go about doing

their specific forecasts and what information process that determines the level of shopping.

Q. But these forecasts and assumptions will be used to essentially analyze the contracts the company enters into with FirstEnergy Solutions; is that correct?

MR. KUTIK: May I have the question read, please.

(Question read.)

MR. KUTIK: Objection.

A. I don't know.

Q. Well, let me try to rephrase that question. So these forecasts and assumptions, they forecast the amount of load that the company will have to serve under future power supply agreements; is that reasonable?

A. Yes.

Q. Okay. And so if the companies knew through these forecasts and assumptions that they would not have to serve a certain group of customers because those customers had contracted to take generation service from a third-party supplier, then that information would be used to form the contract with FirstEnergy Solutions that's contemplated in the

ESP plan?

MR. KUTIK: Objection.

A. Yeah. I don't know the -- how the contract is going to be negotiated.

Q. Okay. If you could turn to page 15 of your testimony, please, starting on -- the section lines 12 through 19 regarding the fuel cost adjustment rider, I am just -- I am trying to understand how this rider operates related to the Fremont plant coming online. So within this section you say that 100 percent of the generation from these plants including the Fremont plant will be -- will be required to provide service under the ESP; is that correct?

A. Yes.

Q. Okay. So are the companies proposing that 100 percent of the Fremont energy center's fuel costs with the exception of the costs you list in lines 13 and 14 will be recovered for the year 2011 through the FCA rider?

A. The natural gas cost, yes.

Q. Just so I'm clear the -- you know, when I said 100 percent, I mean all the costs so if you know, earlier you had said that the Fremont plant is expected to come online January 1, 2010, right?

A. That is the current date, yes.

Q. Okay. So then this rider would only cover the starting for 2011. It would only cover the increase for the Fremont plant; is that correct?

A. The incremental costs, yes.

Q. So that wouldn't actually be 100 percent. It would be 100 percent of the increase.

A. The incremental costs from the baseline of 2010.

Q. Okay. So I guess hypothetically if the total generation required to serve customers under Rider GEN in 2011 means that none of the generation from the Fremont energy center is necessary to serve the Rider GEN load, would 100 percent of these fuel cost increases still be added to the FCA rider?

A. Could you rephrase that question?

MR. BREITSCHWERDT: Perhaps you can reread it.

(Question read.)

MR. KUTIK: Note my objection.

A. Yeah. Once again, I guess I am just not following it, I'm sorry --

Q. Okay.

A. -- the question, I guess.

Q. Right.

A. Could you state it a little bit more --

Q. Sure.

A. -- direct?

Q. So the hypothetical that I'm -- I tried to explain there would contemplate some third party -- some level of third-party shopping where the generation from the Fremont energy center is not necessary to serve the customers under Rider GEN by the companies. So if that was the case and either none or some percentage less than 100 percent of the generation from the Fremont energy center is necessary to serve the Rider GEN load, would 100 percent of the incremental increase in fuel costs still be added to the FCA rider?

MR. KUTIK: Objection.

A. I didn't -- still I guess -- I am not following your hypothetical at this point.

Q. Okay. Let me try it this way, if 100 percent of the fuel costs from the entire Fremont energy center are to be recovered -- are to be included for recovery through Rider FCA, will 100 percent of the generation output of this plant be included in supplying the Rider GEN load?

A. Yes.

Q. Sorry. Just a moment.

A. Uh-huh.

Q. So once the Fremont energy center comes online 100 percent of that energy output will be used to supply the Rider GEN loads you just stated.

A. Yes.

Q. Potentially -- potentially if the Rider GEN doesn't require the use of 100 percent of all the other generating facilities' capacity, what other generating units then would not be used to serve the Rider GEN load?

MR. KUTIK: Objection.

A. You are going to have to rephrase that.

Q. Okay. So what other -- what generating units are planned to supply the Rider GEN load currently prior to the Fremont energy center coming online?

A. All the facilities.

Q. Okay. And if all the -- all those facilities and then the addition of the Fremont energy center generate a supply that's greater than what's necessary to supply Rider GEN, then some supply from those other facilities will not be used to supply Rider GEN, correct?

A. No.

Q. I guess I am not understanding how that's not an accurate statement. If there is a certain amount of supply that's necessary to supply Rider GEN and then that supply is -- the generating facilities plus the Fremont energy center potentially due to third-party shopping creates a level of generation supply that's greater than what is necessary to supply Rider GEN, then there would be some of those facilities that would not be necessary for 100 percent of their generation supply to supply to Rider GEN?

MR. KUTIK: Objection.

A. The FCA rider is to recover incremental costs over 2010 to -- 2011's incremental cost over 2010's costs.

Q. Okay, okay. So I guess where I am trying to get to with this question is would there ever be a situation where customers of the company who are taking service on Rider GEN would be paying Rider FCA but then the generation from any of the facilities, whether it's Fremont or not, would be not -- would not be used to service -- or to supply generation from Rider GEN? So the customers are paying FCA but are not receiving the benefit of the generation supply from that facility supplying Rider GEN?

MR. KUTIK: Objection. Asked and answered.

A. That was not assumed in this calculation.

Q. So by that would that be the answer is no?

MR. KUTIK: Objection. He just gave you the answer.

A. Yeah. I just answered it, so I don't know how else to answer that.

Q. Okay, okay. That's all the questions that I have. Thank you, Mr. Warvell.

MR. KUTIK: OCC.

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EXAMINATION

By Ms. Roberts:

Q. This is Jackie Roberts. Hello. I wanted to stay on that line for a second because I had some questions on this area too. You just said that that was not assumed in the calculation. Do you recall that?

A. I just answered that, yes.

Q. Yes. And will you tell me why it wasn't assumed in the calculation?

A. I guess I am going to ask you -- I don't understand your question.

Q. I am asking you about a statement you made that -- that the Fremont generation and --

MS. ROBERTS: -- could you just read back Brett's last question and the answer, please.

(Question and answer read.)

Q. And my question is what wasn't assumed in the calculation?

THE WITNESS: I guess just so I get it, I'm sorry, you are going to have to read this back again, but I got lost in all the words so could you do it again.

(Question read.)

A. Okay. And your question again? I'm sorry. Read that one.

Q. My question, you said that was not assumed in the calculation, and I asked you what wasn't assumed in the calculation.

A. Generation would be not supplied to a retail customer.

Q. And why was that not assumed?

A. It wasn't.

Q. Do I understand you to be saying the assumption was that all generation would be supplied to retail -- all generation under the contract would be supplied to retail customers?

A. For this rider, yes.

Q. Okay. And only the generation used would be reflected in the rider?

A. Could you rephrase that question?

Q. Will the rider -- will the rider only reflect the generation actually used by the customers?

A. It's based on total generation.

Q. Whether it's used or not?

A. The assumption is it would be used by all the customers.

Q. That all the generation would be used by all the customers.

A. Yes.

Q. And if all the generation is not used by all the customers, would there be a reduction in that rider, reduction in costs in that rider reflecting that all generation was not used by all the customers?

A. As stated before, that was not in the assumption.

Q. Okay. And do you -- was that -- is that a decision that was made by you?

A. As stated before, this is a total plan that many people had looked at. I was part of the process and am sponsoring the rider.

Q. What part of the process were you in this -- in this particular issue?

MR. KUTIK: Are you talking about what part of the process was he for Rider FCA?

MS. ROBERTS: Yes. For both riders.

A. What do you mean both riders?

Q. FCA and the generation.

A. You are going to have to rephrase that, I guess.

Q. You said you played a part in the plan where it was decided that -- if I'm characterizing your testimony properly, that there would not be a reduction if not all generation was needed by all customers. I am asking you what part you had in that plan that you referred to.

A. And as I said before, I'm sponsoring the rider for that -- for the FCA.

Q. Oh. Did you develop the rider for proposal to management?

A. There was a lot of people as part of the development and I was the last portion of that so it would be my sponsorship of that rider.

Q. Were those people operating under your direct supervision and control?

A. Some were, yes.

Q. And the ones that weren't, who were they -- what part of the company were they operating in?

A. As stated before, it was executive management. It was the other portions of the rate department. It would be financial planning and corporate risk.

Q. Did you participate in meetings with any of those groups as this rider was being developed?

A. Yes.

Q. And which groups did you participate in meetings with?

A. All those as I stated.

Q. All those. Was executive management that -- that you -- the executive management meetings that you participated in, did they include executives from FirstEnergy Solutions?

A. No.

Q. Did the financial planning group contain personnel that also worked for FirstEnergy Solutions?

A. No.

Q. The rate section?

A. No.

Q. Corporate risks?

A. And, again, I just want to be specific, you are asking me if FES was involved?

Q. Yes.

A. The answer is no.

Q. And were any of the executives in any of these meetings also employed by FES or also have responsibilities in FES?

MR. KUTIK: I am not sure how that's different from the last question he just answered, so I will object as being asked and answered.

You can go ahead and tell her again.

A. I was not involved with any FES personnel during any of the meetings that I mentioned of those groups.

Q. All right. And what I was trying to

clarify is that sometimes we wear FES hats and sometimes FirstEnergy hats and sometimes operating company hats and I was just trying to determine whether -- even though members of these different groups may have been meeting on behalf of the operating companies whether they also had responsibilities in FES, and your answer is no.

A. That is correct.

Q. Okay. All right. Well, in that case I -- how was it that you determined what terms FES would require for the recover -- the recovery of Fremont and whether -- let's start with that question. How is it you determined what FES would require regarding the recovery of Fremont costs?

MR. KUTIK: Objection. It assumes to -- they have to know what FES would want to recover those costs. Go ahead.

A. Yeah. We developed the rider to recover incremental fuel costs.

Q. And wouldn't those be costs of FES?

A. Yes.

Q. And on what basis did you determine that those costs would be -- FES would require those costs be separately recovered?

MR. KUTIK: Objection.

A. As I tried to state previously, this is an overall plan. This is one piece of the entire plan, so it was incorporated into the knowledge of putting the entire plan together, not one piece at a time.

Q. And is there any information or belief that you have that FES will agree to the terms of this plan in providing capacity?

A. I'm sorry. Could you -- I am not sure what I am supposed to be answering there.

MS. ROBERTS: Would you read the question back, please.

(Question read.)

A. I am not part of the negotiations with FES.

Q. Do you have any information or belief that FES will provide power on these terms?

A. And I am going to answer the same way I just answered, I am not part of those negotiations.

Q. All right. In your testimony it -- let's just --

MS. McALISTER: Hello?

Q. Oh, I'm sorry. I hit the mute button by accident. I thought you didn't like my questions. Page 4 --

A. Okay. I'm sorry. Hold on. Let me get there.

There we go. I'm there.

Q. On page 4 commencing at lines 10 and 11, your testimony says that the base generation rates will be 7.5, 8, and 8.5 cents respectively from 2009 through 11; is that correct?

A. Yes.

Q. And what is the basis of your opinion those rates will be the rates in effect?

A. I am not understanding your question at all.

Q. Why do you think that FES operating companies will be able to supply base generation at those rates for those years?

MR. KUTIK: Objection, mischaracterizes the testimony.

A. That is our proposed base G rate.

Q. And to provide that proposed base G rate, do you need a contract for power, or do you need someone to provide power -- let me rephrase that.

Do you need someone to provide power to

the FE operating companies?

A. The operating companies will require power, yes.

Q. And upon what basis do you know or have information that generation will be provided at those rates?

A. I have none.

Q. You have no information whatsoever?

A. I do not.

Q. So is it fair to say this number is based on nothing?

A. I don't understand your question, I'm sorry.

Q. So is it fair to say that in your testimony commencing at lines 11 where you say the generation rate will be 7-1/2, 8, and 8-1/2 cents respectively for 2009 through 11 is based on nothing?

A. This is based on our overall proposal for the plan with this being our base G rate.

Q. And what information do you have that you will be able to acquire power at those rates?

MR. KUTIK: Objection.

A. I don't have information to that.

Q. Then why do you believe you will be able to provide power at those rates?

MR. KUTIK: Objection. Assumes that that's what his testimony is and it's not.

A. I'm sorry.

MR. KUTIK: She has mischaracterized your testimony but go ahead.

Q. Let me rephrase the question. In making this statement commencing on line 11, and I quote, "The proposed plan base generation rate of 7.5 cents/kilowatt hour in 2009, 8.0 cents/kilowatt hour in 2010, and 8.5 cents/kilowatt hour in 2011 is reasonable and favorably priced compared to the results provided in the testimony on expected outcomes of competitive bid processes as a part of the market rate offer offered by Dr. Scott Jones and Dr. Frank Graves." Your plan includes these rates for base generation. Are these rates included because of the testimony provided by Dr. Jones and Dr. Graves?

A. As stated earlier, our overall plan is to be better than the market price and incorporating as reduced impacts to customers on total retail rates and this is an overall plan.

Q. And to include these rates in the plan you will have to -- you will have to purchase power on behalf of the customers of the FE operating companies?

MR. KUTIK: Can I have the question read, please.

(Question read.)

MR. KUTIK: Objection.

Q. Let me rephrase that. Does this statement including these rates in the electric security plan assume that FE operating companies will be able to purchase power at these rates in 2009 through 2011?

A. No.

Q. Then how will the generation be supplied and if it's at a different rate, how will that be treated?

MR. KUTIK: Objection, compound.

MS. ROBERTS: Objection what? I'm sorry.

MR. KUTIK: Objection, compound. You asked him two questions.

A. Could you rephrase that, please?

Q. Yes. Do you know where you are going to get generation to supply this plant?

A. I believe we have stated FES.

Q. All right. But you don't know whether FES will provide power at these rates?

A. As stated before, I have not been part of the negotiations with FES.

Q. Do you have any information and belief that power will be provided at these rates?

MR. KUTIK: Objection, asked and answered.

A. As stated before, I haven't been involved in that process.

Q. In your meetings with executive management reviewing the plan, was the rate that FES would provide generation at discussed?

A. Not while I was present.

Q. In the corporate risk meetings?

A. As stated before, I have not been part of the process with FES.

Q. So in putting together the plan and sponsoring this -- this base generation rate in your testimony, do I understand that you have nothing to base this rate on?

A. Could you rephrase that?

Q. So is it -- is it a correct understanding that in your testimony where you sponsor the base generation rates that you can provide no information regarding whether the FES -- FE operating companies can acquire generation at these rates?

MR. KUTIK: Objection. Assumes facts, mischaracterizes his testimony. Go ahead.

A. I have no cost basis for these numbers.

Q. Do you have a market basis for the numbers?

A. As stated in my testimony, we believe that we are below market based on the analysis of Jones and Graves.

Q. Is it common for you to be able to buy power under market price?

MR. KUTIK: Objection.

A. Yeah. Could you rephrase that?

Q. Has it been your experience at FE operating companies to buy power under market rates, below market rates?

MR. KUTIK: Objection, incomplete hypothetical. Go ahead.

A. I have not bought power for the operating companies.

Q. Certainly you are aware that power has been purchased for the operating companies; is that correct?

A. You would have to rephrase that, I guess.

Q. Certainly. You are aware, aren't you, that power has been purchased to supply the FE operating companies?

A. I know there is a power sales agreement in place for the FE operating companies.

Q. And what rate is that power sales at?

A. I don't know.

Q. Do you have any information about that whatsoever?

MR. KUTIK: Objection, asked and answered. He just told you he doesn't know.

MS. ROBERTS: He said he doesn't know but that's a definite certain statement.

Q. Do you have any information about what the rate may be?

MR. KUTIK: He just told you he didn't know.

Go ahead. Tell her again.

A. Yeah. I do not have anything, no.

MR. KUTIK: If you are going to another line of questions, why don't we take a break at this point for 5 minutes.

MS. ROBERTS: I just have a follow-up question.

MR. KUTIK: Sure. Go ahead.

Q. You said on page 1 of your testimony, line 12, that you're responsible for -- says in the various roles you are responsible for overseeing wholesale market purchases and sales of power?

A. Specifically where are you at?

Q. Line -- page 1, line 12.

A. Yes. I'm there. I'm sorry. Yes, I'm there on line 12.

Q. Look that over.

A. I'm sorry. I did not hear your question.

Q. What period of time was that for?

A. I did that job for FES for roughly, I believe, six months.

Q. And what six months? What year was that, please?

A. That would have been back in 2006.

Q. In 2006 and what months, please?

A. I don't remember specifically. I would have to go back and go through my bio. I'm sorry.

Q. And in 2006 when you worked with FES, were you aware of the power sales of FES?

A. The power sales agreement?

Q. No, any power sales that FES made.

A. You would have to be more specific than that, I'm sorry.

Q. When you were at FES, did you have any responsibilities concerning wholesale market transactions of purchases and sales?

A. Yes.

Q. And would you have known the rates or the prices that those transactions were conducted at?

A. Yes, I would have signed off on the transaction.

Q. And for the power sales agreement between FES and FE operating companies for 2006, would you have signed off on that agreement?

A. No.

Q. And why is that?

A. It was not in my job duties.

Q. Will you please explain to me how it was -- how you would have signed off on it but it's not in your job duties.

MR. KUTIK: Well, now, you are mischaracterizing his testimony so why don't you ask him a fair question.

Q. Did you oversee wholesale market transactions, purchases, and sales of FES to FE operating companies while you were at FES?

A. No.

Q. Why is that?

A. It was not my job.

Q. And what -- what market transactions were your job?

A. Third-party wholesale transactions.

Q. Wholesale transactions so you would be aware at the wholesale rates charged third parties by FES for 2006?

A. You are going to have to rephrase your question.

Q. You just testified you were in charge of wholesale market transactions. So would you know the wholesale rates charged by FES to customers in 2006?

A. Third-party wholesale customers, yes.

Q. And how do you distinguish the third-party wholesale customers from FE operating companies?

A. I was not part of any dealings with the operating companies in 2006 from a wholesale transaction process.

Q. All right. And what rates in 2006 was FES selling power to third parties at?

MR. KUTIK: That's -- I am advised by Mr. Burk that that information is confidential, and since all the other parties on this call are not subject to a protective agreement I will instruct the witness not to answer.

Q. In selling wholesale power to third parties were you required to seek any FERC approval of the rate at which that power was sold?

A. No.

Q. Would it surprise you then to know that those rates for wholesale sales to third parties are included in an FES settlement in a FERC docket?

A. You're beyond my scope, I'm sorry.

Q. You are responsible for wholesale --

MR. KUTIK: Well, hold on a second. At this point you said you had a follow-up question. We have now been going after 15 minutes. We are going to take a break so let's do that right now.

MS. ROBERTS: Okay.

MR. KEIFFER: This is Lance Keiffer. I have been on the phone since about 9:15. I just wanted that noted before the break.

(Recess taken.)

MR. KUTIK: I guess we will go back on the record.

MR. KEIFFER: This is Lance Keiffer, K-E-I-F-F-E-R. I am representing NOAC, Northwest Ohio Aggregation Coalition, and actually I came in on the call at a little bit before 9:15. I apologize. I did not want to interrupt the questioning.

MR. KUTIK: Thank you for that.

MS. ROBERTS: Shall we continue?

MR. KUTIK: Yes, please.

MS. ROBERTS: I did fax a document or I am having a document faxed over to your offices. I just wanted to alert you to that.

Q. (By Ms. Roberts) Turning to page 4 of your testimony, line 6, you testified that "The companies have committed to fixed generation prices."

A. I'm sorry. I'm not there. Could you repeat that again? Page 4.

Q. Page 4, line 6, you state "The companies have committed to fixed generation prices." And it's also your testimony that the companies don't know what they are going to have to pay to supply the fixed generation.

A. I am not involved in any negotiations for acquiring power for the operating companies.

Q. So you are not able to say whether the operating companies will be able to acquire generation at the rates proposed for customers or at any rate for that matter?

MR. KUTIK: Objection.

A. Yeah. My answer didn't change from the last one.

Q. All right. Do you think it's reasonable to commit to all of your customers and service territory and the Ohio Public Utilities Commission to provide fixed generation prices without knowing what you will have to pay for the generation?

MR. KUTIK: Well, that question is argumentative and I will instruct him not to answer.

Q. You -- in your experience in wholesale rates and transactions do you believe it's a good business practice to commit to fixed generation prices without knowing what you are going to have to pay for the generation?

A. This is an overall plan for retail customers to supply retail load.

Q. And if the prices are higher than those proposed by the companies, will they be passed on to customers?

MR. KUTIK: Objection. What prices?

Q. The proposed prices, the proposed fixed generation prices.

MR. KUTIK: Well, that's --

A. It's the overall plan.

MR. KUTIK: You mischaracterized his testimony. He can't answer that question.

MS. ROBERTS: He has testified that the companies have committed to fixed generation prices.

MR. KUTIK: Those are the prices that the companies are going to charge, yes. Go ahead.

Q. And that's a true statement regardless of what the companies are required to pay.

MR. KUTIK: Objection, asked and answered. Tell her again.

A. This is the overall plan that the company is proposing which includes these -- these generation prices as well as everything else in the plan.

Q. All right. So regardless of the actual purchase price of the generation, this fixed generation price will not be adjusted up or down; am I understanding that?

A. Based on the overall approval of the plan.

Q. Is that a yes or no?

MR. KUTIK: Objection. His answer is what it is.

Q. Based on the overall approval of the plan, customers will not be charged anything different than these fixed generation prices; is that correct?

MR. KUTIK: For the generation portion of this; is that what you are saying?

MS. ROBERTS: Yes.

A. Yes.

Q. Okay. Thank you. On page 5.

A. Okay.

Q. You discuss transmission costs, and I would like to refer you specifically to the area of your testimony between lines 11 and 15.

A. Okay.

Q. Would you expect any generation supplier for the FE operating companies to charge these transmission costs as part of their rate --

MR. KUTIK: Objection.

Q. -- their contract rate?

MR. KUTIK: Objection.

THE WITNESS: Could you read that question back, I'm sorry.

(Question read.)

A. It would be based on the product that the company was requesting.

Q. All right. So it could be net of transmission or including transmission, the price could be.

A. It would be based on the product.

Q. Okay. On page 7 of your testimony.

A. Okay.

Q. Line 4, you say "The base generation charges described above include all required renewable energy resources." Can you quantify what that dollar amount is that's included in the generation charges?

A. What specifically do you mean by quantify?

Q. I am trying to -- I am trying to figure out the dollar amount of the generation charge that would be represented in the generation charge.

A. As said before, there's not a cost basis for the G rate.

Q. And what basis was it included if not cost?

MR. KUTIK: Objection. What basis was what included?

MS. ROBERTS: The renewable energy resource requirement.

MR. KUTIK: Well, I don't know what you are asking. If the witness does, he can answer.

A. I don't understand the question.

Q. You have testified that renewable energy costs are included in the base generation charge, correct?

A. No.

Q. Then where are they included?

A. I'm not understanding your question. I'm sorry. I'm not following.

Q. I believe you testified on line 4 that the base generation charges are sufficient to comply with RC 4928.64; is that correct?

A. Yes.

Q. And in response to questions by Ms. McAlister, you testified, do you recall, that the company has done no studies to determine what those charges may be for renewable energy resources?

A. Yes.

Q. And has the company made any projections about what the renewable energy resources charges might be?

A. I don't know.

Q. Is FE operating companies on a calendar year fiscal basis?

A. Yes, that I am aware.

Q. I'm sorry?

A. Yes, that I am aware.

Q. Thank you. Then has the company engaged -- begun to be engaged in a budget process for 2009?

A. That I am aware of, yes.

Q. And are you aware that in that budget process whether renewable energy costs are included?

A. No, I am not.

Q. And who would be aware of that?

A. I don't know.

Q. And your -- but you are supporting this in your testimony so what department would this estimate come out of in the FE operating companies?

MR. KUTIK: Well, you are assuming that because he supported it he should know so I object.

MS. ROBERTS: Yes.

MR. KUTIK: Well, your assumption is wrong so I will object.

THE WITNESS: Could you read back that question, please.

(Question read.)

A. I don't know.

Q. But it's not your department; is that what you are saying?

A. I am not involved in it.

Q. Okay. On line 16 of the 7 -- of the same page, page 7.

A. Yes.

Q. You say that average base generation prices are across all customers in the three companies. Can you tell me what you mean by all customers?

A. All classes of customers of all three companies on average before voltage differentiated and seasonally adjusted average 7 -- 7-1/2 cents per kilowatt hour.

Q. Does that include special contracts customers?

A. Yes, prior to the discount.

Q. Does it include wholesale customers if there are any?

A. I am not aware of any wholesale customers.

Q. Do you know whether spreading this price across all customers results in any increase to residential customers on an intraclass basis?

A. What do you mean by interclass basis, please?

Q. Intraclass basis.

A. Okay.

Q. Are any costs shifted as a result of this to residential customers?

A. I am sorry. I am not understanding the question.

Q. Does the overall base generation rate across all three companies of 7.5 cents a kilowatt hour in '09 result in any customer class cost allocation shift to residential customers?

A. Okay. I'm -- could you kind of give me an example or be specific? I am not understanding what you are trying to get to.

Q. Sure. I am just trying to figure out if using an average price across all customers will serve to increase the prices paid by residential customers talking about the allocation of these costs among classes.

A. They are all exactly the same. They all start with the base of 7-1/2 cents for all classes.

Q. Will it cause any cost shifting as compared to the rates currently in effect?

A. I don't understand what -- I don't understand cost shifting.

Q. From one class to another.

A. Once again, I don't understand what you mean by cost shifting.

Q. All right. Will this 7.5 cent rate that will be assigned to residential customers be a change in -- a change in -- in the rate responsibility as compared to what they are currently experiencing?

MR. KUTIK: Objection.

A. I don't understand what rate responsibility means.

Q. I am talking about cost allocation and rate design. I am just trying to understand whether this rate will cause any cost shifting from commercial or industrial customers to residential customers by applying this rate across the board as compared with the rate design presently in effect.

MR. KUTIK: He just said earlier he didn't understand what you meant by the word cost shifting. Go ahead.

A. That's where I am at. I don't understand what I am comparing.

Q. All right. Moving on to page 8 of your testimony, Ms. McAlister asked you questions about the minimum default service charge. And can you quantify for me what you expect the 1 cent per kilowatt hour charge to produce in terms of revenues in 2009?

A. Quantify --

Q. In terms of dollars.

A. Well, 1 cent times the entire load.

Q. And what is that?

A. I think it's estimated to be about 58 million megawatt hours, so I am assuming it would be about $58 million.

Q. And a 1 cent per kilowatt hour would be added in 2009, for example, the 7.5 percent generation price per kilowatt hour?

A. No. It depends on if it was a shopping customer or a non-shopping customer.

Q. I understand. So if it was a shopping customer?

A. The 1 cent would be under the minimum default service rider.

Q. Uh-huh.

A. And there would be no G rate.

Q. And if it were a non-shopping customer?

A. It is part of --

Q. Would --

A. I'm sorry, I started to answer your first question so could you --

Q. Go ahead and answer.

A. Could you rephrase it then or ask it again?

Q. And for non-shopping customers?

A. We are talking about the 1 cent?

Q. Yes.

A. It's part of the GEN rate for SSO customers.

Q. So it's part of the 7.5?

A. Yes.

Q. Okay. So included, included in the 7.5. Turning to page 10 of your testimony.

A. Okay.

Q. You talk about MISO beginning in lines 9 through 15, and you use the day ahead MISO hourly price to determine the seasonal relationship; is that correct?

MR. KUTIK: Objection. That mischaracterizes his testimony.

A. Could you repeat that? I'm sorry.

Q. What do you use the MISO day ahead LMP for in this section of your testimony?

A. To develop the seasonal factors.

Q. All right. And going down to lines 19 and 20, I believe you were -- were asked about the generation-related administrative costs and hedging costs, and you explained how the company recovers these costs now. Do you recall that?

A. No. I'm sorry.

Q. Okay. How does -- how do the companies recover these costs you've identified in your answer to the question on line 16 now?

MR. KUTIK: Objection. Assumes the companies recover those costs. Go ahead.

Q. If they recover it.

A. There is no separate rider today.

Q. So does that mean that the costs aren't recovered or they are not recovered through a rider?

MR. KUTIK: Objection.

THE WITNESS: I'm sorry. Could you reread that back to me.

Q. You said --

A. No. I am asking --

Q. -- this nonbypassable charge is necessary to recover among other things generation-related administrative costs and hedging costs. How are those costs recovered now by the companies, if they are?

A. And as I believe I previously answered this, I am not aware of all the aspects related to FES and the PSA. All I know there is no current rider today.

Q. So are you saying that you know they are not recovered in a rider, correct?

A. Correct.

Q. Are you also saying that if they are recovered, you expect it would be in the PSA?

A. No. I am saying I am not aware of where it would be recovered today.

Q. Okay. Would those costs be FES costs or FE operating companies costs?

A. What costs are we talking about again? I'm sorry.

Q. The generation-related administrative costs and hedging costs.

A. Well, until an agreement is gathered, it would sit on the operating companies.

Q. All right. And if the operating companies had a power supply agreement for full requirements, would it be the supplier's obligation to meet those costs?

MR. KUTIK: Objection.

THE WITNESS: Could you reread her question, I'm sorry.

(Question read.)

A. It would depend on the contract, I would assume.

Q. All right. In your experience working for FES did you ever engage or approve power supply agreements where the requirements of power were separated from administrative and hedging costs?

A. And I am going to answer this I was involved in wholesale third-party transactions period.

Q. But wholesale party transactions have administrative costs?

A. Yes, back office costs.

Q. All right. And did you ever approve a contract where the administrative costs were born separately by the purchaser of power?

MR. KUTIK: Objection.

A. Can you tell me who these parties are that -- who is purchasing and who is selling so I understand your question?

Q. I mean, you have said that the companies, the FE operating companies, would need to recover administrative -- generation-related administrative costs.

MR. KUTIK: Well, now, you have changed the question. You asked -- no, let me finish now. You asked about a series of costs which included administrative costs. Now, you are changing his answer to only be referring to administrative costs. So let's be clear that now you are mischaracterizing his prior testimony.

Q. Did you testify that FE operating companies would need to recover generation-related administrative costs? On page 10, lines 19 and 20.

A. Yes, generation and administration costs and hedging costs associated with the companies' obligation, yes.

Q. All right. And the generation-related administrative costs you are referring to are the costs of the FE operating companies or the costs of the power supplier?

A. Both.

Q. Regarding the generation-related costs of the FE operating companies, are those costs above the costs included in its current rates?

A. Could you rephrase that question?

Q. Regarding FE operating companies, are the generation-related administrative costs in addition to costs currently recovered?

MR. KUTIK: Objection.

A. Yeah. I don't know.

Q. But you do testify that it's necessary to recover these costs. On what basis is it necessary to recover the costs?

A. What do you mean -- could you rephrase that question?

Q. I believe you had testified that generation-related administrative costs need to be collected by the company. Is it your testimony that they are not now being collected?

A. I don't know that.

Q. Regarding the hedging costs, are these hedging costs of FE operating companies or the power supplier?

A. Until a contract would be struck it would be the operating companies.

Q. Okay.

A. And that could move to either party.

Q. All right. And if the hedging costs move to the supplier, would -- would they be eliminated from this bypassable charge?

A. No. As stated before, one of the reasons the rate is at the level that it is is due to the fact that they do not have to incur the added shopping risk that is associated with having this minimum default service rider.

Q. They being the power supplier?

A. Yes.

Q. All right. And on what basis do you have that information? How do you know that?

A. That is part of our plan.

Q. But you don't have any information from a supplier that would indicate that that would be a reasonable or expected term of a power supply agreement, do you?

A. No, I do not.

Q. Regarding the generation-related administrative costs, you said that those could be costs of both FE and FES; is that correct?

A. Yes.

Q. The FES generation-related administrative costs, would this plan cover the FES generation-related administrative costs?

A. I'm not following your question.

Q. You had testified that the generation-related administrative costs could be the costs of the operating companies or FES; is that correct?

A. Yes.

Q. Are the generation-related administrative costs of FES going to be included in this bypassable charge?

MR. KUTIK: Objection.

A. It would be total related administrative costs.

Q. Of both companies; is that what you are saying? I am not sure what you mean total related.

A. Yes, of both companies as part of this rider.

Q. And how do you know, if you do, what the FES generation-related administrative costs are?

A. As stated before, the rate for the minimum default service charge is related to all of these risks.

Q. And how do you know that FES's generation-related administrative costs are not included in the rate that it will supply power to FE operating companies at?

A. Once again, I am not part of the negotiations of a PSA agreement or a power sales agreement, sorry, with FES.

Q. If FE operating companies and FES execute a power sales agreement where generation-related administrative costs and hedging costs of FES are included in the rates, will those costs be removed from this bypass -- nonbypassable charge?

A. Those are assumptions I am not aware of.

Q. You wouldn't double recover them though, would you? That's not your plan?

A. And --

MR. KUTIK: Objection. Assumes what you

have just suggested is "double recover" so go ahead.

A. Yeah. I am not aware of what's part of the PSA agreement.

Q. Your proposal is to only recover the costs once though, isn't it?

A. Yes.

Q. So to the extent these costs are included in -- in another rate paid by customers, you will not try to also recover these costs in the minimum default service rider; is that correct?

MR. KUTIK: I object. There is no testimony and no facts that any of these costs are anywhere else, hence, the purpose of this rider.

Q. All right. Let --

MR. KUTIK: If you can answer that question, you can go ahead and answer it, Mr. Warvell.

A. Go ahead. I'm sorry.

Q. Well, just let me ask you this, you were at FES and approving wholesale power contracts in 2006, correct?

A. Third-party wholesale contracts, yes.

Q. And were generation-related administrative costs and hedging costs part of those contracts?

A. I'm -- once again, I'm not understanding your question. I was responsible for third-party wholesale energy contracts.

Q. All right. For third-party wholesale energy contracts were there generation-related administrative costs?

A. For the company, yes.

Q. For FES?

A. Yes.

Q. And were they included in the contract rate, or were they separately recovered from the buyer?

A. I don't understand where -- what this -- where this is going or what it -- what it is. I am not understanding your question. Third-party contracts, wholesale contracts, have nothing to do with FES.

Q. Okay. With FE operating companies or FES?

A. What is the question? I'm sorry.

Q. You said whole -- third-party wholesale contracts have nothing to do with FES. I said did you mean FE operating companies or FES?

A. When I worked at FirstEnergy Solutions, I worked on wholesale third-party contracts, energy contracts.

Q. And it is your testimony then that generation-related administrative costs are applicable to those contracts?

MR. KUTIK: Objection.

A. To the point that FES had costs, yes.

Q. All right. And third-party wholesale contracts, could hedging costs be associated with those contracts?

A. I definitely don't understand your question.

Q. All right. Let's move to page 11 of your testimony.

A. Okay.

Q. In reading your testimony on page 11, and correct me if I mischaracterize, you discuss the companies' risk if they are left with higher priced generation and no load to serve.

MR. KUTIK: Where is that?

MS. ROBERTS: Lines 9 through 11.

MR. KUTIK: Thank you.

A. I am on page 11, lines 9 through 11.

Q. All right. You talk about two scenarios, don't you, when you have high priced generation and no one to sell it to and when you have retail load and you have to go to market and supply it because you don't have supplies; is that correct?

A. Yes, those are two things that could happen, yes.

Q. All right. And how -- how do the operating companies account for these risks now?

A. The operating companies do not -- it's -- part of that would be handled by FES.

Q. That would be handled by FES?

A. My understanding is --

Q. FES -- do you know if FES charges for handling this?

A. No. I am not aware of the cost structure.

Q. All right. If you don't know whether FES charges for this now, why do you think they are going to charge for it in the future?

A. Once again, individual parts of the plan encompass the total plan. I don't know what FES is going to charge or not going to charge.

Q. But yet you propose --

MR. KUTIK: I'm sorry. Had you finished your answer?

THE WITNESS: Yes.

Q. But yet you propose a nonbypassable charge of 1 cent per kilowatt hour to compensate companies for these risks.

A. As stated before --

MR. KUTIK: What's your question?

MS. ROBERTS: Is that correct that he supports in his testimony a nonbypassable charge of 1 cent per kilowatt hour to compensate for these risks we are discussing?

A. Yes, as an overall process to this -- overall part of this plan.

Q. All right. Turning to page 12 of your testimony, the answer beginning on line 7, you say that capacity requirements will be provided by FES under a wholesale power supply agreement.

A. Yes.

Q. Do you know whether the last wholesale power supply agreement required FERC approval?

A. I'm not aware.

Q. Do you know whether the proposed plan, wholesale power agreement, will require FERC approval?

A. I am not aware.

Q. And who would be aware of that?

A. My best estimate would be our legal department.

Q. So when you were overseeing wholesale market transactions with third parties, you were not required to seek FERC approval of those agreements when you were at FES?

A. We did standard agreements that had standard EEI attachments with them.

Q. Are you aware of the corporate separation requirements for affiliate transactions?

A. You are going to have to rephrase that question.

Q. Are you aware that there are any requirements for affiliate transactions between the FES operating companies required by FERC?

A. What do you mean by aware?

Q. Do you know -- are you aware? Do you know that there are out there affiliate transaction requirements required by FERC?

A. I have not read of such things, but I am aware that there are requirements out there.

Q. All right. And do you have any understanding whatsoever of what those requirements are?

A. Not specifically.

Q. Do you have any general understanding of what those requirements are?

A. No.

Q. Are you aware that the Public Utilities Commission of Ohio has affiliates transaction regulations?

A. No.

Q. Turning to page 12, line 16, of your testimony.

A. Okay.

Q. I believe, you correct me if this is -- if I read this wrong, but I believe your testimony is that "the associated costs of doing so will be included in the wholesale power supply agreement, and recovered by the companies." What exactly are you talking about in those lines?

A. Yeah. It's the same question I have for you. I am not reading that there so could you rephrase that question?

Q. Page 12, the answer beginning at line 14.

A. Okay.

Q. "In the event this capacity is insufficient, FES will supply the needed capacity to meet the planning reserve requirement."

A. Okay.

Q. But the costs will be included in the wholesale power agreement and recovered by the company pursuant to a separate charge recovered in this Rider CCA. Is that your testimony?

A. You read exactly what's written there, yes.

Q. All right. How do you know what the terms of the FES power supply agreement will be?

A. I do not. This is part of our proposal.

Q. Okay. So FES has not agreed to do this?

A. Once again, I am not aware of the negotiations --

Q. To your knowledge -- to your knowledge, FES has not agreed to do this?

A. That is -- I am not aware of the negotiations on any agreement with FES.

Q. What was the basis for you to include this sentence in your testimony?

A. Once again, it's part of the overall plan of the riders, the generation rate combined.

Q. Was this a part of the plan that you helped formulate?

A. Along with the other people as mentioned before in those groups, yes.

Q. All right. So there were discussions in those groups about what would be -- or what would hope to be in the FES power supply agreement?

THE WITNESS: Could you reread back that question, I'm sorry.

(Question read.)

A. I would not characterize it that way.

Q. How would you characterize it?

MR. KUTIK: How would he characterize what?

MS. ROBERTS: The statement that he said he wouldn't characterize that way.

MR. KUTIK: Well, if he wouldn't characterize it that way, how could he characterize it any other way? Why don't you ask him a question that's fair and makes some sense so I will object and instruct him not to answer. Ask your next question.

Q. Going to the next page, 13, you talk about the DNR, the designated network resource --

resources, through MISO; is that correct?

A. Are you on line 8 or?

Q. Yes.

A. Okay.

Q. How is this different from MISO's resource adequacy requirements, if it is?

A. DNR is -- is the capacity requirement for adequate -- the resource adequacy requirement.

Q. Oh, good. That was an easy question. I'm glad we got an easy one. And so is part of the plan FE operating companies are taking the responsibility to meet the DNR; is that correct?

A. I'm not understanding your question. I'm sorry.

Q. You say "to the extent" -- on line 13 "to the extent any charges for the planning reserves exceed 1.5 percent of the existing total rate to the customer," that there will be a phase-in credit and the companies will be compensated for that. Did I characterize that correctly?

A. No.

Q. All right. Will you explain to me how this DNR works.

A. I'm sorry. What question are you asking?

Q. I am discussing the answer to your question on line 12 -- page 12, line 10, the question is "Will capacity requirements associated with planning reserve requirements receive separate treatment?" And to that question you answer beginning on page 12, line 12, and ending on page 13, line 15. I'm asking what -- whether the FE operating companies are assuming responsibility for the planning requirements of MISO.

A. And as I believe that you brought up when you say FES -- FE operating companies are doing this, it's through the assumption of what was stated earlier of the power sales agreement.

Q. All right. Thank you. On page 15.

A. Okay.

Q. Your answer to the question on -- beginning on page 4 which is the basis for the proposed fuel cost adjustment recovery rider, does this rider assume that your costs will not be part of the power supply agreement?

A. I'm -- I'm not understanding your question, I'm sorry.

Q. The FES sells power under the power supply agreement to FE operating companies. Are you assuming that the fuel costs will not be part of that contract?

A. I guess that's a very broad question that I'm not understanding where -- what you are asking me specifically.

Q. When FES provides power to FE companies pursuant to the proposal of this plan, are you assuming that FES will not absorb the risk of fuel price increases in the power supply agreement?

A. And are we still on page 15? Are we talking about the FCA rider?

Q. Page 15, lines 6 through 10.

A. This is -- the FCA rider is the incremental change, and it's only in relationship to the incremental change in 2010 through 2011.

Q. And it's to account for the risk of fuel price increases; is that correct?

A. No. It's specific fuel prices.

Q. Specific fuel prices. Are you assuming that these specific fuel prices will not be in -- in a rate charged by FES to FE for power?

A. Once again, this is part of the plan and this is a rider. I am not assuming anything when it comes to a contract with FES.

Q. All right. If FES assumes this risk and doesn't change FE operating companies for it, would this rider be necessary?

MR. KUTIK: Objection, incomplete hypothetical.

A. Once again, I go back to this is the plan we proposed with this rider.

Q. Is there a situation where you can imagine where you will not need to recover the risk of fuel price increases?

MR. KUTIK: You mean if the prices don't go up?

MS. ROBERTS: Well, that would be one situation.

MR. KUTIK: You are mis -- you are misunderstanding his testimony with respect to the rider so I'll object.

THE WITNESS: Could you repeat her question again, please.

Q. I am trying to understand whether the costs that you are trying to recover from the FCA could be costs that FES includes in its power sales rates to the FE operating companies.

A. And to --

Q. And if it is, I am wondering whether the FCA would be necessary.

MR. KUTIK: And your question is what?

Q. Whether the FCA would then be necessary.

MR. KUTIK: Objection. That question has been asked and answered.

Go ahead and tell her again.

A. Once again, I can't assume what's in a negotiated price with FES. I am not part of that. This is a total package which includes this rider.

Q. All right. Turning to line 16 of your testimony on the same page, you say on line 18 that "the companies projected load exceeds the peak output of the FES MISO plants;" is that correct?

A. What line are you on again?

Q. Lines 18 and 19.

A. Okay.

Q. How -- how would you expect that additional load to be met if the projected load exceeds the peak output of the FES MISO plants?

A. I would assume it would be purchased.

Q. And how do you assume it would be purchased? In what fashion?

A. If there -- with the assumption of this plan being that there is a -- an agreement it will be purchased by whoever that third party decides to purchase it from.

Q. Okay. So it would be part of -- are you assuming that it would be part of FES's obligation to meet that need?

A. If -- yes.

Q. Okay. On page 18 of your testimony.

A. Okay.

Q. Line 18, can you tell me what a commercial activities tax is?

A. It's a -- state of Ohio roughly replaces a sales tax.

Q. And what is the rate? Do you know?

A. It's in the workpapers. I don't know specifically.

Q. Okay. On page 20 of your testimony.

A. Okay.

Q. Line 13, can you explain to me why the deferred income tax rate is part of the unrecovered deferred balance?

A. I believe Harvey Wagner talks about all the deferrals and the reason why the rates are the way they are in the deferral process.

Q. Okay. And lower on page 20 starting at line 19, you discuss the standard -- the standby charge proposed in this plan.

A. Yes.

Q. And can you tell me what the basis of setting these standby charges is? How were they developed?

MR. KUTIK: Objection, asked and answered. Go ahead.

A. It was looked at by those same groups of people from risk categories of hedging returning customers.

Q. And did they evaluate the cost projected of -- of the risk compared to the revenues that they thought would be generated? Do you know?

A. What do you mean by evaluated?

Q. Did they compare projected costs and revenues concerning this rider, PSR? For instance, am I -- maybe I am misunderstanding. Do I understand that the standby charge PSR represents a risk to the FE operating companies that they wish to be compensated for?

A. Yes. It's a bypassable charge, yes.

Q. Okay. And in determining how the company should be compensated for that risk and the rates you have identified commencing on line 20, what kind of evaluation did the company do of the revenues that could be produced by these standby charges compared to the cost of the risks that are identified?

A. The company did not perform an analysis.

Q. And who -- what part of the company was responsible for developing the Rider PSR?

A. As stated before, the same groups throughout this entire process were involved, executive management, the rate department, financial planning, and corporate risk.

Q. And do you know whether one of those groups actually generated this proposal for the others to consider?

A. No. It was a collaborative effort.

Q. Okay. On page 21 you talk about the market price for returning customers as set forth in Attachment C. I am looking at lines 3 and 4.

A. Yes.

Q. Correct?

A. Yes.

Q. Okay. And if you turn to Attachment C.

A. Hold on one second. All right.

Q. It says that the off-peak prices multiplied by 160 percent to determine the -- I believe it's the market price for returning customers; is that correct?

MR. KUTIK: It says the on-peak and off-peak price but go ahead.

Q. On-peak and off-peak.

A. Yeah. It's based on the quarterly forward.

Q. Quarterly forward, yes. And how was the multiplier of 160 percent arrived at?

A. Looked at risk factors and costs associated with moving that power from the Cyn hub to the FESR point.

Q. And that is -- is that something FES would typically do or would that be a responsibility of the operating company?

MR. KUTIK: Objection.

Q. I'm sorry?

MR. KUTIK: I objected.

A. I don't believe that's been determined yet.

Q. Okay, okay. And what risk factors were considered in determining that the multiplier should be 160 percent?

A. Are you asking me what type of risk factors?

Q. You said risk factors were considered. I am just asking what they were.

A. It would be like load profiles, basis difference between the two points, any type of renewable issues that would come up through this process, any type of additional capacity that would have to come up to -- for returning customers, things of that nature.

Q. Is it possible that a returning customer could not or -- create any of those risks for the operating companies?

MR. KUTIK: Objection.

A. I don't understand your question.

Q. Is it possible for a customer to return to FE operating companies and not create these additional costs -- cost risks for the company?

A. Not that I am aware of.

Q. And so it's not possible for a customer to return and not affect the load profile of the company?

MR. KUTIK: Objection.

A. I don't understand your question. You are talking about a customer.

Q. Yes.

A. That was not your question.

Q. You said that one of the risks considered was load profile.

A. Of a customer.

Q. Of a customer. Is it possible for a customer to return to FE operating companies without creating a load profile risk?

MR. KUTIK: Objection, asked and answered.

A. Not that I am aware.

Q. Okay.

A. They would have to be perfect.

Q. Okay. Is it possible for customers to return to FE operating companies without requiring additional capacity?

A. Not that I am aware.

Q. So you can't envision a situation where the FE operating companies could be capacity long and the customer would return?

A. That wasn't -- that wasn't your question.

Q. Well, then I will take this question

then.

MR. KUTIK: Do you understand what you are supposed to be doing?

THE WITNESS: No. I have no question to answer at this point that I know of.

Q. Is it possible for a customer to return to FE operating companies and FE operating companies to be long on capacity so that no additional capacity is required to be obtained to serve that customer?

A. It would still require a cost to the operating companies for a returning customer for capacity.

Q. On page 27 of your testimony --

A. Hold on one second. Okay.

Q. You talk about the companies' 2009 budget and this relates to transmission and ancillary -- ancillary-related expenses from MISO.

A. Yes.

Q. Do you also in the 2009 budget have projected power supply costs for the operating companies?

A. I am not aware that the 2009 budget is completed at this point.

Q. Was the 2009 budget including -- include projections for power costs?

A. I'm not aware.

Q. Do you have any responsibilities in the budget process?

A. No, I do not.

Q. Do you have responsibilities for budgeting for your own department?

A. No, I do not.

Q. Lower on that page on page 23 you talk about the mapping issue.

MR. KUTIK: Can you please --

MS. ROBERTS: Page 27.

MR. KUTIK: Okay. Thank you.

Q. Line 23.

A. Okay.

Q. You talk about the mapping issue to the new voltage-based rate schedule.

A. Correct.

Q. Can you tell me how the mapping affects residential customers?

A. What do you mean by "affects"? I am not understanding.

Q. Will it have any cost impact to residential customers?

MR. KUTIK: Objection.

A. Once again, cost impact, the mapping issue is that this is based on a voltage base. The residential voltage would have been the same in the old process as it is in this process for residential customers.

Q. All right. Thank you.

MR. PETRICOFF: Hello?

MS. ROBERTS: Yes.

MR. PETRICOFF: This is Howard Petricoff. Who is on the line?

MR. KUTIK: Well, let's go off the record at this point.

(Discussion off the record.)

MR. KUTIK: We are back on the record. Howard, do you want to state your appearance?

MR. PETRICOFF: Yes. This is Howard Petricoff and I appear on behalf of Constellation NewEnergy. Sorry for the interruption.

Q. I just have a couple more questions. One relates to Attachment D --

A. Okay.

Q. -- of your testimony. Do you know whether the upgrades listed in Attachment D are in any of the MISO generation queues?

A. I don't -- I do not know.

Q. And in Attachment E --

A. I don't sponsor Attachment E.

MS. ROBERTS: Oh, I see. Oh, you don't. Then I have no other questions for you. Thank you.

MR. KUTIK: Before we go to Mr. Yurick who I believe is next why don't we take basically a 5-minute break.

(Recess taken.)

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EXAMINATION

By Mr. Yurick:

Q. My name is Mark Yurick. I represent The Kroger Company.

A. Yes.

Q. I am going to ask you a couple of questions. Hopefully they will be clear. They may very well not be clear. If I ask you anything objectionable, it doesn't seem like your attorney is real shy about piping in.

MR. KUTIK: No, I am not.

Q. I am sure he will let me know, and if you need me to restate a question if I am not clear or if the question just doesn't make sense to you which is possible, just let me know, okay?

A. Okay.

Q. On page 9 of your testimony, a question and answer in lines 14 through 17.

A. Hold on one second. Let me get there.

Q. Uh-huh.

A. All right. I am on page 9 and you said lines?

Q. 14 through 17.

A. Okay.

Q. You are talking about carrying charges for the deferral associated with the phase-in; is that right?

A. Correct.

Q. Okay. And you have basically forecast carrying charges to be included with that deferral; is that correct?

A. Yes.

Q. And if your forecast is off, do you -- is there anywhere because I just -- if there is, I don't -- I don't know where it is and this is if your forecast is off, do you expect to recover for the difference between what interest rates are going to be in the future and the carrying charges that you've forecast?

A. And I am going to answer this and then also state that I believe Harvey Wagner would have covered this. My assumption would be that at the time that we're forecasting the recovery it will be based on that time frame for the interest calculation so year-end 2008's long-term debt cost.

Q. Okay.

A. But that would be covered by Harvey.

Q. If the interest rates are different in the future, you don't know of an area where you are going to try to recover that delta?

A. I'm sorry. Can you repeat your question?

Q. Yeah. You've got a forecast carrying charge, correct?

A. Correct.

Q. This deferral, as I read it, begins January 1, 2013, and will be amortized over a period not to exceed 10 years, correct?

A. Yes.

Q. So if interest rates in January 1, 2013, through January 1, 2023, are substantially different than you forecast, do you expect to collect that somewhere?

MR. KUTIK: Well, I would suggest that question --

A. That's a Harvey question.

MR. KUTIK: Right. Thank you.

Q. Okay. Very good. That's fine. Turning to page 10.

A. Okay.

Q. You are talking about the purpose of the minimum default service rider, how that charge was developed and how it will be applied in lines 16 through let's say 23, okay? And you stated "This nonbypassable charge is necessary to recover, among other things, generation related administrative costs," and I think I know what you are talking about there. And then you say "hedging costs associated with the companies' obligation to serve the entire load of their retail customers." Do you see that?

A. Yes.

Q. Okay. I am going to ask you to kind of contrast that with page 21 of your testimony, line -- line 10 through say line 20. You are explaining the purpose of the standby charge included as part of Rider PSR.

A. Okay.

Q. Is that correct? And particularly lines 15 through 16 you say "As such, if the companies hedge the risk of customers returning, there is the potential to lose significant investment in energy forwards, thereby potentially placing the companies' credit at risk. Implementation of the standby charge is recognition that providing protection from market prices, and the volatility associated with market pricing, imposes a significant cost and risk on the companies." Do you see that?

A. On page 21?

Q. Yes.

A. Yes.

Q. Okay. How is that different from the hedging costs that you are talking about on page 10, or is it the same thing?

A. I am going to answer both questions at the same time so hold on one second.

Q. Okay.

A. The minimum default service charge hedging cost is associated with customers leaving the operating company. The hedging costs associated with the PSR is for customers coming back to the operating company. They are not the same.

Q. Okay. So the risk that you are talking about on page 21 of customers coming back, that is essentially revenue that you -- this is a question, not a statement, but this is essentially revenue that you are losing by not having entered into long-term lower cost contracts; is that correct?

A. Yes, with the assumption that the returning customer is coming back at the SSO agreement.

Q. Okay. Let me ask you this, as far as that risk goes, as far as, you know, companies leaving and/or coming back, did you yourself consider -- I am not talking about anybody else, but did you yourself consider the effect of special arrangements or contracts with particular customers on -- as far as hedging or trying to reduce that risk?

A. No.

Q. Okay. On page 19.

A. Okay.

Q. In line 4, I guess, through 23 you are talking about the deferred fuel cost rider; is that correct? Do I have that right?

A. Yes.

Q. Okay. And your -- you testified that there are three different riders for the three different companies; is that correct?

A. No.

Q. Okay. Well, let me direct you more specifically. Let's see, on line 6 of your answer to the question on lines 4 and 5, "Each operating company will have a separate charge for Rider DFC, correct?" You say, "Yes." I guess -- and then you go on to "A separate rider value was established for each of the companies." I thought that that meant each company would have its own value for the Rider DFC.

A. It will have its own charge, yes, but it's one rider.

Q. Okay. So it's called the same thing and it's for the same purpose but the monetary values of the charges for each of the companies differ; is that correct?

A. Yes.

Q. And I apologize for the awkwardness, but I guess what I am trying to get to, I guess I should just say it in straight English, would be I am trying to -- I have read this testimony, but I'm trying to figure out why the companies have different monetary values for that rider. Is that because they have different costs of fuel? Is that because their sales amounts are different? I think at one point in your testimony you try to explain that, but I just wasn't very clear on that, and I wondered if you could expound on that.

MR. KUTIK: Objection.

A. When you say expound, I guess what are you looking for me to answer, just -- can you be a little bit more specific?

Q. Sure, sure. I'll try. There are three different values for the three different companies and I am trying to figure out why those differences occur. Is it based on the companies paid different amounts for fuel which I wouldn't think that they would?

A. It's based on the deferral that was done for those years of 2006 through 2007 in relationship to the baseline and the recovery mechanism under the FM -- FRM rider.

Q. Okay. So for those years the amount of fuel deferred was different for those three companies; is that -- am I saying that correctly?

A. Correct.

MR. YURICK: Okay. I think I'm done, if you will give me just one second.

I'm done. That wasn't too painful, was it?

THE WITNESS: No, thank you.

MR. YURICK: Okay. I appreciate it.

MR. KUTIK: Mike Lavanga is next.

MR. LAVANGA: Yes. Garrett Stone from my office has joined me, and he has a few questions for Nucor.

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EXAMINATION

By Mr. Stone:

Q. Good morning -- I guess it's good afternoon.

A. Yes, good afternoon.

Q. Just a few questions. I wanted to talk to you first a little bit about the time of use and seasonal components of the rate structure that you proposed. Can you explain kind of the steps in how you got to the time of use rate differential? You know, step 1, step 2, step 3 how you get from the --

how you get there?

A. Yeah. I believe that is done in the workpapers.

Q. Yeah. I think it's workpaper Schedule 5A, I think, like page 7.

A. Yes.

Q. I wasn't sure so I thought I would ask.

A. That is true. And it's right down there in the notes on page 7.

Q. So walking through it if I -- I mean, so everything you did to develop the factors are in these notes?

A. Yes.

Q. So if I understand it correctly, what you did is you -- in essence, you first calculated the total number of hours that would fall into each of the periods, right?

A. Based on those 24 months, yes.

Q. Yes. So take the sum -- as an illustration, you took -- you added up the number of hours that would fall into the period you designated as summer.

A. Correct.

Q. For each year, there are two years,

that's why you get 4,416 hours.

A. Yes.

Q. Okay. And then the next column, to make sure I understand it, I have trouble reading because the way the PDF came out, but the next column is basically you added up the LMPs for each of those hours during that historical period for the FESR node.

A. Yes.

Q. And you just straight added them, so if the LMP was $50 in one hour and $75 in another hour, whatever they were you added each of them up to get that figure of $215,000, right?

A. Yes.

Q. Okay. And then to get to the price that's in the next column, you basically divide -- in essence, what you are doing you are creating an average price, right?

A. Correct.

Q. Over whatever period you designated, summer, non-summer, on-peak, off-peak, whatever?

A. Yes.

Q. To get that average price obviously you have got to divide the total price for adding up all the hours, that price in that column, I guess it's column C, by the number of hours during the period which is in column B and that gives you the price?

A. That's correct.

Q. Okay. So as an illustration, the average price for energy under the -- during this period, during the summer period, under the MISO LMP applicable to FirstEnergy was $48.78 a megawatt hour.

A. Yes.

Q. Okay. And you did exactly the same thing for each of the other various periods in order to figure out what the average price would be for each of those periods.

A. That is true.

Q. Okay. Now, would it be fair to say these prices have probably changed since the end of 2007?

A. Yes.

Q. Yeah. In fact, if anything, they have probably gone up since the end of 2007? I don't know if you have looked at them directly but.

A. No, I have not.

Q. Wouldn't you expect given the cost of fuel and everything else the prices have increased for 2008?

A. I would have to do the calculation.

Q. Okay. So you don't know.

A. No.

Q. You don't know then?

A. No, I do not know.

Q. Okay. Now, get to that last column which would be E and this last column is where you develop an allocation factor to be able to apply it to the price of generation in order to determine a time of use rate for that particular period; is that correct?

A. Correct.

Q. Okay. So the way you determine the factor is basically, first, you determine, in essence, the ratio between the price for the period, for the summer period, and the annual average price would be the first step of that calculation, right?

A. Correct.

Q. And then you would multiply that by a -- an adjustment factor that's noted in the asterisk footnote, right?

A. Correct.

Q. Okay. Taking the -- first step -- so the first step is basically designed -- first half of that step is designed basically, like I said, to determine a percentage allocation factor or ratio between, let's say, the summer, the summer prices, and the annual average price, right?

A. Yes.

Q. Therefore, once you have that factor you can just multiply it times whatever your price of generation is and that would give you a summer price.

A. Yes.

Q. Okay. Now, first question is can you explain to me this factor of the 74.88 divided by 75?

A. When taking the megawatt hours and multiplying it by the averages, to make sure that we balanced revenuewise, we needed an adjustment factor to make sure that the total dollars matched and this adjustment factor provided that balancing.

Q. When you -- let me see if I can ask you a couple of questions to make sure I understand that. Is what you are saying is that -- is that you don't have an equal balance of kilowatt hours per hour in each hourly period summer versus winter and you are correcting for that? Or -- well, that first.

A. No, I would not characterize it that way.

Q. Maybe -- I guess I didn't -- would you try that explanation again because I am not sure I understood what you did.

A. Okay.

Q. Maybe you can't but.

A. We --

Q. 74.88 divided by the 75, how did you get to that specific number?

MR. KUTIK: Are you asking what the basis of the 74.88 is and the 75?

MR. STONE: Yeah.

A. The adjustment factor is basically a percentage. The 74.88 and the 75 just work out to be that percentage.

Q. Okay. So what you've done basically is calculated a percentage because if you didn't, you would recover --

A. We would be --

Q. -- short or excess revenue.

A. Yes.

Q. I guess excess that you are multiplying it times a factor that would reduce it.

A. Yes.

Q. So by excess revenues I guess what you did is -- in order to determine that you were going to recover excess revenues and needed to apply this percentage, how did you determine that, I guess, is what I am asking?

MR. KUTIK: I'm sorry. How did he determine what?

Q. How did you determine if you didn't apply this percentage that you will recover excess revenues? Did you do some sort of proof of revenue?

A. Yes.

Q. Okay. Is the proof of revenue in the workpapers?

A. No, it is not.

Q. Okay. Have you provided it in discovery somewhere? I am not critical, if I could find it.

A. I am not aware of anybody that's asked for it.

Q. Okay. And in doing that proof of revenue did you base it based on summer and non-summer or did you -- what -- what billion determinant did you use to determine that the proof of revenue would give us excess revenues and, therefore, you needed to reduce it?

A. I would have to go back and look at that paperwork to answer that question. I don't have that.

Q. Okay. Now, get -- how do you know -- well, I guess my question is do you believe that this correction factor corrects for differences in billing determinants between summer and winter -- summer and non-summer? Excuse me.

A. Could you explain what --

Q. Yeah. Let me try to get at what I am trying to get at here. Obviously in different periods of time customers can take different amounts of -- well, your load would be different, number of kilowatt hours per each hour of the year -- in other words, if you had 8,000 summer hours in the year, each one of those hours you would be selling a different number of kilowatt hours, correct?

A. That's possible.

Q. You don't have exactly the same in any hour.

A. That's generally correct, yes.

Q. Yeah. So take summer and non-summer as an illustration, if you used -- it's likely that the number of kilowatt hours you use in the summer hours per hour is a different number than the number of kilowatt hours you use in the winter per hour -- the non-summer? Excuse me.

A. Yes.

Q. And so the effect of that would be in order to get back to a price that is -- that the fixed price that you -- that you attempted to recover here, by definition because the number of kilowatt hours per hour in the summer will be different than the non-summer period, you are going to have a little bit of variance there in terms of what you are going to recover. If you didn't adjust it, you wouldn't recover exactly the fixed price if it was, for example, 7-1/2 cents a kilowatt hour or whatever the number happens to be, and is that why you had to make an adjustment?

A. Yes, I believe so.

Q. It makes sense to me. Do you know if that adjustment also factors in the fact that there is a difference between on-peak and off-peak kilowatt hours used per hour?

A. As I stated before, I would have to relook at the backup sheet to specifically answer your question.

Q. So if we wanted to ask for that in discovery, we should ask for the proof of revenue or backup sheet to Schedule 5A --

A. Yes.

Q. -- page 7?

A. Yes.

Q. Or maybe just to that factor. How do I identify it for you so that you can provide it to me or maybe you can just provide it -- I don't know.

MR. KUTIK: We'll ask you to give us a discovery request. Go ahead.

Q. Okay.

A. In that I would reference Schedule 5A and revenue proof.

Q. Okay. Great. Now, another area on this have you proposed any form of reconciliation mechanism to ensure that you recover exactly the fixed generation price for each year?

A. No, we have not.

Q. Okay. So the net effect would be that if you overrecover, you get to keep it; if you underrecover, it's your risk, right?

A. That is true.

Q. Okay. Are you opposed to a reconciliation mechanism?

A. It is not part of the current plan.

Q. Is that -- I understand that. But is it fair -- are you recommending against it, or you don't have a recommendation on it? Can you give me a -- which one of those is it?

MR. KUTIK: I'm sorry. Which one of what is it?

Q. I will ask it differently. Do you -- you meaning Mr. Warvell -- have a recommendation on whether there should be a reconciliation mechanism or not for this issue that we have identified which is the -- any variation in recovery because of using seasonal and time of use factors?

A. And I guess all I can answer is we have not proposed it in this plan.

Q. Okay. So at least at this point in time you don't have a recommendation for -- favorable one obviously -- I realize the company hasn't proposed it. I am kind of asking you as a witness do you have a recommendation on it?

A. And I can only state what I just stated before.

Q. We have not proposed it.

A. Yes.

Q. All right. Let me see just a second here. Let me ask you a little bit briefly about --

still on time of use pricing. Critical peak pricing, are you familiar with the general concept of critical peak pricing establishing a period where you charge for what you define as a super peak or critical peak?

A. I believe Greg Hussing is sponsoring that.

Q. He's doing it for residential, I think, right? I guess what I wanted to ask you was -- let me ask you this a different way, you've defined in your time of use price -- let me back up. Your proposal for time of use pricing, that's optional; is that correct?

A. Yes.

Q. Or are all customers on time of use?

A. No. It would be optional.

Q. Okay. So each -- how does that work? Will each customer have to decide whether they want to be time of use or not?

A. As long as they meet the criteria, yes.

Q. Okay. Metering, whatever else is being under the rate schedule and that thing, is there -- what -- what are the criteria?

A. I would have to review the tariff.

Q. All right. Is the -- would one use the same method you did to determine on-peak and off-peak time of use differentials and do the same with smaller periods where the price might be higher or lower?

A. Yes.

Q. And, for example, if you felt -- and I am not saying this is your position, but if you felt that there ought to be -- that there could be a period, say, where the highest prices typically occurred around the peak times, could you define a period, I don't know what the time frame is, whatever the time frame seems to be, the critical pricing time, and define a more narrow time frame and have a separate price for it as well as part of your time of use approach?

A. Yes. And, once again, I think you are -- and I don't know his testimony off the top of my head, but it surely seems we are -- the questions you are asking would be more directed towards Greg Hussing.

Q. Okay. All right. Hold on one second. Which company is responsible -- let me back up.

If you don't recover exact -- I think we established in our discussion earlier, maybe you could correct me if I am wrong, that -- would you agree with me it's likely under actual operation under your time of use and seasonal rate approach that you will not recover exactly the fixed generation price that's fixed -- whatever the number happens to be that's set in this case? Would you agree with that?

MR. KUTIK: Objection.

Q. Because of the variation in usage we talked about earlier?

A. It could be either positive or negative, yes.

Q. Oh, I would agree with that, yeah. But whatever it is you would agree you wouldn't recover -- you are not -- it's not likely you are going to recover exactly the number, correct?

A. Yes.

Q. Okay. Now, to -- to a degree there is a variation in that. Let's take -- let's take the hypothetical that fixed generation price is set at the $75 per megawatt hour that you have identified, and there is a variation up or down, who -- who is responsible -- who gets the benefit or detriment of that? Is it the distribution utility, or is it the supplier of the generation?

MR. KUTIK: Objection. Once again, I believe it would be dependent on the structure of a contract with FirstEnergy Solutions and that could go to either party.

Q. Okay. All I am trying to establish that's not established yet?

A. Not that I am aware of.

Q. Okay. Now, moving on briefly to the minimum default service rider that I know you have probably been asked a number of questions about so a couple of areas I think that haven't been touched on or at least not in detail on page 11, line 3, of your testimony. Could you turn there.

A. Page 11, hold on one second.

Q. Yeah.

A. I'm on page 11.

Q. Thank you. If you turn to line 2, "To accomplish this, the companies must procure generation and incur costs." By procure generation does this mean buying capacity or having capacity available, reserving it in some fashion?

A. Hold on one second.

Q. Sure.

A. The companies are responsible to serve the entire load so that would include energy and capacity.

Q. Well, would this include at least in part acquiring capacity when you say procure generation based on a forecast?

A. It would have to meet the requirements of MISO so, yes.

Q. Well, yeah. In order to supply generation generally you have to have capacity to supply the energy?

A. Yes.

Q. In fact, the company proposed to put all these various generating units available to meet this load if the ESP is approved, right?

A. Can you read --

Q. Although many that are owned by FES.

A. I guess I'm not sure of the question. Could you rephrase that or give it to me again?

Q. Sure. You said that the companies must procure generation based on a forecast and always be in a position to serve all customers, and you have said that was the reason that -- as I read your testimony, that was the reason why you needed this charge. And I am just trying to understand what is it that you are going to do, and so I guess my question was when you say you must procure generation and incur costs, does that mean you are going to go out and buy or own or retain reserve, whatever term you want to use, capacity as part of this issue?

A. As part of --

MR. KUTIK: Objection, go ahead.

A. As part of serving the retail load, yes.

Q. Yes. And so your concern in charging this nonbypassable charge was at least in part you want to recover the cost of capacity that you think you are going to obtain to meet this retail load?

A. I would not specifically say capacity. It's -- it's in regards to the total price of generation at 7-1/2 cents for 2009.

Q. Right. But if the customer leaves, you could resell the energy, right?

A. My understanding is both would have to be done. You would have to sell the energy, and any excess capacity would have to be given to MISO for them to sell into the market.

Q. Okay. So in the event a customer were to leave, you would -- the answer would be as you would resell the energy and capacity unless they under this other rider reserved it, correct?

A. I don't -- no, I can't say correct. I don't understand what you mean by this other rider and reserved it.

Q. I'm sorry. You have a second -- you have a separate rider that says if customers leave -- isn't it Rider PSR -- says if customers leave, there would be a standby charge associated with that and if the customer wanted to reserve the right to come back, they could by paying some extra cost, but in the event the customer didn't do that, the customer just left, the energy capacity that you had procured to serve that customer you would then resell in the marketplace, right?

MR. KUTIK: Objection.

A. I couldn't say that we would resell it in the marketplace. We would attempt to sell the energy, and I think by regulation we would have to offer up the capacity.

Q. Now, if you didn't sign up this deal, would you still have to offer up the capacity?

MR. KUTIK: Objection.

A. I don't know what deal you are talking about.

Q. I'm sorry. If ESP is not approved and you are not committed to supply the energy and capacity through it, wouldn't you still have to offer up the capacity into MISO?

A. You are going to have to rephrase that question. I don't -- I don't -- I can't answer it that way.

Q. Well, you told me just a minute ago you would have to recover the capacity into MISO in the event the customer left, correct?

A. Correct.

Q. And all I am asking is that let's assume you never -- ESP is never approved, and you are sitting there with the capacity because you didn't provide it into the ESP. Wouldn't you still have to provide that capacity into MISO?

A. FES could decide what they wanted to do with that capacity.

Q. Okay. Why is the price of a -- I guess the penny a kilowatt hour and the default service rider the same regardless of the customer's load profile?

A. It's one of the risk parameters that's associated with that price. We don't know the customer's load profile.

Q. Well, you would if you were metering it, right, which you are? You would know what the historical load profile was, correct? You would --

A. What are you asking me the specific question to?

Q. I'm sorry?

A. What are you asking the specific question to? What rider?

Q. If the 1 cent a kilowatt hour rider under the -- the one we were just talking about, the minimum default service.

A. Oh, I was mistaken. I thought you said it was the 1-1/2 cent PSR rider which was what I answered to the last question.

Q. No. I apologize then. What I was referring to was still back to the minimum default service rider there is a 1 cent a kilowatt hour charge under it, and I was asking the question why is the price the same regardless of whether the -- what the type of customer is and what its load profile is?

A. The price was developed as a total risk for the entire load, not specific customers.

Q. Okay. And risk could vary based on the load profile of the customer?

MR. KUTIK: Objection.

Q. Correct?

MR. KUTIK: Objection.

A. Once again, we look at this as a total load product.

Q. So you didn't look at the question of whether the -- whether this price should -- price or cost should vary based on the customer load profile?

A. No.

Q. Okay. On page 12, lines 2 through 4.

A. Okay. I'm there.

Q. Thank you. You said "Without this nonbypassable charge, the base generation charges contained in the plan would need to be adjusted higher." How much higher?

A. I have not made that determination.

Q. Okay. And to your knowledge did the company have a study or analysis that made that determination?

A. No.

Q. I'm sorry?

A. No.

Q. No. Okay. Now, let's turn for a moment to the capacity requirements on down in the same page, page 12, you talk about capacity requirements associated with planning reserve requirements. What is the capacity cost per kW for FES to provide the generation service they are proposing to provide in this case?

A. There is no cost calculated.

Q. But certainly there is a cost to FES to provide capacity, correct?

A. Could you rephrase that question or repeat it again? I'm sorry.

Q. Sure. You just indicated that you have not calculated a cost -- a capacity cost to provide the service, and all I am asking you is if you would agree, wouldn't you, there is a capacity cost to FES to provide the generation service, wouldn't you?

A. There should be some type of value, yes.

Q. I mean, in fact, isn't FES proposing to provide a significant number of generating units and make them available to serve this load?

A. Yes.

Q. And those generating units have a substantial amount of shall we say capacity costs associated with them?

A. I don't know -- when you say capacity costs associated with them.

Q. Fixed costs that they need to recover associated with the plant.

A. Yes.

Q. Yes. Don't they -- but you don't know or the company hasn't calculated what the -- what those fixed costs are going to be that need to be recovered through this rate proposal?

MR. KUTIK: Objection.

A. No.

Q. Let me ask this different and make sure I have it clear, has the company calculated what the capacity costs would be to provide the generation service?

MR. KUTIK: That's the same question you asked earlier so I will object. Go ahead.

A. No.

Q. Okay. Would you agree that the fixed costs of the generation are the same to FirstEnergy regardless of whether that capacity is used 50 percent of the time or 40 percent of the time or 60 percent of the time?

A. Can you repeat that question for me please? I'm sorry.

Q. Yeah. Would you agree that if -- that the supplier generation -- let me back up. Yeah.

Would you agree FES would incur the same fixed costs needed to recover the same fixed costs per kW regardless of whether the energy associated with that capacity is used very little, 20 percent of the time or 40 percent of the time or 60 percent of the time?

A. FES would need to recover fixed costs of their units, yes.

Q. They need to recover them regardless of how much energy is purchased associated with it, correct?

A. Are we talking about FirstEnergy Solutions here?

Q. Yes.

A. Yes.

Q. Okay. Can you tell me historically why FirstEnergy's rate -- why the distribution utilities' rate Ohio Edison and, of course, the others for generation and transmission historically varied on a per kilowatt hour basis among the customer classes?

A. Can you rephrase that?

Q. Yeah. Would you agree with me -- let's try a different way. Would you agree with me the energy costs on a per kilowatt basis of the different customer classes of FirstEnergy operating companies have varied -- let me try it again, that didn't -- let me try it differently. Strike that.

Would you agree the average cost per kilowatt hour for generation and transmission to your various customer classes varied by customer class?

A. Historically?

Q. Yes.

A. It was tariff driven, yes.

Q. Okay. So it did vary. Do you know why it varied?

A. It's based on the tariff.

Q. Right. But the tariff was, of course, set by the Commission based on proposals by various parties. What were the reasons for the differentiation? Do you know?

A. I don't.

Q. Okay. In the competitive market would you -- would you expect the competitive supplier to charge the same price per kilowatt hour to a customer with a 20 percent load factor as a customer with a 60 percent load factor, all else being equal?

MR. KUTIK: Objection.

A. Don't know.

Q. Okay. Wouldn't you expect there to be some additional costs for load shaping for a customer that has a lower load factor than a higher load factor?

A. Yes.

Q. Okay. And wouldn't you expect there would be additional costs for a low load factor customer for capacity because there are fewer kilowatt hours per every kW of peak demand as compared to a higher load factor customer?

A. I'm sorry. Can you --

Q. Yes. I will repeat it. Wouldn't you expect that a customer with a lower load factor as compared to a customer with a higher load factor -- wouldn't you expect the lower load factor customer to pay -- or that the cost for that customer per kilowatt hour would be higher because there are fewer kilowatt hours per kW of load?

A. What are you assuming again?

Q. If you assume two customers, one customer with a lower load factor, one with a higher load factor, all else being equal, the customer with the lower load factor has fewer kilowatt hours per kW of load, right?

A. Okay.

Q. Okay. And with fewer kilowatt hours per kW of load since the supplier has to recover the capacity costs associated with it over those fewer kilowatt hours, wouldn't you expect the price per kilowatt hour for that lower load factor customer to be higher?

A. Is this based upon the assumption of the competitive price again?

Q. Yeah.

A. I'm not -- I'm not testifying on a competitive price. I am testifying on the rate at the 7-1/2 cents per customer.

Q. So you don't know?

A. Don't know.

Q. Okay. Would you expect a supplier in the competitive market to charge the same price per kilowatt hour to a customer who only used on-peak as compared to a customer who only uses off-peak?

A. Once again, based on the competitive --

competitive price to a particular customer?

Q. I guess what I am asking is -- yeah, if a competitive market, would you expect a customer that only uses on-peak to pay the same price as a customer who only uses off-peak or would they vary or do you not know?

A. I don't know specifically.

Q. All right. Let's shift gears to one other area, interruptions -- or interruptible power for just a second. Page -- hold on. Page 22, please, of your testimony.

A. Okay.

Q. On lines 13 through 15, I believe you refer to how the interruptible program credit is developed; is that correct?

A. Yes.

Q. Okay. And you indicate that it is based on the market value of the MISO-designated network resource, correct?

A. Correct.

Q. How did you get the market value? Is it published somewhere?

A. We got it through a copy of a bilateral agreement.

Q. Between who?

A. It was an FES bilateral agreement.

Q. Between FES and some other entity?

A. Yes.

Q. Okay. Was FES supplying it or purchasing it or do you recall?

A. Purchasing.

Q. Okay. Do you know when this agreement was executed?

A. No, I do not.

Q. Okay. Do you have any idea when this price was negotiated or determined?

A. No.

Q. Okay. Do you know what the price today is for capacity -- DNR capacity sold bilaterally in the marketplace?

A. No, I do not.

Q. Okay. All right. Is there any published that you are aware of -- any published basis for determining what the value of capacity is in the MISO market, this DNR capacity?

A. No.

Q. Okay. Would you expect the price for capacity to vary over time?

MR. KUTIK: Objection.

A. What do you mean by vary?

Q. Go up or down.

A. For what time period?

Q. You tell me what time period. I mean, I can specify one over -- let's stop. First, let me ask you do you -- what time period would you expect it to vary over?

A. It would have to be a longer time period.

Q. Like months? Years?

A. Years.

Q. Years. So your expectation is it -- well, never mind. Do you have anything to base that opinion on?

A. The -- or the RPM of PJM.

Q. Can you explain?

A. Over the RPM auction and PJM it has not varied significantly in price for the next six years in the western market zone.

Q. What is the RPM in the western market zone for PJM? What's the price?

A. I believe the last price I seen was around 96 bucks.

Q. For megawatt day?

A. Yes.

Q. Okay. Now, that's a market that's a published sort of auction-type market; is that correct?

A. Yes.

Q. Okay. And a little bit different than a bilateral market?

A. Yes.

Q. Okay. Is there any plans in MISO to create a similar type of market to the one that's PJM? Are there any plans?

A. There are working groups discussing it.

Q. Okay. But at least today the only way to acquire the capacity is through a bilateral transaction?

A. Yes.

Q. Okay. Or alternately utilize your own existing capacities, you could do that, I suppose. I assume; is that correct?

MR. KUTIK: Objection.

Q. Let me back up. Wouldn't you agree you could also use capacity you own rather than going out and purchasing some to meet the DNR requirement?

A. If you owned it, yes.

Q. Okay. Now, this price would be the price at the generator, or would it be adjusted for any amount of losses?

A. What price are we talking about?

Q. I'm sorry, the $64 a megawatt day, the DNR price that you have cited?

A. It would be the generator.

Q. The generator, okay. And just so I understand, to me a capacity requirement you would have to have not only a sufficient amount of megawatt to cover your load, but you would also have to have megawatts to cover any reserve requirements, correct?

A. Could you repeat the question?

Q. In order to meet the reserve requirements in MISO or wherever, you would be required not only to have sufficient DNR to meet your actual or projected peak demands but also some amount for reserve?

A. Yes.

Q. Okay. Would you agree with me using an interruptible load as a DNR-type approach, the ability to interrupt, that you wouldn't need the reserve because in interruptible by definition it's interrupted, there is no reserves associated with it?

A. I'm sorry.
Q. Let me --
A. Yeah, rephrase.
Q. -- restate it.
A. Yeah.
Q. Yeah. I'm sorry. I guess what I am asking is since you are requiring the DNR as we just established to meet demand -- expected demand plus reserves, if you reduce the demands, that is, lower the load as a result of an interruptible customer, aren't you avoiding the DNR associated with the demand plus the reserve on top of that for that particular trunk of load?
A. Yes.
Q. Okay. Thank you. And then if someone -- let's switch to still interruptible but to the economic interruption concept for just a minute. You propose that ELR that in addition to being able to interrupt for what I will call reliability or emergency reasons, you've also proposed to be able to interrupt for economic reasons, correct?
A. Yes.
Q. Okay. So the emergency interruption piece of the program allows you to avoid these DNR

capacity-type costs which is the point behind setting the credit the way you do, correct?

A. Capacity, yes.

Q. Yes. That's the emergency part. And then the economic part in theory allows you to avoid high priced energy costs by either requiring the customer to economic -- to curtail or in the alternative to buy through in the higher price, correct?

A. Yes.

Q. Now, on the economic side to the degree a customer does buy through, where do those buy through dollars go? Do they go into some reconciliation mechanism, or do they -- well, do they go into the reconciliation mechanism, or do they go to the company?

A. They go to the company.

Q. They go to the company, okay. So by definition to the degree they are economic interruptions and/or buy throughs, it would reduce the cost of generation through the company, correct, cost of energy to the company?

MR. KUTIK: Objection.

A. No.

Q. Do you want me to restate it? I'm sorry.

A. You can restate it.

Q. Yeah. All right. Since the buyback revenues go to the company -- let me try it again. Since the customer will either curtail in response to the economic curtailment or pay additional buyback revenues that go to the company, by definition do these economic interruptions result in a reduction in the companies' cost of generation or an offset to the companies' cost of generation?

MR. KUTIK: Objection.

A. No.

Q. Okay. Would you agree there might be interruptible rates available in the marketplace as well, competitive marketplace?

A. I don't know.

Q. Okay. Why do you think it's important that FirstEnergy offer interruptible rates?

A. You want to rephrase that?

Q. I just asked -- put it this way, you propose an economic load response program rider and a -- what do you call it -- optional load response program rider, both of which are interruptible rates, correct?

A. Yes.

Q. And you've offered these interruptible rates, I presume, because you think they are a good idea; is that correct? Do you think they are a good idea?

A. We are continuing a program that's been historically done for customers and wish to continue that for those customers.

Q. Okay. And that's the ELR. And then the OLR, the new one, the optional load response program rider, would, of course, offer similar kinds of concept to new -- customers who haven't been interruptible, correct?

A. Correct, for an emergency basis only.

Q. Right. Do you see these programs as being beneficial in trying to meet the demand response objectives that the -- that the new legislation set out? Would it provide a benefit in that regard?

A. To meet the demand response, yes.

Q. Yeah. Okay. Do you know if -- switching do you know if time of use rates are available in the competitive market?

A. I don't know.

Q. But you offered time of use rates as an option in your ESP proposal, correct?

A. Yes.

Q. Time of day rates, time of use rates.

A. Yes.

Q. And I presume you are offering them again because you think they will be a good thing for -- to be offered to customers or you wouldn't be offering them or maybe you could explain why you are offering them.

A. We're continuing to offer time of use rate as we have before.

Q. Do you think time of use rates send more accurate price signals?

A. They send price signals.

Q. Okay. Do you think the time of use rates that you've developed send reasonably accurate price signals?

A. Once again, they send price signals, yes.

Q. All right. Do you think the time of use rates, their price signals might help in your demand response -- meeting the demand response objectives of the new legislation by signaling to customers prices are higher on on-peak times?

A. I don't know.

Q. All right. Do you have any -- only a couple more things. Do you have -- have you determined or has the company determined the value attributable to the ability to economically interrupt customers under Rider ELR?

A. Can you rephrase that question?

Q. Has the company determined the value to the company for being able to economically interrupt customers under Rider ELR?

A. No.

Q. Is there a value to the company in being able to economically interrupt customers under Rider ELR?

A. I don't know.

Q. Okay. Do you know if the company has a position as to whether there is any value in being able to economically interrupt customers under Rider ELR?

A. I don't know.

Q. Okay. Do you have any opinion on how you would determine the value or the avoided costs associated with being able to economically interrupt customers?

A. No.

Q. All right. Do you have any other opinions on interruptible rates that may relate to this case in addition to those set forth in your testimony?

MR. KUTIK: Objection.

A. No.

MR. STONE: Okay. Thank you. That's all the questions I have.

MR. KUTIK: The next person in the order is Andre Porter. But before we do that let's take a 5-minute break. I'm sorry. It's actually Dane Stinson.

(Recess taken.)

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EXAMINATION

By Mr. Stinson:

Q. Mr. Warvell, my name is Dane Stinson. I represent FPL Energy Marketing, Inc., and Gexa Energy Holdings, Inc. I just have a very few questions of you. To begin by -- I will begin by directing your attention to page 9 of your testimony, lines 10 through 13.

A. Okay.

Q. And I believe earlier this morning in your testimony you gave your opinion as to when that DGC charge came into play for aggregation customers, and I will try to characterize your testimony. Let me know if I don't do it properly. I believe you testified that the DGC charge be applied to aggregation customers when such a customer initially was on the SSO and then switched to a governmental aggregation; is that correct?

A. Yes.

Q. And the way the DGC would work would be that if that customer were on the SSO for a period of six months, that period would be tracked by FirstEnergy and that would be -- that would be the amount that the surcharge would collect; is that a fair characterization?

A. It would be based on the load centers of those customers, yes, that are associated with the aggregation --

Q. There would be an individual tracking of each customer for a certain period of time or it would relate to the group as a whole?

A. The group as a whole.

Q. And then the entire aggregation -- the members of the entire aggregation or all the members of the aggregation would pay that DGC?

A. The benefit portion of the DGC, yes.

Q. Thank you. Let me direct your attention to page 13 of your testimony.

MR. KUTIK: Let's go off the record for a second.

(Discussion off the record.)

A. I am at page 13.

Q. Line 20.

A. Okay.

Q. You speak of the baseline costs of 30 million, 20 million, 10 million for the years 2009, '10, and '11.

A. Yes.

Q. Could you tell me how those amounts were determined or calculated?

A. They were not calculated.

Q. How were they determined? How did you arrive at those numbers?

A. It was the additional assumed risk that the company is taking on.

Q. Who made that determination?

A. Same group I have been talking about, that would be the people that were involved in putting the plan together, the groups previously mentioned.

Q. Do you know the amount of the fuel transportation surcharge for, say, calendar year 2007?

A. No, I do not.

Q. Is that information available?

A. I don't know.

Q. And who would know that?

A. I don't know.

MR. STINSON: That concludes my questions. Thanks.

MR. KUTIK: Okay. Let's go off the record.

(Discussion off the record.)

MR. KUTIK: Okay. Let's go back on the record. Apparently Mr. Porter is no longer with us, so next in the order would be Mr. Petricoff.

MR. PETRICOFF: Thank you.

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EXAMINATION

By Mr. Petricoff:

Q. Good afternoon, Mr. Warvell.

A. Good afternoon.

Q. And I know you have your testimony with you. Do you also have the Schedule 5 or at least the portions of Schedule 5 that you are sponsoring with you as well?

A. Yes.

Q. Okay. Fine. Thank you. Let me start on page 3 of your testimony. You indicate that you are supporting Attachment C which is the generation price for returning shoppers.

A. Yes.

Q. And if you would, turn to Appendix C.

A. Attachment C?

Q. Attachment C.

A. Okay.

Q. And you will note there that there's basically a charge of -- let me direct your attention. If you look at the second paragraph, it says that "the SSO market price will be derived based on a quarterly forward wholesale on-peak and off-peak price multiplied by 160 percent." Do you see that?

A. Yes.

Q. Okay. How is the 160 percent devised?

MR. KUTIK: Objection, asked and

answered.

A. As stated earlier in the day, the 160 percent is risk factors that are associated with moving customers from the Cyn hub to the FESR nodal point.

Q. So it's fair to say that the 60 percent is just the basis difference between receiving them at the FirstEnergy LMP versus the Cinergy hub?

A. No.

Q. Would you agree that the basis differential is part of the 60 percent?

A. Yes.

Q. What other factors are in there besides the basis?

A. Risk factors for load profile, renewables, and capacity.

Q. Okay. And are there any workpapers that you put together that -- to show these individual factors that you have just listed and how they contribute to the 160 percent?

A. No.

Q. Fair to say this was just a judgment call on your part?

MR. KUTIK: Objection.

A. It was talked over with the group of people that put the entire plan together.

Q. So basically this is the judgment of the group collectively?

A. Yes.

Q. Well, with that let's return back to your -- to your testimony. The next item, I will try not to be repetitive, is on -- is on page 8 of your testimony. I want to draw your attention to line -- to line 16 where your -- do you have that?

A. Yes, I do.

Q. Okay. Those -- "the proposed phase-in rates described above were applied to projected kWh sales over the plan period." Did those kWh projected -- sorry. Did those projected kWh sales include shopping customers?

A. No.

Q. Okay. So shopping customers were excluded from the amount of kWh that went in to calculate the amount of the deferral?

A. Correct.

Q. Can you tell me what percentage of the kWh from -- was excluded because of shopping?

MR. KUTIK: Objection.

A. I don't know.

Q. What assumptions were made about the amount of kWh that would be shopping?

A. I don't know. There was none.

Q. What were the assumptions that were made then when you made the projection on what standard service offer sales would be?

A. Are you asking if there was a -- projection of what? I'm sorry, Howard.

Q. Sure. Let me -- let me withdraw the question and try again. The -- you had to have had a figure of kilowatt hour sales, and I am just asking you how did you determine that projected figure for kilowatt hour sales in 2009, 2010, and 2011?

A. That came from the forecasting group.

Q. Okay. And is that forecast a public document?

A. I don't know.

Q. To the best of your knowledge, does FirstEnergy still file forecast reports with the Public Utilities Commission?

A. I don't know, Howard.

Q. Okay. Is that forecast report that you just mentioned, is that in any of the workpapers that have been filed in this case?

MR. KUTIK: Objection. I don't think he testified about any "forecast report."

Q. When I say "forecast report," I am referring to the projection for sales that you got from the forecasting group. Clarification.

MR. KUTIK: That assumes -- that assumes it was in some document but go ahead.

A. The megawatt hours that were used were based off of what was used in the distribution case.

Q. Okay. When you say the distribution case, that is Case No. 07-511-EL-AIR?

A. Yes.

Q. Now, I want to turn your attention to line 21, and we have a series of dollar numbers, 430 million deferred for 2009, 490 million deferred for 2010, and 550 million deferred for 2011. Do you see that?

A. Yes.

Q. If, in fact, there is more shopping than was anticipated when those deferral numbers were calculated, would the deferred number be changed under the proposal, under the application?

A. Yes.

Q. Okay. So, for example, if -- and this is just for illustrative purposes. If everyone shopped in 2010, then the deferral would be -- would be zero.

A. Yes.

Q. All right. And likewise if -- if half the people -- half the kilowatt hours were covered by shopping in 2010, these would be -- the plan -- then basically the 490 million would be cut in half?

A. Yes.

Q. Now, if you would, turn to page -- page 9.

A. Okay.

Q. And on line 7. We have an amortization period for these deferrals -- when I say these deferrals, the ones we were talking about in your answer on page 8 for 10 years. How was the 10 years determined?

Actually let me withdraw the question because I want to be a bit more precise. When I look at line 7 on page 9, it says the amortization period would not exceed 10 years. Tell me how it was determined that the maximum amortization period would be 10 years.

A. It was a -- just a decision that was

picked up by putting the plan together. That 10-year period was looked at from the companies' perspective as -- as the period of time.

Q. Now, before the 10 years on line 7 you say not to exceed. What would be the factors that would influence the company to reduce the 10-year period, amortization period?

A. I'm not understanding, Howard.

Q. Sure. If on line 7 it says that the deferrals created for 2009, 2010, 2011 will be amortized over a period not to exceed 10 years, and "not to exceed," when I read "not to exceed," that indicated to me that there may be a lesser period than 10 years in which these are -- in which these deferrals are amortized. Is that a correct assumption?

A. The amortization schedules are in the workpapers as far as that's concerned.

Q. Is the company anticipating that it might come in and reduce the amortization period from 10 years?

A. No.

Q. So is it fair to say then in looking at line 7 that basically under the application the amortization will be 10 years period?

A. Per our current filing that's what the workpapers show, yes.

Q. Okay. Now, I would like to move you on to page 10, if you don't mind, and if you would draw your attention to line 19.

A. Okay.

Q. It is "This nonbypassable charge is necessary to recover" and there is a comma "among other things" and then another comma, "generation related administrative expense, hedging costs" and -- "hedging costs associated with the companies' obligation to serve the entire load." Now, I want to go back to that phrase that's in between the commas, the "among other things." What are the -- what are the other things that this charge is supposed to cover?

A. It would be lost opportunity.

Q. Okay. Could you explain that? What is the lost opportunity that you are being compensated for?

A. That we are selling a fixed price product in a market based atmosphere.

Q. And were any calculations done on the value of this lost opportunity?

A. No.

Q. Would you agree that it is possible that residential lost opportunity that there could be -- there could be a positive opportunity because you have a fixed price?

A. Yes.

Q. Could you give me an example of a scenario where you would have a positive opportunity because of the charge?

A. Market price is lower than the fixed price.

Q. Any other scenarios come to mind?

A. No.

Q. Let me move you on to page 11. And I want to draw your attention to line 16. Here is where we establish the base generation price in -- in Rider GEN at 1 cent. Are there any workpapers that show that -- how the 1 cent per kWh was derived?

MR. KUTIK: I'll object. I think you may have misstated something in your answer -- in your question, Howard, but he can answer the question as opposed to your statement. Go ahead.

THE WITNESS: Could you read back that

question.

Q. Sure. I wanted to draw your attention to page 11, line 16, and I will certainly be more careful when I read this. "As part of the base generation price in Rider GEN," G-E-N, "a fixed nonbypassable charge of 1 cent/kWh provides for these costs and risks associated with the requirement of being the default provider for the customers in the companies' service territories." And my question to you is that are there any workpapers that show the origin or the determination of this 1 cent?

A. No.

Q. How was the 1 cent derived?

MR. KUTIK: Objection, asked and answered. You can answer again.

A. It was based on looking at the variety of risks associated with supplying the fixed generation rate, the generation costs, and the shopping risk associated with Rider GEN.

Q. And Rider GEN and Rider MDS are for the same amount?

MR. KUTIK: Objection.

A. No.

Q. How does Rider MDS differ from Rider GEN?

A. Rider GEN for 2009 is 7-1/2 cents per kWh, and the Rider MDS is 1 cent.

Q. And, I'm sorry, what year was that for?

A. 2009.

Q. 2009. What are -- what are the representative prices for 2010?

A. Just to make sure, you would be looking at for the GEN rate it would be 8 cents in '10, and the MDS would be 1 cent.

Q. Oh. Now -- okay. That clarifies it up for me. So when we were talking before about the 1 cent -- the 1 cent is just included as an indivisible part of the -- of the generation rate; is that correct?

MR. KUTIK: That's also been asked and answered. Go ahead.

A. Yes.

Q. I'm sorry. Was that yes, the answer?

MR. KUTIK: Yes was the answer.

MR. PETRICOFF: Okay. Thank you.

Q. Okay. If you would, I want to take you now to page 13. You talk about the FTE rider. And maybe the easier way to do that is if you have -- if you have your schedules would be, let's see, that would be Schedule 5D.

A. Yes.

Q. If you could turn to Schedule 5D.

A. Okay.

Q. First, I want to make sure I understand what the -- what the Rider FTE is. And I am looking now on page 1 of 4 where we have the formula laid out. And my understanding is that this is for transporting fuel, for lack of a badder term, from the source to the generation facility?

A. Yes.

Q. Are these costs for moving fuel from the source to the generation facility, are bills just going to be sent to the FirstEnergy operating companies, when I say operating companies, I am talking about Toledo Edison, Ohio Edison, and Cleveland Electric Illuminating, as opposed to the generating company?

A. I'm sorry, Howard. I need to go back to the previous question that you asked me.

Q. Okay.

A. I answered it incorrectly.

Q. Oh, okay. Let's go back.

MR. PETRICOFF: Could the court reporter

read back the question.

(Question read.)

A. I answered yes, and the answer should be no.

Q. Can you tell me what the fuel transportation that's covered here is?

A. It's the surcharges related to the contracts to transport the fuel.

Q. And these surcharges, would they be in a contract between the operating companies and the -- I guess the transport suppliers or would with the generating companies and transport suppliers?

A. With FES.

Q. All right. Now, if you would, turn to page 2 of 4 in Schedule 5D. And you'll notice on line 2 it says "actual projected fuel transportation surcharge costs."

A. Yes.

Q. And then as we go across it, you see a series of costs. How were these numbers derived?

A. They are just placeholders as -- at the top. It's an illustrative example of how the process would work.

Q. Okay. So these numbers don't represent any historic period?

A. No.

Q. Do the companies have a list of the transportation contracts that FES has with its fuel haulers that indicate what these surcharges are?

MR. KUTIK: Objection.

A. Yeah. You would have to rephrase that question. I'm sorry.

Q. Sure. How will the operating companies know that a fuel hauling contract that they are not party to now has a surcharge that's being activated?

A. I don't understand that question, Howard. I'm sorry.

Q. Okay, sure, no problem. Let me -- let me start again. First, let me make sure I'm -- I'm fully cognizant of the nature of these contracts. I assume that, for example, surcharge would be -- would be something like an escalation clause of some sort that the railroad would have to bring coal to an FES generating station. Is that an example of the kind of fuel transportation surcharge that would be picked up in this rider?

A. Yes.

Q. Actually we probably have -- should go the other direction. Can you give me a better example than the one I just made up?

A. No. That's pretty good.

Q. Okay. Well, in that case how will, you know, let's say the operating companies know that the railroad has exercised this escalation provision in this -- this contract in order for you to fill out this chart and make an application to change the rider?

A. It's on the bill to FES.

Q. So FES then will just forward the bills to the operating companies, and they will be noted for calculation in these -- in these quarterly -- in these quarterly filings?

A. I don't believe we've stated if it will be done at FES or the operating company.

Q. Now, once again, there are a lot of numbers that are filled in here on pages 2 through 4 as we go through the time -- time period. What was the process in making up this illustration? Was there -- was there anything that is being reflected in these numbers at all so that there is realistic?

MR. KUTIK: Objection.

A. They are illustrative and it's just to show the mechanics of how it works.

Q. So we can't look at these and have any indication at all of the order of magnitude of what the -- this FT -- it's right here, I'm sorry, this FTE charge will be?

A. No.

Q. Okay. And is there anywhere else in the application or in the testimony that you are aware of where we could find information that would indicate the relative costs that are projected to be collected through the FTE?

A. No.

Q. Turning back to line 20, I know that -- I noticed that the -- first of all --

MR. KUTIK: Where are you, Howard?

MR. PETRICOFF: I am back on page 13 now, line 20 of the testimony.

MR. KUTIK: Thank you.

A. Okay.

Q. And you will agree with me that basically the numbers on line 20 decrease.

A. Yes.

Q. And if I've understood the formula that we have here in Schedule 5D correctly, that means that the potential for an FTE surcharge that the customer has increased?

MR. KUTIK: Objection.

A. It's dependent on the amount of the surcharge.

Q. Let's take an example then. Well, let me go back, cite an example. Let me make sure I understand this correctly. These numbers, 30 million, 20 million, and 10 million that are on line 20 of the -- of your testimony, these are threshold numbers and any transportation surcharge that is below the threshold number will not make it sway into the Rider FTE in terms of charging customers?

A. Correct.

Q. Okay. So with that in mind when we look at these decreasing numbers, that means the potential for charging customers assuming an equal amount of transportation surcharge actually increases as the years go by in the ESP.

MR. KUTIK: Objection.

A. Under your assumption that's possible.

Q. Can I go a bit farther than possible? As a matter of mathematics, isn't that correct?

MR. KUTIK: Well, as a matter of mathematics, no. Depending on what it is, Howard, that's another question.

Q. We are talking about formula. Assuming that we have -- assuming that we have 40 million -- $40 million in surcharge, all right? We have a $40 million surcharge every year, 2009, 2010, 2011. Wouldn't you agree with me that in that case we would have $10 million flow through the FTE rider in 2009, $20 million flow through in 2010, and $30 million in 2011?

A. Yes.

Q. Okay. I think I have now exhausted my limits mathematically, so I will quit here on this. And let's go on to page 14.

A. Okay.

Q. I think you have answered the questions on that one I have so let's move on to 15. 15 is where we introduce the FCA rider, and I believe that is Schedule 5E. So if you could turn to 5E.

A. Okay.

Q. And I would like to go -- like to direct your attention to page 2 of 3.

A. Okay.

Q. And on line 2 of page 2 of 3, Schedule 5E, we have a projected fuel costs. And, once again, are these projected fuel costs you are projecting the cost of fuel that FES would be contracting from suppliers?

A. Once again, this is illustrative so the numbers -- the concept is correct, but the numbers are just illustrative examples.

Q. And, once again, by illustrative there we can draw no conclusions in terms of order of magnitude by what's presented here what the rider will be?

A. Yes, you are correct in that assumption.

Q. Okay. And similar to the FTE is there any place in either the workpapers or the application or the testimony that's been submitted where I could find detailed information on what the charges are going to be for the fuel cost adjustment rider?

A. No.

Q. Okay. And at this time I take it that you have no knowledge of the fuel contracts that FES is holding now?

A. Can you rephrase that, I guess?

Q. Sure. Let's go back a step. Is it

possible that FirstEnergy Solutions is holding contracts for fuel now with prices that are fixed for the years 2009, 2010, 2011?

MR. BURK: That's confidential.

MR. KUTIK: First, do you know that -- do you know whether that's true or not true?

THE WITNESS: I do not know.

MR. BURK: I'm sorry. I misunderstood the question.

Q. But you do know that whatever information there is about actual contracts that might be out there, none of that was considered for purposes of making Schedule 5E?

A. No. It was illustrative.

Q. Okay. If you would then, let's turn to page -- let's turn to page 23 of your testimony.

A. Okay.

Q. And I want to direct you to -- to line 16. And it says here "The companies propose to implement a similar recovery mechanism for transmission costs as exists in the companies' tariffs today." And I would like you to take me through, if you would, generally how is -- how are transmission costs handled in the tariffs today?

MR. KUTIK: Let's go off the record a second.

(Discussion off the record.)

MR. KUTIK: Could you read the question, please, Karen.

(Question read.)

A. We recover all costs associated with MISO expenses as forecasted for revenue requirements and then that is allocated back to the rate schedule.

Q. Does MISO bill -- does MISO bill FirstEnergy directly for the three operating companies?

MR. KUTIK: Objection.

A. A MISO bill is in the workpapers associated with -- with the transmission filing.

Q. And that's an actual -- an actual bill?

A. It's a sample of a bill, yes. It's an actual bill.

Q. And so MISO is billing the FirstEnergy companies as opposed to the generator for the transmission costs?

A. It bills for the FESR load that is the responsibility of the operating companies.

Q. Okay. So basically is it accurate to say that these are transmission costs that come from the FES's generation facility to bring it to the operating companies' syncs? We are going from FES sources to operating companies' syncs?

A. That would be part of it, yes.

Q. Okay. What would the other part be?

A. Well, the knitch for moving the power within the MISO grid for that load. The portion you talked about would just be in contention to losses and congestion.

Q. All right. If -- if you know, if the MRO was selected by the -- by the Commission, would the SSO -- would the MRO provider be picking up the congestion and the net losses?

MR. KUTIK: I'll object in terms of relevance, but you can go ahead and answer it.

A. I am going to ask for the question to be repeated just so I can hear it again. I'm sorry.

Q. Okay. Not a problem.

MR. PETRICOFF: Could the reporter read the question back.

(Question read.)

A. In the product that was in the MRO, yes.

Q. If I could then, let me direct your

attention to Schedule, let's see, 5K. 5K is huge. It's about 200 pages.

A. Yes.

Q. And if you could turn to page 9.

A. Yes.

Q. Okay. That was quick. Where -- you are sponsoring this page as part of your testimony; is that correct?

THE WITNESS: Hold on one second. Whoever is talking on the phone, could you go on mute, please?

Q. Okay.

A. I'm sorry, Howard. I got distracted.

Q. One of the hazards of a telephone deposition.

Okay. Mr. Warvell, you have that page 9 of 199 in front of you?

A. Yes.

Q. Okay. If you could, this says "summary of total projected transmission costs." And the first block we have, the schedule, you see number schedules 1 to 26. Could you inform me as to what schedule costs are covered in here?

A. These are the schedules from MISO.

Q. So if I looked at the tariffs, that MISO Tariff 26, I could find out exactly what the $483,933 bought the three companies?

A. Yes.

Q. Okay. Now, let's look at the -- at the second portion here. And that is we have -- we have -- before we do that let's go back. The -- under either of the MRO or the SSO would the operating companies still pay these charges that are in Schedules 1 to 26?

A. The MRO would be as stated before part of the product and -- and as far as the SSO, this is our transmission filing that would be part of the plan.

Q. So basically the charges we see here on this page are only applicable to the supplier because of the nature of the agreement between the operating companies and -- and FES to cover transmission?

A. I would say a portion --

MR. PETRICOFF: Once again, whoever is talking on the phone, please go on mute.

MR. KUTIK: Let's go off the record.

(Discussion off the record.)

THE WITNESS: I am going to need that last question read back, sorry.

(Question and answer read.)

A. Yes, some are related to generation and some are just related to being the LSC provider.

Q. Okay. And looking at this page, can you pull out the ones that are generation and the ones that are LSC related?

A. I would have to recategorize these down, not -- no, not right now.

Q. Would you agree with me that the congestion expense is generally a -- I'm sorry, not generally, that the congestion expense would be a generator supplier cost?

A. I would not call it a generator supplier cost. That would be a source and sync cost.

Q. That's a source and sync cost. And the same would be true for net losses?

A. Yes.

Q. Anything else on this page that you would classify as a source and sync expense? Or I should say source to sync expense.

A. As I said before, I would have to go through each schedule to determine that.

Q. Okay. If you would then, I guess the next place I would like to take you is the -- sorry.

Give me a minute here. I have got to dig this one up myself.

MR. PETRICOFF: Okay. Well, I believe I have now gotten through my list of the questions that I wanted to ask you that have not previously been asked. Thank you very much for your time.

MR. KUTIK: Okay. Lance, are you still with us?

Is there anyone who is on the call who hasn't had an opportunity to ask questions?

Hearing none, I'll assume the deposition is concluded.

And, Karen, we will read the transcript.

(Thereupon, the deposition was concluded at 2:12 p.m.)

\- - -

State of Ohio :
: SS:
County of ____________________ :

I, Kevin T. Warvell, do hereby certify that I have read the foregoing transcript of my deposition given on Thursday, September 25, 2008; that together with the correction page attached hereto noting changes in form or substance, if any, it is true and correct.

____
Kevin T. Warvell

I do hereby certify that the foregoing transcript of the deposition of Kevin T. Warvell was submitted to the witness for reading and signing; that after he had stated to the undersigned Notary Public that he had read and examined his deposition, he signed the same in my presence on the ________ day of ______________________, 2008.

____
Notary Public

My commission expires _________________, ________.

\- - -

CERTIFICATE

State of Ohio :
 : SS:
 County of Franklin :

I, Karen Sue Gibson, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Kevin T. Warvell was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotypy in the presence of said witness, afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified and completed without adjournment.

I certify that I am not a relative, employee, or attorney of any of the parties hereto, or of any attorney or counsel employed by the parties, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 29th day of September, 2008.

Karen Sue Gibson, RPR

Karen Sue Gibson, Registered Merit Reporter and Notary Public in and for the State of Ohio.

My commission expires August 14, 2010.

(KSG-4985)

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