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 Harvey L. Wagner, taken before me, Rosemary F. Anderson, a Notary Public in and for the State of Ohio, at the offices of FirstEnergy, 76 South Main Street, Akron, Ohio, on Wednesday, September 24, 2008 at 9:00 p.m.

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Tuesday Morning Session,

September 23, 2008.

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STIPULATIONS

It is stipulated by and among counsel for the respective parties that the deposition of Harvey L. Wagner, a witness called by the Ohio Office of Consumers' Counsel 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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INDEX

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MR. KORKOSZ: Let's beginning by taking appearances. My name is Arthur Korkosz, FirstEnergy Service Company, 76 South Main Street, Akron, Ohio; and with me is Jim Lang of Calfee, Halter & Griswold.

MR. SMALL: Jeff Small, representing the Office of the Ohio Consumers' Counsel.

MR. PETRICOFF: Howard Petricoff on behalf of the Constellation NewEnergy.

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

MR. YURICK: Mark Yurick on behalf of the Kroger Company.

MR. DUNN: Greg Dunn on behalf of the City of Cleveland.

MR. KORKOSZ: Does that complete appearances?

(No response.)

MR. KORKOSZ: All right, then.

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HARVEY L. WAGNER

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

EXAMINATION

By Mr. Petricoff:

Q. Good afternoon, Mr. Wagner.
A. Good afternoon.
Q. Can you hear me?
A. I can.
Q. As well I can hear you. If there is anytime during the deposition either you can't hear because of interference on the telephone or I ask you a question you don't understand, please feel free to stop me and ask tell me you don't know. We can try to adjust the volume or correct the question.
Mr. Wagner, do you have with you today your testimony and the schedule 6s?
A. Yes, I do.
Q. If you wouldn't mind then turn to page 8 of your direct prepared testimony.
A. Okay.
Q. And if you would, take a look at line 8, and on line 8 on page 8 you say the write-off will be approximately $485 million. I assume those are the

write-offs for the RTC and extended RTC for Cleveland Electric Illuminating.

A. That's correct.

Q. Okay. Can you tell me of the 485 million how much of it is for RTC and how much is for extended RTC?

A. I don't have that with me, Mr. Petricoff.

Q. Could you give me an order of magnitude as in 80 percent extended RTC or half and half?

A. I would say the bulk of it would be extended RTC. I think -- well, I don't want to guess but that would be my sense.

Q. Okay. Now, the 485 million, I take it that that's a projected number.

A. Yes. That's actually consistent with what we have been disclosing in our footnotes to our financial statements. That represents the amount that would be estimated to be amortized in 2009 and 2010.

Q. Do you know offhand today what the value of the amounts in the RTC and extended RTC accounts total?

A. I don't have that with me.

Q. Is it a somewhat similar number?

A. Just doing some math out loud. If 485 million, roughly one half of that a year, so about 240 million, so that would be about $80 million a quarter. So I guess sitting at the end of September it's probably somewhere in the range of 560 million, perhaps. That's just going on this rough math.

Q. Sure. That's helpful, thank you. Now, I note continuing on line 8 of page 8 that you reduce that to $306 million after taxes. Could you take me through what the tax adjustment was for that amount?

A. Yes. Whenever the transition costs were incurred, they were tax deductible for the company. In other words, when the regulatory asset was established, we deducted it at that time; therefore, we have a deferred tax liability associated with the transition costs that also would be reversed whenever the costs are written off so the net amount after the reversal of the deferred taxes is the $306 million.

Q. Okay. If you would, now I'd like to continue down the page, page 8, to line 17. Do you see line 17 where it says at the end of the line "Extended RTC recovery"?

A. Yes.

Q. I was curious as to why it was only extended RTC there and not RTC as well as extended RTC?

A. I would need to go back and check for sure, but I guess what that's telling me that the RTC amounts may have been projected to be fully amortized by the end of 2008. Again, I would either have to check that and correct it or correct the testimony if any of that is also RTC. That's the remaining amount of the combined RTC and extended RTC. It isn't meant to be exclusionary.

Q. So we're talking about the same, if you will, pools of money.

A. Yes.

Q. In both the answer to the question at the top of the page and the answer to question in the middle of the page?

A. Yes. It relates to the costs being recovered through the RTC and extended RTC.

Q. I note here on line 19 the after-tax amount is $239 million. Why is that different than the 306 million after tax we have on line 8?

A. What you're looking at, the 239 million includes the full amount that would have been amortized in 2010, which if you look at line 22, that represents one half so there must have been 172 million that relates to 2010. And the difference, what is that, about 160 some million. If you don't mind, I'm going to scratch on a piece of paper.

Q. Go right ahead.

A. Okay. What we have is amortization that would have taken place in 2009 of 134 million. Half of that, since it would have been an average for 2009, half of that is 67 million. Then the amount of 2009 -- the amount that relates to 2010, that would be amortized in 2010, that had been written off in 2008 is 172 million, and that is one half of what you see for 2010. The 86 is one half of that number.

So if you take the 134 million that would have been amortized in 2009 and the 172 million that would have been amortized in 2010, adding those together gives you the 306 million.

Just to recap, the adjustment in 2009 is one half of the 2009 amortization of 67 million and 100 percent of the 2010 amortization of 172. So that's the 239 million. Then the 2010 amount is one half of the 2010 amortization, which is 172. Hopefully that answers it.

Q. One last question in this area, and that is, when I looked at the number on line 8 for the after taxes as 307 million, and then when I took the after tax for 2010 on line 19 of 239 and the after tax for 2010 on line 22, that came to 235, and I was trying to square up 325 when I summed those two numbers with the 306, which is on line 8.

A. Right. Again, you have to go back to that same exercise I just went through. Since the 2010 amount is one half, and the 2009 is the full amount for 2010 plus one half of 2009, but I think all those numbers are out there now.

Q. Okay. That's helpful. Thank you. Now, if you could, I'm going to leave your testimony and go to schedule 6A.

A. Okay.

Q. And schedule 6A is a schedule that has 1 to 5 subsheets, and I'd like you to turn to page 4 of 5.

A. Okay.

Q. Now we are looking at the fuel deferral for the 2006 and 2007 years. If I could, I want to walk you through this sheet to make sure I understand how the calculations are done.

A. Okay.

Q. The first line that we have here, line No. 1, that appears to be the actual fuel that was booked in 2006.

A. That's correct.

Q. And then the line beneath this says: "Total Fuel Principal booked in SAP," and I wasn't sure what that meant, but I saw the numbers were the same. What is line 2 telling us?

A. All that is doing is just to say that does not include any carrying charge. That's just the amount of the fuel costs that were deferred.

Q. And when we see fuel costs, we're talking about coal and nuclear and natural gas.

A. That's correct.

Q. And there are no wire charges or administrative fees in here.

A. No. It's strictly what was included in the RCP.

Q. Now, the next line down, line 3, is true-ups, and on line 3 we have some negative true-ups. Tell me about those.

A. What you saw on line 1 were estimates for the months of November and December. We estimate some of the costs of fuel that has been received. The actual price when we pay the invoice may be more or less. They're usually pretty close.

But what you see for November 2006 and December 2006 on line 3 are just reductions. That just means we defer, for example, for the three companies in total we deferred $30,000 too much in 2006 so that was correcting it.

Q. And line 4 is then just with the correction in place.

A. Well, line 4 are the 2007 amounts.

Q. I'm sorry, yes. Line 5 is the sum of the two with the correction.

A. That's correct.

Q. Okay.

A. That again is before the carrying charge.

Q. Right. Now, moving down to lines 7 and 8 we have the CAT tax adjustments. Tell me about the CAT tax.

A. That's the commercial activity tax.

Q. And what is the commercial activity tax levied against?

A. This is subject to check. I would have to go back and check, but there must have been a tax levied on some of the components of the fuel costs that were billed.

Q. The CAT tax we see in line 7 and 8, these are jut to account for the differences in the CAT tax because of the true-ups, or are these the whole of the CAT tax?

A. I think these are the whole of the CAT tax. If you look above on line 1 and line 4 in parenthesis it says the CAT tax is not included, so I think that is just bringing all of that into it.

Q. Okay. So then basically we go down to line 12, and line 12 is what the actual amount of the fuel is with taxes but without carrying costs.

A. That's correct.

Q. Okay. And then the next section, going down by the next section, meaning lines 13 through 21, is where you do the calculation for the interest.

A. That's correct.

Q. And what was the carrying charge that was applied here in lines 13 through 16?

A. I believe it was embodied -- is the weighted cost of long-term debt in each of those months. I think you can see more detail of that on the following page, lines 6, 7, 8, and 9 is where the actual interest rates are shown.

Q. Okay. So just for the record, it's page 5 of 5 gives us the monthly long-term debt cost and that's what was applied in calculating the interest.

A. That's correct.

Q. I think I have no further questions on that exhibit. Now, if you would I would like you to turn to schedule 6F. That's 1 of 12 schedules.

A. Okay.

Q. I will walk you through to make sure I have these right. Schedule 1 of 12 is basically the generation deferral under Option One for Ohio Edison.

A. Yes.

Q. And then Cleveland Electric Illuminating is 2 of 12.

A. That's right.

Q. And Toledo Edison is 3 of 12.

A. Yes.

Q. And then we go to 4 of 12, and that's the sum of the three operating companies.

A. That's correct.

Q. Now I'd like to walk you through that chart to make sure I understand that one. The first one we have a line 1 of schedule 6F, page 4, is the Estimated New Plan Deferral, and these are dollar amounts. Now, I'm assuming that these dollar amounts then are for the projected sale -- the projected deferral for generation from all three companies.

A. Well, on page 1 it would just be Ohio Edison.

Q. I'm sorry, I'm on 4 of 12.

A. Excuse me.

Q. I'm going to work down the company totals.

A. Yes.

Q. And the determinant there to come up with the $429 million was basically the deferral fee times the number of kilowatt-hours that were projected to be sold in the last rate case?

A. Right. That would have come from Mr. Warvell.

Q. So basically you're working right off Mr. Warvell's testimony?

A. Yes.

Q. The increases we see then from column E over Column D and column F over column E, that comes straight from Mr. Warvell's pages?

A. Yes.
Q. I note we have a monthly carrying charge of .7083 per month. How was that figure derived?
A. That represents 1/12 of an annual 8.5 percent rate.
Q. And what's the significance of the 8.5?
A. That was the rate that was developed for the plan for all of the deferrals subsequent to December 31, 2008 based on -- it approximates our overall cost of capital. That is the rate that's being used to defer the interest on the deferrals.
Q. Is the .7083 number a projection, or will this be the actual number that's applied for the two to three years of the ESP?
A. That would be the actual number.
Q. So the .7083 is not going to change.
A. That's correct.
Q. Now, if you recall, the numbers you got from Mr. Warvell, did they assume there was no shopping?
A. I don't recall what that assumption was. I'm sure he would be able to answer that.
Q. Well, let's assume, take this as a hypothetical, these numbers have no shopping in this.

This assumes every customer is purchasing generation.

A. Okay.

Q. Would the carrying charges you have -- first of all, if in fact customers were shopping, would you expect the numbers on line 1 to decrease?

A. Yes. If there was a large government aggregator involved, yes.

Q. And likewise line 2 would decrease since they are tied together.

A. If the assumption -- if the original assumption was that there was no shopping, yes.

Q. Now I want to move down and take a look at lines 5 through 30, and when I look to column G, I see an interest figure. Tell me how the interest figure -- we can start with line G-5. How was that interest figure calculated?

A. That is the interest for the month of January of 2010. Applying the monthly carrying charge rate that you find on line 2, column C, to the beginning of the month balance, which would be what you see in column D, line 16, the balance at the end of 2009, plus 1/2 of the deferral for the month of January 2010, which is in column F, line 5, those two added together multiplied by the monthly carrying charge rate would give you the 3,315,000 of interest that you see for the month of January, 2010.

Q. Now, if I drop down to line 30 and go over to column G, this then would be the total amount of the carrying charge assuming that the deferrals are the numbers that we have in line 1.

A. That's correct.

Q. Now, I want to move on and talk about lines 31 to 41 and lines 42 to 52. Correct me if I am wrong, but is line 31 to 41 basically carrying out the collection of the deferred amounts assuming that the Commission did not exercise the third year of the ESP and begins collections on 2011?

A. Well, that's what it represents, but the Commission's decision whether to terminate or not terminate would not change that because what is being recovered beginning in 2011 are the costs that were deferred in 2009 and 2010.

Q. Oh, I see. So basically lines 31 to 41 then are just picking up those two years assuming that there are only two years.

A. That's correct.

Q. And 42 to 52 would be basically what the deferrals would look like if all three years of the

ESP take place.

A. That's correct.

Q. If I was going to try to figure out what the total interest would be under the scenario covered by lines 31 to 41, is there something that is equivalent of column G, line 30 for that list, the sum of all the interest payments?

A. You could do that if you just take column F and add to column F, lines 32 through 41.

Q. Okay. So if I took -- if I was going to look to see what the total carrying costs were for the generation deferral under Option One, I would take column G, line 30, plus all the numbers in column F starting on 32 through 41, sum them all together and I'll get the total carrying costs.

A. You also would need to include line 17, column G.

Q. Yes, thank you. That's correct. Let me go back and make sure I've got it all together here. If I wanted to see what the two-year ESP, what the total carrying costs would be, if we took it out to ten years it would be column G, line 17 plus column line 30, plus column F, lines 32 to 41.

A. Plus column F, lines 43 through 52 and also plus column C, line 17 and column C line 30. The carrying charges, the interest during the deferral period are summarized up on line 2. You can see those numbers are the same numbers below. If you actually added the numbers across on line 2 and then added what's in column F, line 32 through 41 and 43 through 52, I think that gives you what you're looking for.

Q. Take it across on 2 and then just add -- go down F and add everything from 32 to 52.

A. That's correct.

Q. And I should get the total carrying charges.

A. Yes.

MR. PETRICOFF: I believe that completes my examination. Thank you very much, Mr. Wagner.

MR. KORKOSZ: Mr. Small, are you next?

MR. SMALL: Yes, thanks very much.

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EXAMINATION

By Mr. Small:

Q. Mr. Wagner, Jeff Small representing the Office of Ohio Consumers Counsel. I have a few questions for you today. I'd like to start on page 2 of your testimony, referring you to line 17 where the Plan and Schedules are titled as Plan Paragraph A.3.h. Do you see that?

A. Yes.

Q. Could you describe how under the company's application line extension costs will be treated? Let me break it down for you. Under the company's plan would there be any left over deferrals; that is, you understand that the staff proposed that the company come back and deal with filing extension deferrals after the date certain in the next distribution rate case. Would there be any left over deferrals according to the application in this ESP case?

MR. KORKOSZ: Mr. Small, for clarification, your question when you are talking about the category deferrals, are those deferrals associated with the reference to A.3.h rather than the subsequent reference to line extensions on line 22 of that same page of testimony?

MR. SMALL: I don't know.

Q. I will just ask the question that I asked, which is without any reference to the testimony, would there be any left over deferrals having to do with line extensions under this application.

A. Yes. If you look at schedule 6E, page 7, line No. 1.

Q. If you could go through that again, I'm a little slower than that. 6E did you say?

A. Yes.

Q. What was the rest of that?

A. Page 7 of 7.

Q. I'm there.

A. If you look at line No. 1 and description Estimated Post Date Certain Deferral, that's the amount subsequent to the date certain in the distribution case.

Q. The $30 million approximately?

A. Yes.

Q. And that would be left over for an application for a later distribution rate case?

A. Well, we would be recovering it through our ESP.

Q. Okay. I guess that was the question. Do the rates that are in the application and the -- well, I guess what I meant by left over is would there be anything after application -- if the ESP in this case was approved, would there be any opportunity for the company to subsequently present those deferrals for an increase in rates after this ESP case? Is your answer then no because it would be recovered as part of the ESP?

A. Assuming no further deferrals, that's correct.

Q. Okay. That's actually my next question, which would be under the application would there be any further deferrals?

A. You see as part of our application an item called Incremental Line Extensions. And that really is I'll characterize it as a placeholder in the event --

Q. Let me take this one piece at a time. I understand that you're beginning to respond with a response to a placeholder for recovery if there are changes in the line extension rules and so forth.

But let's assume for a moment now that the company doesn't have to change any of its line extension policies or anything for compliance with changes for any cause, but simply pursuant to application in this case would there be any additional deferrals for line extension?

A. I think no. What you would see on schedule 6E, line 1, again there are no deferrals for 2009 and 2010, just the continuation of the carrying charges until the rider comes into place.

Q. So if I could summarize, if there was a line extension after -- I'll give an example to see if I understand it. If there was a line extension after January 1, 2009 and during the plan period, and the costs of that line extension exceeded the payments by the customer and any other payments to the company for that line extension, under the application that would not result in additional deferrals.

A. I really think I would prefer that question to be answered by one of our other witnesses. I'm not the expert on the line extensions, just the expert on the accounting for the line extensions.

Q. Part of the problem I have with that, isn't that what you -- didn't you just answer that question? I was just trying to make sure that I understood it. From an accounting standpoint, though, you're saying on 6E, line 1 you have a zero value so --

A. That is what is indicated on schedule 6E.

Q. Okay. All right. On to a slightly different topic, again, in having to do with these paragraphs at the bottom of page 2, how would the RCP distribution deferrals that were extensively discussed in the distribution case, how would those be handled under the application? Again, would there be any left over deferrals, uncollected that would be -- that could be presented by the company in a subsequent distribution case?

MR. KORKOSZ: Mr. Small, when you said RCP deferrals, you were referring to the distribution deferrals?

MR. SMALL: RCP distribution deferrals. If I didn't say that, that's what I meant.

A. If you look at schedule 6B, page 7 --

Q. Hang on for just a second. 6B.

A. Right.

Q. What page?

A. Page 7.

Q. All right, I'm there.

A. You see line 1, Estimated Post Date Certain Deferral, the 284 million, that would be the amount that had been deferred subsequent to the date certain in the distribution case and only through the end of 2008, and there would be no further deferrals past 2008, other than the monthly carrying charges from the original RCP distribution deferrals.

Now, also included on schedule 6B that will be recovered with the RCP distribution deferrals are what you find on line 2, column E, $25 million, and that's the amount of the additional distribution deferrals for CEI as part of the plan for January through April of 2009.

Q. I appreciate you pointing that out, but that isn't directly tied to anything having to do with RCP distribution deferrals.

A. That's correct.

Q. It actually isn't tied to anything; it's just a number, correct?

A. It's $25 million.

Q. Do you know how the $25 million was arrived at?

A. No, I don't.

Q. All right. Let's go to page 4 of your testimony, line 4. There's a reference to $13.9 million, and this has to do with storm damage costs.

A. Yes.
Q. Do you know how that number was arrived at?
A. That's the amount of annual storm damage expense that was included in the test year for Ohio Edison, CEI, and Toledo Edison combined.
Q. Now, the test year you're referring to is in 07-551, et al., the distribution rate cases?
A. Yes.
Q. All right. I'm on page 4, line 8. I think this is what you were responding to earlier, I wanted to save this for a little different, deeper examination. This has to do with line extensions again.
Did I understand your earlier response there was a placeholder in case the Commission rules and policies changed to require changes to the line extension treatment of costs.
A. Yes. I'm not the legal expert on this, but it appeared that the rules that the PUCO puts in place stemming from the changes that came out of amended SB 221 could impact the recovery or could change the method of recovery of the line extension costs.

Q. I guess the problem I'm having understanding exactly what the company is asking for is that you referred to changes from the company proposal in 07-551. I didn't understand your answers to my questions about how the line extensions costs would be handled when we were on page 2 of your testimony being what exactly was proposed by the company in 07-551. Could you clarify that for me?

A. It's my understanding that the amount of dollars the customers might be required to pay for receiving the line extension could be different.

Q. Let me be more precise. In 07-551 there is a piece of testimony, I believe rebuttal by Mr. Ouellette, on the subject of line extensions, and I believe the testimony in that case in that circumstance contemplated that the company would continue to have deferrals just as a continuing policy and that could be presented to the Commission in subsequent distribution rate cases. And I thought you just told me that that would not be the case as indicated by those zero values for the deferrals.

A. I think I said that another witness needed to answer that question but the schedule indicated there were no deferrals assumed in 2009 and

2010.

Q. Is there anywhere other than the rebuttal testimony that I pointed out that referred to in 07-551 that you believe you could go to find out what the -- to further define what the companies' proposal was in 07-551?

A. I don't know.

Q. With that said, what is it that you are saying in lines 8 and 9? If you don't know what the companies' proposal is, how can we compare it, the application with that proposal?

A. I believe the companies' proposal, and I can't state it verbatim, but the companies' proposal in the case is very clear as we filed the case. What isn't known are any kind of rule changes that may be coming from the Commission in response to 4928.151. That's what I understand the issue to be here.

Q. I'm going to go to same page, page 4, line 11. And here you're discussing distribution capital investments subsequent to the December 31, and you used the term on line 11, "improve reliability." Do you see that?

A. Yes.

Q. Now, if you could keep your place there and then also refer to Attachment HLW-1 in your testimony.

A. Yes.

Q. This attachment, HLW-1, are the areas of expenditures, capital investments that would be in this rider or costs would go into this rider; is that correct?

A. That's correct.

Q. All right. Now, is this a fixed amount, or is this something that would be dependent upon the amount spent on items you show in your attachment HLW-1?

A. They would be dependent on the amount that is spent.

Q. All right. Before we go through that attachment, Mr. Blank has an exhibit in his testimony where he shows dollar values. He sort of has a wrap-up attachment, and he assigns a number, numbers in various years to this distribution service improvement rider. Do you know how those numbers were arrived at? Is it some sort of estimate of the amount that would be spent?

A. I can't be specific to that. I could speculate, but I don't have a specific response, and

I've not seen what Mr. Blank showed you.

Q. Well, I'm not sure what you mean by showed me. It's in his table; it's $114.4 million for 2009. I was just wondering -- he has approximately the same amount for 2010 and 2011. You don't know how those numbers were arrived at?

A. No, I don't.

Q. Let's go through your -- walk through your attachment HLW-1 for a little bit. Let's start at the top with System Reinforcement. I notice on the first line it says "but are not limited to." Do you see that?

A. Sorry for the delay. I was tying a number back on schedule 6I that might be the number that Dave had attached to his testimony but I don't know. I don't have that with me, but there is 114 million in the year 2012.

Q. For total all three companies 114.4 million in 2009, 115.4 million in 2010, 116.4 million in 2011.

A. No. Okay, it was a coincidence. Okay.

Q. I'm on attachment HLW-1. Looking at the System Reinforcement, I notice in the first line there are the words "but are not limited to." Do you see that?

A. Yes.

Q. How is it that it is determined what the boundaries of those things that are considered system reinforcement, how would we know whether it was or was not a system reinforcement?

A. Well, I would advise you to ask Mr. Schneider more about that. But the words in English obviously are just there to not constrain the examples. These are just examples. We didn't list every single example under the sun that would be associated with reinforcing infrastructure.

Q. All right. Let's go to the second one, Obsolete Equipment. How do we determine whether something is outdated equipment?

A. Again, I would refer you to Mr. Schneider.

Q. Let's go to the third category, Failures, Relocation, Storms. One problem I have with this definition if you read the text underneath that there's no reference to storms whatsoever. Can you explain that?

A. Well, again, I would refer you to Mr. Schneider. But typically in connection with a storm there is widespread or can be widespread replacement of equipment and devices.

Q. So you're saying that the storms would be limited to the replacement of equipment and I guess replacement of equipment and devices.

A. No, I think that the replacement of equipment and devices is done in connection with failures, relocations, and storms. I just might add this attachment is identical to the criteria that were used for capitalizing, depreciation and property taxes and posting service interest on distribution facilities in our RCP case.

Q. I'm on page 5 of your testimony.

A. Okay.

Q. I'm sorry, I think you answered some of those questions, I'm moving on to page 8, and I listened to your answers to Mr. Petricoff's questions, but I have kind of a fundamental preliminary question.

I asked Mr. Blank earlier today to explain the relationship between the $591 million which is located on page 17 of his testimony and the $485 million write-off you have on page 8, line 8.

A. Okay.

Q. And he described how in broad terms how the $591 was the effect on customers but the $485 million was the effect on the company and therefore the write-off. Does that sound like a fair description?

A. I'm going to speculate that the 591 million that you're referring to is the revenue that --

Q. Yes, the amount that customers would not pay.

A. Right. And you know that with the commercial activity tax, there's a difference between the transition costs that are being recovered. It may take a $1.30 to recover a dollar of transition costs. That's all that means.

Q. I just wanted to look into that a little bit so I understand the relationship. We have $591 million which was a revenue amount.

A. Okay.

Q. And we have $306 million which you show in parenthesis on line 8 as being after taxes.

A. Okay.

Q. How is it that we go from 591 to 485? What is it that has that effect on the company besides taxes that make the difference from the $591?

A. I think it would just be taxes. It would be taxes and also the impact of any equity portion of the rate of return that you're getting through the revenue side of it.

Q. I guess I'm not following you. What is the difference between 591 and 485?

A. It would composed of the difference in the tax basis of the assets, of the transition costs, and the return that is being earned on the unamortized transition costs. I think you are missing the return component.

Q. I think that's it because the tax part you responded to earlier, that's the difference between the 485 and 306; is that correct?

A. That's correct.

Q. So it's the return portion that takes it from 591 to 485.

A. That's probably the largest part of it.

MR. SMALL: That's all the questions I have. Thank you very much.

MR. KORKOSZ: Ms. McAlister, are you next?

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EXAMINATION

By Ms. McAlister:

Q. Good afternoon, Mr. Wagner.

A. Good afternoon. How are you.

Q. I'm good. I have two questions for you.

A. Okay.

Q. FirstEnergy has not factored into the base generation prices any amount for the tax deductions that the producers of electricity receive against the federal income taxes for production of electricity; is that correct?

A. Well, to my knowledge there's been no specific or explicit adjustment made for that.

Q. FirstEnergy indicated that during the duration of the ESP, base generation charges will be adjusted to pass on to customers the cost of new taxes, among other items; is that correct?

A. Could you repeat that question again.

Q. Could I have it read back.

(Record read.)

A. I will have to go back and look at that part of the application before I answer.

Q. Perhaps I can direct your attention to page 14 of the application.

A. Okay. Yes, to the extent those costs exceed $50 million during the plan period, during that three-year period.

MS. McALISTER: I have no further questions. Thank you Mr. Wagner.

THE WITNESS: Yes.

MR. KORKOSZ: Anyone else on the telephone that has questions for Mr. Wagner?

MR. DUNN: None from Cleveland.

MR. YURICK: None form the Kroger Company.

MR. BREITSCHWERDT: No questions.

TELEPHONE PARTICIPANT: None from OMA

MR. KORKOSZ: Do I understand there are no further questions for Mr. Wagner in this deposition?

(No response.)

MR. KORKOSZ: Having heard no response, the deposition is concluded, and as before, the applicants will not waive signature for the deposition.

I thank everyone for their courtesy and cooperation.

(The deposition concluded at 3:06 p.m.)

State of Ohio :
: SS:
County of ____________________ :

I, Harvey L. Wagner, do hereby certify that I have read the foregoing transcript of my deposition given on Wednesday, September 24, 2008; that together with the correction page attached hereto noting changes in form or substance, if any, it is true and correct.

____
Harvey L. Wagner

I do hereby certify that the foregoing transcript of the deposition of Harvey L. Wagner 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 __________________, ________.

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CERTIFICATE

State of Ohio :
: SS:
County of Franklin :

I, Rosemary F. Anderson, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named Harvey L. Wagner 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.

Rosemary F. Anderson

Rosemary F. Anderson,
Professional Reporter, and
Notary Public in and for the
State of Ohio.

My commission expires April 5, 2009.

(RFA-8103-2)

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