

FILE

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

C. RICHARD SMITH,
Complainant,

v.

OHIO EDISON COMPANY,
Respondent.

Case No. 10-340-EL-CSS

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NOTICE OF FILING DEPOSITION

Pursuant to Rule 4901-1-21(N), Ohio Administrative Code, Ohio Edison Company hereby provides notice that it is filing with the Commission, concurrently with this Notice, the transcript of the deposition of C. Richard Smith, which was taken on February 11, 2011.

Dated: February 18, 2011

Respectfully submitted,



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Counsel of Record

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Filing Deposition was delivered to the following person by email and first class mail, postage prepaid, this 18th day of February, 2011:

Bruce M. Broyles
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An Attorney For Respondent
Ohio Edison Company

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

C. RICHARD SMITH)	CASE NO. 10-340-EL-DSS
)	
Complainant)	
)	DEPOSITION OF
vs.)	
)	C. RICHARD SMITH
OHIO EDISON COMPANY)	
)	
Respondent)	

Deposition taken before me, Wendy A. Klein, Notary Public within and for the State of Ohio, on the 11th day of February, 2011, at 1:25 PM, pursuant to notice, taken at the offices of Simoni Court Reporting, 16 Wick Avenue, Suite 602, PNC Bank Building, Youngstown, Ohio, to be used in accordance with the Ohio Rules of Civil Procedure or the agreement of the parties in the aforesaid cause of action pending before the Public Utilities Commission of Ohio.

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APPEARANCES

On Behalf of the Complainant:
 Bruce M. Broyles, Esquire
 BRUCE M. BROYLES CO.
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On Behalf of the Respondent:
 Grant W. Garber, Esquire
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PROCEEDINGS

C. RICHARD SMITH

having been duly sworn according to law, on his
 oath, testified as follows:

MR. GARBER: Good afternoon,
 Mr. Smith, my name is Grant Garber. I'm from
 the law firm Jones Day, and I represent Ohio
 Edison in this case.

CROSS EXAMINATION

BY MR. GARBER:

Q. Could you please state your name again for
 the record?

A. C. Richard Smith, and I go by -- my first
 name is Charles, but I go by my
 middle name, Richard.

Q. You're represented by counsel today,
 correct?

A. Correct.

Q. And who is that?

A. Bruce Broyles.

Q. Mr. Smith, have you had your deposition
 taken before?

A. Yes.

Q. Okay. How many times have you been
 deposed?

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DEPONENT -- C. RICHARD SMITH
 EXAMINATIONS

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A. Twice.

Q. Can you tell me about what those two cases
 were?

A. One was a -- I witnessed an automobile
 accident on my way home from work
 some 50 years ago. The guy was
 drunk, and he turned around and sued
 the truck driver that he hit head on.
 I witnessed the collision. That was
 one. And the other one was another
 automobile accident where some lady
 hit me in the rear at a crossroads
 and she propelled me into the car in
 front of me, and the lady in front of
 me sued for damages. That was the
 two of them, and then this one.

Q. How long ago was the second case?

A. It's been about five years now.

Q. Have you ever given testimony in court or
 in a hearing before?

A. No.

MR. GARBER: There are a few
 ground rules I just want to go over briefly,
 and your counsel may have mentioned them as
 well. First I'd just ask that all your answers

2 (Pages 2 to 5)

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1 be in the form of audible words, as opposed to
 2 gestures. Do you understand that?
 3 THE WITNESS: Uh huh.
 4 MR. GARBER: And that's actually
 5 a good example. The uh huh's and uh uh's are
 6 probably ones we should stay away from as well.
 7 THE WITNESS: Yes.
 8 MR. GARBER: Great, thank you.
 9 Also I want to be sure that the questions that
 10 I am asking you are clear and that you
 11 understand them. So, will you please let me
 12 know if you don't understand a question that I
 13 ask?
 14 THE WITNESS: Yes.
 15 MR. GARBER: And finally, we're
 16 starting, I guess, after the lunch hour. If
 17 you need to take a break at any point, just let
 18 me know and we'll do that.
 19 Q. Can you -- tell me about your educational
 20 background.
 21 A. I graduated from Kinsman High School in
 22 1959, and I attended Youngstown
 23 University for a total of 12 semester
 24 hours, and I'm a journeyman machine
 25 repairman, and I was a maintenance

Page 7

1 supervisor for eight and a half years
 2 at Packard Electric.
 3 Q. And do you work now?
 4 A. No, I'm retired.
 5 Q. What was the last, we'll call it regular
 6 job that you had before you retired?
 7 A. Machine repairman.
 8 Q. And when did you retire from that job?
 9 A. Effective January 1, 1999.
 10 Q. What sort of machines were you repairing?
 11 A. All kinds of industrial machinery; plastic
 12 injection molds, wire cutting
 13 machines, all kind -- anything to do
 14 with manufacturing of electrical
 15 wiring harnesses.
 16 Q. Where did you -- where were you actually
 17 working when you were in that
 18 position? What was the name of the
 19 company?
 20 A. Packard Electric in Warren, Ohio.
 21 Q. And how long were you there?
 22 A. Thirty years.
 23 Q. In your time at Packard Electric, did you
 24 ever repair or work with electric
 25 meters?

Page 8

1 A. No.
 2 Q. Did you ever come across electric meters
 3 in your work at all at Packard
 4 Electric?
 5 A. Yes.
 6 Q. Tell me about that.
 7 A. Many times, I had to shut the power off of
 8 machinery and lock it out. Sometimes
 9 that entailed removing a meter to
 10 break the circuit.
 11 Q. Any other experience with electric meters
 12 at Packard Electric?
 13 A. No.
 14 Q. Any other experience with electric meters
 15 at any other point in your life?
 16 A. As a part-time job and as a -- as a
 17 part-time job, I took upon myself to
 18 do construction work; painting,
 19 framing, finish carpentry work,
 20 drywall repair; pretty much every
 21 phase of the building trades,
 22 including home electrical wiring.
 23 Q. And when were you doing that?
 24 A. Well, I built my own home in -- started in
 25 1976 and finished it in 1981, and I

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1 wired the complete house myself.
 2 Q. Have you done any electrical wiring work
 3 on any other homes?
 4 A. Yes.
 5 Q. Tell me about that.
 6 A. The one that I presently own at 1930
 7 Mahoning Avenue. I'm checking
 8 circuits out, adding some circuits,
 9 combining circuits; general
 10 revamping.
 11 Q. Have you done residential electrical
 12 wiring in any other home?
 13 A. Not that didn't belong to me, no. Never
 14 did that as a contractor, no.
 15 Q. How many homes do you own now?
 16 A. I own my home, and I have a duplex that I
 17 rent at 7047 Kinsman Nickerson Road,
 18 and the house at 1930 Mahoning.
 19 Q. Anything else?
 20 A. That's it.
 21 Q. And the first -- the home that you
 22 mentioned, the first one, that's also
 23 on Kinsman Nickerson Road?
 24 A. Yeah, since 1950 -- that's 7051, excuse
 25 me.

3 (Pages 6 to 9)

Page 10

- 1 Q. Have you ever worked for an electric
2 utility?
3 A. No.
4 Q. Do you hold any licenses or certifications
5 with respect to electrical wiring,
6 electric meters or electric
7 equipment?
8 A. No, but I've taken courses to -- so I was
9 better able to supervise those that
10 do work in the electrical field as
11 part of my maintenance supervising
12 training.
13 Q. That was when you were at Packard
14 Electric?
15 A. Correct.
16 Q. What can you tell me about those courses?
17 A. Gives you the general physics of
18 electricity and standards, safety
19 aspects.
20 Q. Did any of those courses discuss or relate
21 to electric meters?
22 A. No.
23 Q. Have you ever installed an electric meter?
24 A. No.
25 Q. Have you ever shut off an electric meter?

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- 1 A. No. Other than -- other than I told you
2 as a machine repairman. I'd
3 occasionally have a piece of
4 machinery where there's no lock-out
5 box. Then you have to break the
6 circuit. And to be truthful with
7 you, as a union requirement, trades
8 demarcation, I was supposed to call
9 an electrician to do that, but we all
10 did what you had to do to get the job
11 done.
12 Q. Now, throughout this deposition, I'm going
13 to refer to the 1930 Mahoning Avenue
14 property as either "the property" or
15 "the house." Will you understand if
16 I refer to it using one of those two
17 terms?
18 A. Sure. Yes.
19 Q. And will you let me know if at any point
20 I'm using a term in that way that's
21 unclear to you what I'm referring to?
22 A. Yes.
23 Q. We established that you do currently own
24 the 1930 Mahoning Avenue property.
25 A. Yes.

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- 1 Q. When did you purchase the property?
2 A. I actually purchased it August 8, 2008 at
3 sheriff's sale, Trumbull County
4 Sheriff's sale.
5 Q. How much did you pay for it?
6 A. \$13,000.
7 Q. And you do not currently live in that
8 house, right?
9 A. No.
10 Q. Does anyone currently live in the house?
11 A. No.
12 Q. Has anyone lived in the house since you
13 purchased it?
14 A. No.
15 Q. What are your plans for the -- that house
16 with respect to selling it or renting
17 it, that sort of thing?
18 A. Initially, I was going to put a couple
19 coats of paint on it and peddle it
20 and see if I could make myself a
21 quick profit. That has not happened,
22 and I have spent a good bit of money
23 remodeling it. I should say
24 repairing it. Repair would be a
25 better word because I haven't really

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- 1 changed anything other than just
2 repaired, and the -- you asked, the
3 other part of the question was what I
4 plan on doing with it? At the
5 present time? Present time, I plan
6 on giving it to either the Red Cross
7 or Warren Family Mission to be used
8 as temporary housing. Like somebody
9 got burned out in the middle of the
10 night and they needed a place to
11 stay.
12 Q. What's the time frame for when you
13 would -- for when you hope to be able
14 to use it in that way?
15 A. Probably sometime in the middle of the
16 summer, this coming summer, if I get
17 my power turned back on.
18 Q. When would the power have to be turned on
19 in order for you to more or less make
20 that deadline?
21 A. Oh, boy. Probably a couple weeks before I
22 transferred the deed, because most of
23 the work is done, and what's not done
24 doesn't require electricity, and I
25 have been working off of an

4 (Pages 10 to 13)

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1 electrical generator for the past two
 2 years; so --
 3 Q. Sitting here today, do you have any other
 4 thoughts as to what you might do with
 5 the house other than donate it to the
 6 Red Cross or the Warren Family
 7 Mission?
 8 A. I really don't have any choice.
 9 Q. Why do you say that?
 10 A. Because God woke me up in the middle of
 11 the night and told me what I was
 12 going to do with it, and He says,
 13 "You're going to fix it up and you're
 14 going to give it away." So --
 15 Q. Have you spoken with the Red Cross about
 16 this --
 17 A. I have not.
 18 Q. Have you spoken with the Warren Family
 19 Mission --
 20 A. I have not.
 21 Q. Let me -- just so the record is clear,
 22 I'll ask that again, and then I guess
 23 one thing, I'm trying not to
 24 interrupt you, just so the court
 25 reporter can take it down.

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1 A. Okay.
 2 Q. Have you spoke with the Red Cross about
 3 this idea you have of donating the
 4 house?
 5 A. No.
 6 Q. And have you spoken with anyone at the
 7 Warren Family Mission about this idea
 8 of donating the house?
 9 A. No.
 10 Q. When was the last time you were at the
 11 property?
 12 A. About ten days ago.
 13 Q. What were you doing there?
 14 A. Just inspecting it, make sure that it was
 15 still there and nobody had broke into
 16 it, and that the alarm system that I
 17 have inside is working.
 18 Q. Can you elaborate on what you mean by
 19 inspecting it?
 20 A. Well, there's been snow on the ground, and
 21 my grandson -- I don't walk very
 22 good; so, I always take one of my
 23 grandchildren with me, and we look
 24 for footprints leading through the
 25 snow, anything where somebody had

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1 approached the property, and we go up
 2 and open the back door and check the
 3 alarms out, and walk through the
 4 house, and lock it back up and leave.
 5 Q. Do you do anything else in the house while
 6 you're in there other than walk
 7 around?
 8 A. Since it got cold, no work has been done,
 9 no.
 10 Q. Before ten days ago -- or previous to ten
 11 days ago, when was the time before
 12 that that you --
 13 A. Probably about two weeks. About every two
 14 weeks, I've been doing this through
 15 the winter.
 16 Q. So, you're at the property around every
 17 two weeks during the winter season?
 18 A. Yes.
 19 Q. And you mentioned that you have a
 20 grandchild that -- or grandchildren
 21 that usually go with you?
 22 A. Yes.
 23 Q. Does anyone else go to the property other
 24 than when you're there?
 25 A. No. Not in the winter season.

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1 Q. Now, tell me about how that changes if
 2 we're in a different season.
 3 A. Well, I have employed subcontractors to do
 4 work, and to make it easier for them,
 5 I've given them keys to the property
 6 and they go and they do the work, and
 7 at the present time, I have all the
 8 keys in my possession. I have
 9 provided keys to the property for
 10 subcontractors.
 11 Q. When was the last time a subcontractor was
 12 at the property doing work of some
 13 sort?
 14 A. Late October of 2010.
 15 Q. Do you remember what was going on then?
 16 A. We were putting down baseboards in the
 17 living room and dining room.
 18 Q. How many times have you been to the
 19 property in the last year; so,
 20 basically, since the beginning of
 21 2010?
 22 A. Approximately about 70, 75 times. More
 23 than twice a week -- or more than
 24 once a week. At least that much,
 25 yeah.

5 (Pages 14 to 17)

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1 Q. During 2010, in the spring, summer,
 2 fall -- in other words, not during
 3 the winter season -- were you having
 4 subcontractors there throughout the
 5 year, or just only for certain
 6 periods of time?
 7 A. Certain tasks require a different
 8 subcontractor, and this last spring,
 9 summer and fall, there was
 10 contractors working in there in all
 11 those seasons.
 12 Q. What are the projects that the
 13 subcontractors -- or that anyone at
 14 the house was working on during 2010?
 15 A. You want a general answer or do you want a
 16 specific answer?
 17 Q. Well, start with a specific answer.
 18 A. Okay. First we had to strip all the
 19 damaged building materials out of the
 20 kitchen and the basement area, which
 21 there was another kitchen in the
 22 basement of this house; had to get
 23 out -- remove all the wet drywall and
 24 building materials. Then we had to
 25 go in there, and next was we went in

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1 there and put -- replaced all the
 2 broken copper -- all the broken water
 3 lines with new copper tubing; redid
 4 the bathroom -- the ceiling, which is
 5 the bathroom upstairs and the
 6 kitchen, and the copper tubing in the
 7 basement leading to the water meter
 8 and the water heater; and then we
 9 repaired some electrical circuits
 10 that were damaged, removed some and
 11 added some in other areas; and then
 12 we put in new drywall, and then we
 13 put in under laminate on the floor
 14 and put down flooring, and then we
 15 put tile on the walls and we hung
 16 kitchen cabinets, and the kitchen is,
 17 at this present stage, about
 18 95 percent complete.
 19 Q. What's left to do?
 20 A. For one thing, I need to turn the water on
 21 and check it for leaks after -- I
 22 winterized the water system, but I'd
 23 have to take it and check it and make
 24 sure it didn't leak, that there
 25 wasn't any damage done from the

Page 20

1 freezing weather the past winter.
 2 There's a couple electrical outlets
 3 that need to be made ground fault and
 4 they were not, and that's pretty much
 5 it. Touch-up paint here a little
 6 bit. Whatever needs to be done. Not
 7 much.
 8 Q. When you say winterized, that you
 9 winterized the water system, I think
 10 is what you said, what do you mean by
 11 that?
 12 A. You shut the water off at the water meter,
 13 you break the union at the water
 14 meter, you go upstairs and open up
 15 all the faucets and flush the
 16 toilets, and you drain all the water
 17 out of the lines all the way down to
 18 the water meter. Then you go
 19 upstairs and start upstairs, and you
 20 take a high pressure air up there and
 21 you put it into the water lines, and
 22 you blow the remaining water out of
 23 the lines. You remove what water is
 24 standing in the commodes, you winter
 25 freeze or -- like they put in a

Page 21

1 mobile home to the toilets, in the
 2 traps, you -- so if it freezes, it
 3 won't break them. That's what's --
 4 the present state it is right now, as
 5 it was the year before.
 6 Q. All right. When were these projects going
 7 on at the house most recently; so,
 8 for this current winter?
 9 A. Before we winterized that -- when it got
 10 cold, we had to stop.
 11 Q. No, I'm sorry. When was this winterizing
 12 going on, the most recent -- for the
 13 most recent winter, this one?
 14 A. November -- say from November 1 to
 15 November 15, and --
 16 Q. And who was -- I'm sorry. Who was working
 17 on that? Who was doing that?
 18 A. I did it and my grandson.
 19 Q. So, it was just one grandson that was
 20 helping you with this?
 21 A. Yep.
 22 Q. How old is he?
 23 A. Seventeen.
 24 Q. And for the winter prior, you said that
 25 you winterized the home as well?

6 (Pages 18 to 21)

Page 22

1 A. It was all busted.
 2 Q. So, when did you do that?
 3 A. Pardon?
 4 Q. Winterizing? Because I think you
 5 mentioned --
 6 A. The year before?
 7 Q. Uh huh.
 8 A. In the spring of 2009, January 27, 2009,
 9 you people -- your people, or your
 10 client pulled the meter off the
 11 house, and that caused the water
 12 inside the house to freeze. The
 13 lines were pressurized up to that
 14 point and there was heat inside the
 15 house. By the time I discovered it,
 16 the lines had froze. So, when it got
 17 warm, the water melted inside the
 18 lines and allowed the city water to
 19 go up, and it leaked all over the
 20 place. Anyhow, after that happened,
 21 I went down and used -- in the
 22 basement, I did this, I capped a
 23 couple lines in the basement and --
 24 so I had water to work with in the
 25 basement.

Page 23

1 There's a big concrete slop sink
 2 in the basement, an old-fashioned
 3 one, and I put water to that, and one
 4 commode in the basement, and then I
 5 hired plumbers to come in there and
 6 replace the copper tubing in the --
 7 and there was damage, and that fall,
 8 the fall of 2009, we did the same
 9 thing; we winterized the home summer
 10 of 2009, and then I recharged it the
 11 following spring, and we also made
 12 more repairs in 2010 to the water,
 13 and then in the fall 2010, we
 14 winterized it once again.
 15 Q. Now, at the beginning of that answer, you
 16 talked about the winterizing type
 17 projects that you did after the
 18 leaking had occurred, after the pipes
 19 had burst or it started leaking.
 20 When were you doing those winterizing
 21 projects in 2009?
 22 A. March 2009. I had contracted earlier to
 23 have the house painted, and first I
 24 contracted -- before this all
 25 happened, I had contracted to have

Page 24

1 the paint sandblasted from the
 2 outside of the house. Contractors
 3 removed 16 layers of paint, and 13 of
 4 them were lead based, right down to
 5 the wood. The house sat that way --
 6 it didn't get done till late in the
 7 fall. It was December before they
 8 got done. The house sat that way,
 9 and that's the way it was when the
 10 meter was pulled off the house, and
 11 the following spring, March, they
 12 came and put two coats of primer on
 13 it, and I wanted the workmen to have
 14 a place to go to the bathroom and
 15 wash their brushes and stuff out.
 16 So, that's the reason why I did that.
 17 Q. After the meter was removed in January of
 18 2009, when did the pipes start
 19 leaking?
 20 A. They started leaking two weeks after -- or
 21 wait a minute. They started leaking
 22 about two weeks after January 27,
 23 about the middle of February, I would
 24 say, and I had a young man in there,
 25 Jonathan --

Page 25

1 Q. And when did you discover that they had
 2 leaked?
 3 A. I'm going to get to that.
 4 Q. Well, let me ask you that. When did
 5 either you or someone else, as far as
 6 you know, discover that the pipes had
 7 started leaking?
 8 A. About February 14.
 9 Q. Do you have any idea how long they had
 10 been leaking before someone found
 11 out?
 12 A. Not very long.
 13 Q. What makes you say that?
 14 A. Because Warren City's water bill for that
 15 month showed that \$94 of Warren City
 16 water went down through that house,
 17 and that sounds like a lot of water,
 18 and it is a lot of water, but if it
 19 had been days, it would have been a
 20 lot more than that.
 21 Q. And how long were the pipes leaking?
 22 A. Till they were discovered that it was
 23 leaking.
 24 Q. So, when they were discovered around the
 25 middle -- February 14, I think you

7 (Pages 22 to 25)

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1 said? So, how long after that before
2 the leaking stopped or the leaking
3 was stopped?
4 A. Within five minutes.
5 Q. So, the pipes had been leaking for about
6 two weeks, give or take?
7 A. No, I very much doubt that, and as I was
8 going to tell you before, I had a
9 young man, Jonathan Allen in the
10 house, and he was removing carpet and
11 stuff off the basement floor and
12 drywall that was in the basement that
13 was full of mildew and he was
14 stripping that basement out. The man
15 who owned this place at one time had
16 triplexed the place. He had rented
17 the upstairs, the ground floor and
18 the basement, and the basement had a
19 full apartment in it, and the
20 basement was musty and dirty and it
21 stunk, and I had him in there
22 cleaning that out, and he went to
23 work one morning to work on that and
24 he discovered the water running
25 through the house, and he went down,

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1 shut the water off at the meter in
2 the basement.
3 Q. And this was on -- around February 14,
4 2009?
5 A. Correct.
6 Q. And I'll ask again, do you have any idea
7 how long it had been leaking?
8 A. As I stated, \$94 worth of water, in my
9 opinion, probably was about maybe two
10 days at the very most. You'd have to
11 check with the City of Warren how
12 much a three-quarter inch line flows.
13 Q. Was there standing water on the -- was
14 there standing water on the floor by
15 the time --
16 A. Yes.
17 Q. -- Jonathan discovered it?
18 A. Yes. It was froze to the floor.
19 Q. I'm giving you a blank sheet of legal
20 paper. I don't know if you have a
21 pen; you can borrow mine. I'd like
22 you to just sketch out a very
23 brief -- or a very basic map of the
24 house, maybe showing the orientation
25 of streets that are close by and then

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1 the electrical meter.
2 MR. BROYLES: And if he's going
3 to use this as a reference to testify from, if
4 you would get the back of it marked as an
5 exhibit.
6 MR. GARBER: Yeah, we can mark
7 it.
8 MR. BROYLES: Okay.
9 A. How about a picture?
10 Q. Sure, a picture -- I mean, I do have the
11 pictures, but it was tough to tell
12 from the pictures that were provided
13 kind of an overview orientation. So,
14 I don't know if you could just
15 draw --
16 A. You get one off of the Trumbull County
17 Auditor's office? Is that the one
18 you used?
19 Q. Yeah, I've looked at that, yeah, but in
20 terms of an overhead view.
21 A. Okay.
22 Q. Okay. You about finished?
23 A. Okay. Here's the electrical meter right
24 here on this corner of the house;
25 there's the driveway; there's

Page 29

1 Mahoning Avenue; this would be
2 Comstock over here. There's the
3 house. What else did you want on
4 there? Where the doors are at?
5 Q. No, I think that's good for now.
6 MR. GARBER: I guess, now could
7 we mark this as Exhibit A?
8 (DEFENDANT'S EXHIBIT A MARKED)
9 MR. BROYLES: And Mr. Smith
10 identified a street, but didn't write the name
11 of it.
12 A. Mahoning -- or Comstock? Is it okay if I
13 go ahead and write "Comstock" on
14 that?
15 Q. So, when the meter was at the house, there
16 was only just one electric meter,
17 right, serving the house? I need a
18 verbal answer.
19 A. Huh?
20 Q. I need a verbal answer.
21 A. Yes, one electrical meter.
22 Q. And how far was the meter from the
23 driveway?
24 A. Eight feet.
25 Q. How far was the meter from Mahoning Drive?

8 (Pages 26 to 29)

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- 1 A. Mahoning Avenue?
 2 Q. Mahoning Avenue, yeah, sorry.
 3 A. Thirty-five feet.
 4 Q. Was the meter visible from Mahoning
 5 Avenue?
 6 A. Yes.
 7 Q. Is there currently a fence around the
 8 house or around the property?
 9 A. Originally, there was a fence all the way
 10 around the property. I removed most
 11 of it. The only fence that's left
 12 now is between the people that live
 13 on this side of the driveway, and
 14 there's a little gate here across the
 15 driveway.
 16 Q. When did you decide to donate the property
 17 to either the Red Cross or the Warren
 18 Family Mission?
 19 A. As I said, I woke up in the middle of the
 20 night and God told me I was going to
 21 do that.
 22 Q. Which night was that?
 23 A. I don't recall. It's been a year ago
 24 maybe.
 25 Q. When did you remove the fence except for

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- 1 the portion that you just mentioned?
 2 A. The fall of 2009.
 3 Q. So, by --
 4 A. My son removed it for me.
 5 Q. So, by November 2009, the only part of the
 6 fence that was still standing was the
 7 part across from the driveway?
 8 A. And the back line. The back line,
 9 neighbor's, there's also another
 10 piece. This piece down here and this
 11 piece here. This piece here was all
 12 removed, and that fed right up here,
 13 come up this side, then come up here
 14 to this corner of the house right
 15 here.
 16 Q. So, by November 2009, there was no fence
 17 between the house and Mahoning
 18 Avenue?
 19 A. Correct.
 20 Q. When was the first time you entered the
 21 house?
 22 A. September 8, 2008.
 23 Q. Was anybody with you on that day?
 24 A. No.
 25 Q. Had you been to the property before you

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- 1 purchased it?
 2 A. Pulled in the driveway, got out, walked
 3 around the property, got back in my
 4 car and left.
 5 Q. Did you take a look at the electrical
 6 meter when you were there that day?
 7 A. No.
 8 Q. And when were you there before you
 9 purchased it?
 10 A. September -- or August 8, 2008, the day of
 11 the sale.
 12 Q. So, you went and looked at it before the
 13 sale?
 14 A. Correct.
 15 Q. What did you do when you were at the
 16 property on September 8, 2008?
 17 A. September 8?
 18 Q. Uh huh.
 19 A. I had a paper from the Court saying that I
 20 was the successful buyer. I had to
 21 put 10 percent down. The lady at the
 22 court told me that the -- there was a
 23 90 days -- or 30 days before the sale
 24 would be complete because they had to
 25 give the property owner a chance to

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- 1 appeal it. So, I went there after
 2 the sale on the 8th, and I took
 3 another look at it after I -- and my
 4 grandson was with me that day,
 5 Andrew, and we didn't attempt to make
 6 it to enter the property because I
 7 didn't own it, and -- but we did walk
 8 around it and I did take a look at
 9 the house and see what I bought. We
 10 tried peeking through the windows and
 11 there was blinds on the windows and
 12 every window in the house was
 13 obscured; you couldn't see through
 14 it.
 15 So, we left, and the next time I
 16 went to the house was on September 8,
 17 2008, and I had -- I paid the
 18 additional \$11,700 that I owed on
 19 the -- to the sheriff, and they gave
 20 me a receipt for it, and I asked the
 21 lady at the courthouse, I says, "Does
 22 this mean that I now own it?" And
 23 she says, "Well," she says, "you own
 24 it." She says, "The Court -- the
 25 deed is not recorded yet, but you own

9 (Pages 30 to 33)

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1 it." And I says, "Well, is there
2 keys to it?" And she says, There are
3 no keys." I says, "Well, how do I
4 get in it?" And she says, "Well,
5 you'll have to call a locksmith, I
6 guess." Well, I'm not about to spend
7 money on a locksmith. So, I went up
8 there to see if I could get in it,
9 and I took a screwdriver and pried
10 the moldings away from the back door
11 and slid an old hacksaw blade that I
12 had in the truck through there and
13 pushed the back door open, and that's
14 the first time I entered the house.
15 Q. Did you notice that -- whether the
16 electricity was on on that day?
17 A. Yes.
18 Q. And how did you notice it?
19 A. Checking out the property just to see what
20 I had, I was walking through the
21 house and everything, and I had a
22 flashlight, and went down into the
23 basement and observed the basement,
24 and there was a -- at the bottom of
25 the steps to the left, there was a

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1 Federal electrical breaker box.
2 Those things are no longer made. And
3 I looked at the breaker box, and all
4 the breakers were shut off except
5 one, and just for the hell of it, I
6 reached up there and flipped the main
7 breaker, and lo and behold, the light
8 came on in the basement next to the
9 breaker box.
10 Q. Did you try any other lights --
11 A. I did not do that because I didn't know
12 the condition of them or nothing. I
13 just turned it on and noticed that I
14 had power to the house.
15 Q. Did you notice any electrical appliances
16 in the house when you were there on
17 September 8?
18 A. Yes.
19 Q. What were they?
20 A. Downstairs in the basement, in that
21 basement kitchen, there was an old GE
22 or Westinghouse -- and I'm not really
23 sure of the make, I don't remember --
24 turkey roaster, and they had taken it
25 and put it on the counter, and it was

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1 tipped up like this and it was
2 plugged in and plugged to the
3 receptacle. It was like this on the
4 counter.
5 Q. Could you tell if it was working?
6 A. I didn't try it. I never did try to see
7 if it was working, to tell you the
8 truth.
9 Q. Any other electrical appliances that you
10 noticed on September 8?
11 A. No.
12 Q. So, the only evidence that the power was
13 on was the basement light when the
14 basement light turned on?
15 A. Correct.
16 Q. Do you remember the next time you were at
17 the property?
18 A. The next day, September 9, 2008.
19 Q. Your complaint -- or amended complaint
20 mentions that there was evidence that
21 vagrants had been living in the
22 house.
23 A. Correct.
24 Q. What was that evidence?
25 A. On September 8 when I went down into that

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1 basement, there was food boxes from
2 McDonald's and -- you name it,
3 carry-out food boxes that they might
4 get from a church basement for food,
5 or whatever, and they were
6 everywhere. There was makeshift beds
7 in the basement. There was plastic
8 bags full of clothes. There was --
9 the commodes in the house, even
10 though there was no water in them,
11 there was feces and they were just
12 full of feces. Terrible. All the
13 windows in the basement were covered
14 with a real heavy, hard cardboard
15 type packing paper so that no light
16 could get out. The window in the
17 back of the house, the man who owned
18 it prior to me taking possession of
19 it had taken two-by-four's and stood
20 them vertically and made bars like
21 over the cellar windows and he had
22 nailed them into the casings, and the
23 back window, somebody had got down
24 there, you could see where they had
25 removed the window from the outside

10 (Pages 34 to 37)

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1 and -- the storm window and they had
 2 taken their foot and they had kicked
 3 those out, and they were traversing
 4 in and out of that back window.
 5 Q. How long before you purchased the
 6 property -- how long before you
 7 purchased the property had people
 8 been living there?
 9 A. I have no idea.
 10 Q. Could it have been within six months of
 11 when you bought it?
 12 A. Yes. Could have been, more than likely,
 13 was a year.
 14 Q. Certainly within the year prior to when
 15 you bought it; is that what you mean?
 16 A. The neighbors in the neighborhood
 17 complained to the Warren City Police
 18 Department on several occasions, one
 19 occasion that they seen people
 20 leaving and entering that property,
 21 and --
 22 Q. How long ago before you purchased it did
 23 that happen?
 24 A. The last one known to me is nine months
 25 before I purchased it.

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1 Q. Is it possible that people could have been
 2 living in the house even within
 3 the -- in July or -- basically, in
 4 July of 2008?
 5 A. Possible. I wouldn't know.
 6 Q. Who was the man who owned the house prior
 7 to you?
 8 A. What was his name?
 9 Q. Was it Joseph Paige?
 10 A. Paige, yeah. He lost it.
 11 Q. Okay. Did you know him?
 12 A. Know nothing about him. Other than what
 13 the neighbors told me. That's all I
 14 know. It's hearsay.
 15 Q. So, what did -- do you know how long
 16 before you purchased the house that
 17 Mr. Paige had lived there?
 18 A. When he moved out? I was led to believe
 19 the house was closed up for three
 20 years before I purchased it.
 21 Q. But during that time, at least during part
 22 of that time, Mr. Paige owned --
 23 still owned the house?
 24 A. I believe he did, yes.
 25 Q. When was the house built?

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1 A. 1908.
 2 Q. Okay.
 3 A. 100 years exactly when I bought it.
 4 Q. When was the current roof on the house put
 5 on?
 6 A. Some man stopped by there, and he owned it
 7 prior to Mr. Paige, and he -- he had
 8 it put on there, and the condition of
 9 the roof -- I don't know when it was
 10 put on there, but the condition of
 11 the roof, I would say it's been about
 12 25 years ago that it was put on,
 13 because it needs to be replaced.
 14 There's slate underneath that roof.
 15 Q. Do you plan on taking any sort of tax
 16 deduction or write-off if you donate
 17 the house, as you described earlier?
 18 A. Probably, yes.
 19 Q. When was the current electrical wiring in
 20 the house installed?
 21 A. From my knowledge, from what I know about
 22 wiring, it's been since the Second
 23 World War. Most of the old single
 24 post wiring, the original wiring has
 25 been removed. There's some of it

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1 still in the walls and that, but it's
 2 not being used, but the house has
 3 been rewired in different stages in
 4 the last 50 years, using Romex and --
 5 Q. When were the current pipes, water pipes
 6 installed?
 7 A. I have no idea. Current ones, the current
 8 ones, I installed, but the ones prior
 9 to that, I have no idea.
 10 Q. Could they have been as old as the roof?
 11 A. No.
 12 Q. Could they have been 20 years old?
 13 A. Yes.
 14 Q. Could they have been 30 years old?
 15 A. Yes.
 16 Q. Is there air conditioning currently in the
 17 house?
 18 A. No.
 19 Q. Was there air conditioning in the house
 20 when you purchased it?
 21 A. No.
 22 Q. What is the heating system in the house?
 23 A. Forced-air gas fire and furnace.
 24 Q. And was that in place when you purchased
 25 it?

11 (Pages 38 to 41)

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1 A. Yes.
 2 Q. How old is that?
 3 A. I don't know.
 4 Q. If you had to take a guess?
 5 A. Fifteen years old.
 6 Q. When was the last time you looked at the
 7 electric meter that served the
 8 property?
 9 A. The last time that I looked at it? It's
 10 been gone since January 27, 2009, and
 11 it probably was -- probably maybe
 12 October 2008, maybe.
 13 Q. How many times had you looked at the
 14 electric meter between when you
 15 purchased the house and when you last
 16 looked at it in October of 2009 --
 17 I'm sorry. When was the last time
 18 you looked at the meter?
 19 A. October 2008.
 20 Q. And how many times did you look at it
 21 between when you purchased it and
 22 October 2008?
 23 A. Two, three times. I'm not sure. Can I
 24 explain? Okay. The power was on.
 25 Went out there to check the meter and

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1 I wanted to see if the meter was
 2 running. The house was painted white
 3 when I bought it, and there was paint
 4 chalk all over the meter. You could
 5 not see through the meter. So, I
 6 went and got a spray bottle of
 7 household cleaner and some
 8 double-ought steel wool and I went
 9 out there and sprayed it and cleaned
 10 it off so I could see if it was
 11 turning. In fact, it was hardly
 12 turning.
 13 Q. And when did you do this?
 14 A. 2000 -- September 10, maybe or --
 15 September 9. September 9, 2008, the
 16 day after I purchased it.
 17 Q. So, the meter was turning in September of
 18 2008?
 19 A. It was only turning because I had the
 20 cellar light on, yeah.
 21 Q. So, at that time, you didn't have anything
 22 else, as far as you know, pulling a
 23 load in the house or drawing
 24 electricity?
 25 A. Nothing. There was no appliances running,

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1 including the furnace. Nothing.
 2 Q. Did you notice a seal on the meter in
 3 September of 2008?
 4 A. Yes. It was cut.
 5 Q. What color was the seal?
 6 A. Don't remember.
 7 Q. Could it have been yellow?
 8 A. Possible.
 9 Q. What do you mean when you said the seal
 10 was cut?
 11 A. The wire was -- that forms the loop was
 12 severed, and they had placed it back
 13 in -- placed it back in the slot and
 14 made it appear like it was not.
 15 Q. Was the -- did you observe any damage to
 16 the meter in September 2008?
 17 A. No.
 18 Q. Was the meter base broken, as far as you
 19 could tell?
 20 A. No.
 21 Q. Did you see any jumper cables on or near
 22 the meter?
 23 A. No.
 24 Q. Have you ever seen jumper cables on or
 25 near the meter?

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1 A. No.
 2 Q. When was the first time you called Ohio
 3 Edison about service at the property?
 4 A. September 10, 2008. I think sometime in
 5 the afternoon. I'm not sure.
 6 Q. When was the next time you called them?
 7 A. Well, according to -- I thought it was the
 8 latter part of October. Your records
 9 says it was November 5, I believe,
 10 2008. I wasn't sure.
 11 Q. Do you think you made calls in both late
 12 October and November 5, or do you
 13 think it was just one or the other?
 14 A. One or the other. I don't think I called
 15 them again.
 16 Q. What was the next time after that that you
 17 called Ohio Edison?
 18 A. On September -- or January 27, I think it
 19 was, or 28, complaining about them
 20 removing the meter from the house.
 21 Q. Did anyone at Ohio Edison ever call you
 22 about electric service at the
 23 property?
 24 A. No.
 25 Q. Did you ever e-mail Ohio Edison about

12 (Pages 42 to 45)

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1 electric service at the property?
 2 A. I e-mailed them after they took -- pulled
 3 the meter off. I sent them the
 4 documentation to prove that I had
 5 purchased the house and -- I called
 6 between -- between September 27 or
 7 28, near -- or January 27 or 28. I
 8 called them several times between --
 9 I don't know if it was two or three
 10 times, and --
 11 Q. Well, let me back up. So, between when
 12 you purchased the property and when
 13 the meter was removed from the
 14 property, you called Ohio Edison
 15 twice about the electrical service,
 16 correct?
 17 A. Right.
 18 Q. And the first time was around
 19 September 10, 2008, right?
 20 A. Yes.
 21 Q. And the second time was either late
 22 October or November 5, 2008?
 23 A. Yes.
 24 Q. Did you communicate in any other way with
 25 Ohio Edison about electric service to

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1 the property other than those two
 2 calls before the meter was removed?
 3 A. I did not.
 4 Q. Did anyone else do so, or attempt to do so
 5 on your behalf?
 6 A. Yes.
 7 Q. Okay. Tell me about that.
 8 A. I was required to have the Warren City
 9 electrical inspector inspect the
 10 electrical system. I went to the
 11 Warren City electric -- electric
 12 department -- building department and
 13 took out a permit. The same day, the
 14 electrical inspector came over to the
 15 property and took an initial look at
 16 it and told me what I needed to do to
 17 fix it before he would approve it. I
 18 did that, and I think it was the
 19 23rd of September, thereabouts,
 20 that I called him again and told him
 21 I was ready to have him come back and
 22 inspect it, and he came that same day
 23 and he approved the electrical
 24 system. He put a sticker on the side
 25 of the meter base, and I told him, I

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1 says, "Are you going to call Ohio
 2 Edison and tell them that this has
 3 been approved?" And he said, "Yes."
 4 And he sent them a fax, which we have
 5 a copy of, stating that it was okay
 6 to reconnect, is what it said on it.
 7 Q. Other than the two calls that you made in
 8 September and either October or
 9 November of 2008 and the fax from the
 10 Warren City inspector, are you aware
 11 of any other communications between
 12 anyone at Ohio Edison regarding
 13 service at the property?
 14 A. No.
 15 Q. What did you tell Ohio Edison in the first
 16 phone call that you made in
 17 September 2008?
 18 A. I told them that I took possession of the
 19 property and how I went about -- how
 20 I got possession of the property,
 21 that I was the new owner, and on
 22 inspecting the property, I discovered
 23 that the electricity was on at the
 24 breaker box, and I wanted to know how
 25 I'd go about getting that power put

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1 in my name.
 2 Q. Do you remember telling them anything else
 3 or asking them anything else?
 4 A. Oh, yeah. She -- the lady on the other
 5 end of the phone says, "That power is
 6 not supposed to be on." And I says,
 7 "Well, Ma'am, it is." I says -- I
 8 explained to her, just as I did
 9 earlier, that I checked it and power
 10 was on to the breaker box. She says,
 11 "Well, that can't be. It's supposed
 12 to be turned off," and she says, "I'm
 13 going to have to send somebody out
 14 there immediately to shut it off."
 15 And I says, "Well, Ma'am, I really
 16 don't want you to shut it off." I
 17 says, "I just want to know how I get
 18 it put in my name so I can continue
 19 to use it." And she says, "Well, you
 20 have to get an electric -- inspected
 21 by the City of Warren because it's
 22 been over two years," or something
 23 like that, whatever their limit is,
 24 "and it has to be reinspected before
 25 we'll turn the power back on," and

13 (Pages 46 to 49)

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1 she told me that she was going to
 2 have to send somebody out there and
 3 shut the power off. I says, "Well,
 4 Ma'am, you do what you have to do,"
 5 and I says, "I'm going to get this
 6 inspected." And at that time, I gave
 7 her my full address -- my name and my
 8 full address, where to send the bill,
 9 everything, and I know from -- I know
 10 that Ohio Edison has caller ID, and
 11 so, she had to have my name and
 12 address.

13 Q. Did you give her -- did you actually tell
 14 her your name and address?

15 A. Yes, I did.

16 Q. What other information did you tell to
 17 Ohio Edison during that September
 18 call? We have your name, your
 19 address, the address of the property,
 20 right?

21 A. Uh huh.

22 Q. What else?

23 A. You know, told them that the power was
 24 turned on and that I needed to know
 25 how I'd go about getting this put in

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1 my name, and she informed me that
 2 she'd have to have the power shut
 3 off. I told her that I didn't really
 4 want it shut off, but she said she
 5 had no choice but to do that.

6 Q. Did she tell you when the power would be
 7 shut off?

8 A. She said she'd have to send somebody out
 9 there immediately, I believe the word
 10 was.

11 Q. Any other questions you remember Ohio --
 12 the Ohio Edison personnel asking you
 13 during that call?

14 A. Well, she asked me, you know, if I owned
 15 the property, and I told her yes. I
 16 told her how I'd gone about
 17 purchasing it, and I told her I was
 18 initially inspecting it and
 19 discovered the power was turned on.

20 Q. Did you tell Ohio Edison in the
 21 September 2008 call that the seal on
 22 the meter had been cut?

23 A. I don't remember doing that, no.

24 Q. You don't remember, or you didn't tell
 25 them?

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1 A. I don't think I did, no.

2 Q. Let's talk about the call that was either
 3 in late October or early
 4 November 2008. Tell me about that
 5 call.

6 A. Six weeks had gone by or more. I had the
 7 water turned on, I had to get all
 8 that repaired, and I had the gas
 9 lines inspected and had the gas
 10 turned on, and I was receiving bills
 11 from the City of Warren for the water
 12 and deposits, and what-have-you, and
 13 the same way with the gas, and I
 14 hadn't heard a word from Ohio Edison
 15 and I was concerned about getting a
 16 monstrous bill, or something, and I
 17 called them and wanted to know why I
 18 had not received a bill.

19 Q. And how did the conversation go from
 20 there?

21 A. I was told, she says to me, this lady
 22 did -- and I don't know who it was,
 23 but she told me, she says, "Are you a
 24 contractor?" And I says, "Well, I'm
 25 an owner/contractor." I says, "I

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1 have done this kind of thing before,"
 2 and it was my intent to fix the house
 3 up and sell it for a profit. And she
 4 told me, she says, "Well, we'll grant
 5 you contractor's privilege." And I
 6 says, "Oh? How's this work?" And
 7 she says, "Well, you use the power."
 8 She says, "You're just going to run
 9 some -- a few saws and some power
 10 equipment, right?" And I said,
 11 "Yeah." She says, "Nobody is going
 12 to be living in there?" And I said,
 13 "No." And she says, "Well, when you
 14 get ready to transfer the deed to the
 15 new owner, we'll come out and read
 16 the meter and you pay us for the
 17 amount of electricity that was used
 18 on the meter." And I says, "That's
 19 fine with me." And that's where it
 20 ended until January 27.

21 Q. Did the Ohio Edison rep in the October,
 22 November call indicate then that the
 23 power would not be shut off?

24 A. The power was never shut off.

25 Q. But did the person you spoke with in

14 (Pages 50 to 53)

Page 54

1 October, November tell you that the
2 power would not be shut off?
3 A. She did not. She -- let me get it right
4 here. I told her that I had been
5 using the power, you know, and I
6 hadn't received a bill and I wanted
7 to know why, and I also, at the same
8 time, gave her my name and address
9 again at the same time.
10 Q. Did she tell you that the power would
11 remain on?
12 A. I asked her if she had received word from
13 Ohio Edison that the inspection was
14 complete and it was -- and she said
15 yes, they had. That's what she said,
16 and I asked her why I had not
17 received a bill, and she didn't
18 answer that question. She just went
19 on to ask me if I was a contractor.
20 Q. Did the Ohio Edison representative you
21 spoke with in the October, November
22 call say that the power would remain
23 on at the property?
24 A. No.
25 Q. In the October, November call, did you

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1 tell Ohio Edison that the seal on the
2 meter had been cut?
3 A. No. I don't recall telling Ohio Edison or
4 anybody that that meter -- the seal
5 was cut. Sir, my --
6 Q. Let me stop you there. Do you remember --
7 on the September call, do you
8 remember who you spoke with?
9 A. No. I believe it was the same person --
10 the voice sounded like the same
11 person I had talked to initially.
12 Q. Was it a female both times?
13 A. Both times, yes. I'm sure your records
14 would show you that.
15 Q. Did you call an 800 number both times?
16 A. Correct.
17 Q. Did you call the same number both times?
18 A. Yes.
19 Q. Where did you get that number?
20 A. Out of the phone book.
21 Q. For the September 2008 call, were you ever
22 transferred to another Ohio Edison
23 call center employee?
24 A. No.
25 Q. Did the -- so, you only spoke with one

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1 person during that call?
2 A. Yes.
3 Q. Did that person ever try to transfer you
4 to someone else?
5 A. No.
6 Q. For the second call, the October,
7 November 2008 call, was that call
8 ever transferred to another person?
9 A. No.
10 Q. So, you only spoke with one person during
11 that call?
12 A. Yes.
13 Q. Did that person ever attempt to transfer
14 that call to someone else at Ohio
15 Edison?
16 A. No.
17 Q. In the September or October, November
18 calls, did you ever tell Ohio Edison
19 what the closest cross street was to
20 the property?
21 A. I don't recall. I don't think so, no.
22 Q. In the September or October, November
23 calls, did you ever tell Ohio Edison
24 where the closest electrical pole
25 was?

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1 A. No.
2 Q. Did you ever tell Ohio Edison what the
3 pole number was?
4 A. No.
5 Q. In either the September or October,
6 November 2008 calls, did you tell
7 Ohio Edison the voltage of the
8 service that you wanted from Ohio
9 Edison?
10 A. No.
11 Q. Did you tell Ohio Edison the amps, the
12 service you wanted?
13 A. No.
14 Q. Did you tell Ohio Edison what phase
15 service you wanted?
16 A. No.
17 Q. Did you tell Ohio Edison the kind of hot
18 water source you had in the house?
19 A. No.
20 Q. Did you tell Ohio Edison the size of the
21 heater or the hot water tank in the
22 house?
23 A. No.
24 Q. Did you tell Ohio Edison the type of
25 furnace you had in the house?

15 (Pages 54 to 57)

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- 1 A. No.
 2 Q. Did you tell Ohio Edison the type of
 3 cooling source, air conditioner you
 4 had in the house?
 5 A. No.
 6 Q. Did you tell Ohio Edison or -- did you
 7 list for Ohio Edison the types of
 8 appliances in the house?
 9 A. No.
 10 Q. Did you identify any appliances to Ohio
 11 Edison?
 12 A. No.
 13 Q. And in either the September or October,
 14 November 2008 calls, did Ohio Edison
 15 provide you with a notification
 16 number?
 17 A. No.
 18 Q. For any call that you have had with Ohio
 19 Edison, have you ever hung up on
 20 them?
 21 A. That sounds like something I might do, but
 22 I want to say no, I don't think I
 23 did. No. I get pretty hot, but I
 24 don't think so.
 25 Q. Do you remember ever hanging up while

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- 1 being placed on hold in a call to
 2 Ohio Edison?
 3 A. No.
 4 Q. Did you submit an application for
 5 electrical service to Ohio Edison?
 6 A. No. How do you go about doing that? It's
 7 all done on 1-800 numbers. I have in
 8 the past, yes. In my history, yes, I
 9 have done that. I've gone up to
 10 Andover, Ohio, sat down across the
 11 desk from a real person and filled it
 12 out. You people don't -- or your
 13 people that you represent do not do
 14 that anymore.
 15 Q. Were you present for the inspection that
 16 the Warren City inspector made --
 17 A. Yes.
 18 Q. And what happened during that inspection?
 19 A. The initial one?
 20 Q. Yes. So, just so the record is clear, I
 21 believe you said --
 22 A. The initial inspection --
 23 Q. Hang on a second. So, I believe you said
 24 that there was --
 25 A. Issues I had to correct.

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- 1 Q. Right. So, the second inspection was the
 2 one on September 23, 2008? Is that
 3 the second one?
 4 A. Uh huh.
 5 Q. All right. When was the first one?
 6 A. The first one was September 12, I think it
 7 was.
 8 Q. All right. Let's --
 9 A. 2008.
 10 Q. Let's start with that one. Tell me just
 11 generally what happened during that
 12 inspection.
 13 A. I went down to the electrical department,
 14 took out an electrical inspection for
 15 \$25.25. He was sitting at his desk
 16 and he says, "Are you going over to
 17 the house right now?" And I says, "I
 18 can." And he says, "Well, I'll
 19 follow you over there." So, that's
 20 what he did. I opened the house up,
 21 we went down the basement, he looked
 22 at the electrical service and he
 23 pointed out that there was no clamps
 24 in the box. The wire clamps where
 25 they entered the box, the person that

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- 1 wired it never used them. He says,
 2 "You're going to have to put clamps
 3 on all those wires," and he says,
 4 "And that ground over there," he
 5 says, "you need to put a jumper from
 6 one side of that electrical meter to
 7 the other because they're using the
 8 electrical -- or the water line to
 9 the street as a ground," and he says,
 10 "and I also want a separate ground
 11 stake on the outside of the house."
 12 He says, "You get those issues done,"
 13 and he says, "and you give me a
 14 call," and he says, "and I'll come
 15 back and take a look at it." That
 16 was September 12, 2008.
 17 Q. Were you the only two people who were
 18 present for that inspection?
 19 A. Yes.
 20 Q. Did Mr. Gallagher, during that first
 21 inspection, look at the electric
 22 meter outside the house?
 23 A. He may have as he entered the house, or
 24 that, but I don't remember him doing
 25 it.

16 (Pages 58 to 61)

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1 Q. Do you remember -- or did you tell
2 Mr. Gallagher in that first
3 inspection that the seal on the meter
4 had been cut?
5 A. No, but I told him the power was turned on
6 in the house. He knew it.
7 Q. So, you didn't tell him the seal was cut?
8 A. No.
9 Q. So, what did you do in response to what
10 Mr. Gallagher told you in that first
11 inspection?
12 A. I repaired the issues that he pointed out
13 that I needed to fix.
14 Q. And you mentioned the use of a jumper
15 cable. Can you run that by me again?
16 That he wanted a jumper to a ground?
17 A. The electrical meter at the house was the
18 old style one. They replaced it when
19 they -- when they put a new meter in
20 there anyhow. But anyhow, the other
21 one was in there, and the line to the
22 street goes out through the wall
23 here, and the meter is here and then
24 it goes up to the house and the meter
25 is in between. They had put a -- the

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1 ground to the pipe on the street side
2 of the meter. On the house side of
3 the meter, there was no ground, just
4 the meter in between, and when you
5 wire a house, you buy clamps. And
6 the inspectors love them. The more,
7 the better. You put clamps on to
8 your copper water lines inside the
9 house so that if you -- you get a
10 better ground, and there was no
11 jumper from -- across the meter, and
12 he was concerned about that. So, he
13 had me buy a piece of wire and jumper
14 it from one side of the meter to the
15 other, and then I had to put an
16 8-foot ground stake on the outside,
17 drill a hole through the wall and
18 bring it in, and also ground the
19 service with the outside stake.
20 Q. Were there any lights on or any appliances
21 on while Mr. Gallagher was there for
22 that first inspection?
23 A. I want to say yes, the cellar light was
24 turned on.
25 Q. Anything else that you can remember?

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1 A. No.
2 Q. So, just the cellar light?
3 A. Yeah. That's all I ever had on in there
4 the first few days. That's the only
5 circuit. I wasn't in and out of that
6 house but short periods of time. On
7 September 9, the next day, I went to
8 a hardware store and bought locks and
9 replaced the locks in the doors so I
10 could secure the house, and then as I
11 said, on September 10 is when I
12 called the electrical company, and I
13 also called the water company and gas
14 and --
15 Q. Were there --
16 A. Get things moving.
17 Q. When the meter was still in place at the
18 property, between when you purchased
19 it and when it was removed, was there
20 a gate around it?
21 A. No.
22 Q. Was there a fence around it?
23 A. The fence was to the rear of the house
24 from the meter. In other words, it
25 was on the driveway. So -- the

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1 driveway is a circular driveway. It
2 goes from Mahoning over to Comstock,
3 and people were using it for a
4 shortcut through there, and somebody
5 had taken and put a fence across the
6 driveway and they had -- so they
7 could lock it so the people couldn't
8 use that for a shortcut, and the
9 meter was to the front of the house
10 and the street is out here. There
11 was no obstruction, nothing to keep
12 anybody from getting to the meter,
13 from the street to the meter.
14 Q. So, there was nothing preventing someone
15 to get from the street to the meter
16 while the meter was in place between
17 when you bought the house and when
18 the meter was removed?
19 A. Correct.
20 Q. There's no meter currently in place today,
21 right?
22 A. Correct.
23 Q. Is the meter base broken?
24 A. Yes -- well, not now. I replaced it.
25 Q. When did you do that?

17 (Pages 62 to 65)

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1 A. Within a day or two after you shut the
2 power off, because the lady on the
3 phone, on the initial call, I told
4 her Ohio Edison put a sticker on the
5 meter base and it says "Do not use,
6 broken pole," and they put a clear
7 plastic window in the meter base, and
8 I looked through there and the top
9 left-hand pole was hanging there,
10 just like this, and I called her and
11 I says, "And who is going to pay for
12 that meter base that they broke?"
13 And she says, "You are." And I says,
14 "Well, doesn't Ohio Edison furnish
15 those?" Because in my experience
16 some 30, 40 years earlier, Ohio
17 Edison furnished the meter base.
18 They considered that part of their
19 property and they delivered it to
20 your house and you installed it.
21 Now, anymore, the property owner has
22 to do that. So, we had a little
23 argument on the phone about that, and
24 I told her, I says, "Okay." So, I
25 went to Carter Electrical Supply and

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1 I bought a new meter base, and I took
2 it over there and I went over there
3 in the dead of winter, freezing cold
4 out there and the ice, and
5 what-have-you, and I took that old
6 meter base off there and put a new
7 one on there so that I could get Ohio
8 Edison to turn my power back on,
9 because I needed it back on.
10 Q. When did you -- I'm sorry if we already
11 established this. When did you put
12 the new meter base in?
13 A. Within two days of January 27. Real
14 quick.
15 Q. So, by January 29 --
16 A. I could look at the date on the bill for
17 the meter base and tell you, but --
18 Q. When the meter was still in place, could
19 you tell whether or not the top
20 left-hand pole was broken?
21 A. Yes.
22 Q. How so?
23 A. I could look through the clear plastic
24 window that Ohio Edison had put in to
25 the -- on the meter base and you

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1 could see it.
2 Q. I mean before the meter was removed.
3 A. Couldn't see it.
4 Q. Could it have been broken before the meter
5 was removed?
6 A. No.
7 Q. Why not?
8 A. Because anybody who had broke that pole
9 off, either taken and pulling that
10 meter off or putting it on, with
11 those lines hooked to the pole at the
12 street would have got badly burned at
13 the very least, maybe electrocuted,
14 because you would have had a dead
15 short on that meter base, and it
16 would have blown up. 125 amps would
17 give you a big bang, and there was no
18 burn marks on that meter base
19 whatsoever. I wish I still had the
20 meter base. At the time, I wasn't
21 thinking about all this, what was
22 going on today, and I took it and
23 pitched it. I wished I hadn't, but I
24 did.
25 Q. Do you remember about when you threw it

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1 out, was it shortly after you put the
2 new one in?
3 A. Yeah. I took it home with me, and I
4 got -- I live in the country and I
5 collect recyclables and metal and
6 stuff like that, and I threw it in
7 the recyclable bin.
8 Q. Did you tell Ohio Edison that you had
9 replaced the meter base?
10 A. Yes.
11 Q. When did you tell them that?
12 A. One or two calls after I called them on
13 September -- or on January 27, 2009.
14 Q. So, you told them you'd replaced the --
15 A. Yes, I did.
16 Q. I thought it wasn't replaced until a
17 couple of days after that --
18 A. I told you, I called them two or three
19 times between January 27 and when
20 they told me that I needed to send
21 them a fax. My lawyer tells me that
22 you have to ask me the questions and
23 I need to answer it yes and no and
24 try to make it simple. You're making
25 it real hard for me to do that. If

18 (Pages 66 to 69)

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1 you care for me to explain to you, I
 2 will, if this lady likes to write all
 3 this down. It's not necessary,
 4 but --
 5 Q. Well, at this point, I --
 6 A. -- to make a story short, I explained to
 7 her on the phone that the power
 8 was -- the meter was pulled off my
 9 house and I wanted to know why --
 10 Q. Well, let me stop you there. Just before
 11 you go into the description, I
 12 just -- do you know what day this
 13 particular conversation took place
 14 on?
 15 A. Either the 27th or the 28th. It was
 16 late in the day -- I have a call
 17 record -- because I did not know
 18 about it until Howland Alarm Company
 19 called me and told me that my alarm
 20 system didn't work.
 21 Q. And they called you on the 27th?
 22 A. I think that's correct, yes.
 23 Q. Okay. So --
 24 A. It may have been the next day, I called
 25 them. I don't know.

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1 Q. Okay. So, tell me about that first call,
 2 then, that you made to Ohio Edison
 3 after you found out that the meter
 4 had been removed.
 5 A. I called them and I asked them why they
 6 pulled the meter off my house in the
 7 dead of winter, and this lady told me
 8 on the phone that they pulled the
 9 meter off the house because I was
 10 stealing their power, and I told her
 11 that no, I wasn't stealing their
 12 power, and she says, well, that I was
 13 stealing their power, and I says,
 14 "Well, what do I need to do to get
 15 that power turned back on?" And -- I
 16 may be ahead of me a call, I don't
 17 know, but the initial call, I wanted
 18 to know why they pulled the meter off
 19 my house and what I needed to do to
 20 get it hooked back up and how I
 21 went -- how I'd go about getting a
 22 meter base to replace it, and she
 23 told me I'd have to buy one and have
 24 it installed.
 25 I can't recall the sequence or

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1 the time frame between the calls, but
 2 there was two or three calls in a row
 3 after January 27 into the early part
 4 of February, and there could have
 5 been times of like a day or two in
 6 between, because it was a day or two
 7 in between time I got that meter base
 8 back on there, and I called her and
 9 told her I needed to get the meter
 10 base put back on. I believe she
 11 accused me of stealing the power on
 12 the first call, and I -- I'm pretty
 13 sure that's correct, and she said to
 14 me -- I said to her, I says, "Well,
 15 how am I supposed to replace the
 16 meter base with power on?" And she
 17 says -- I says, "If I go in there and
 18 take that meter base off there," and
 19 I says, "and I get electrocuted," I
 20 says -- and I told her that I was
 21 going to tell my wife that -- make
 22 sure that she was aware that, you
 23 know, Ohio Edison pulled that meter
 24 off the house.

Anyhow, she says to me that,

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1 "Well, didn't they cut the -- didn't
 2 they disconnect the wires at the
 3 pole?" And I says, "I don't know."
 4 She says, "Well, they were supposed
 5 to disconnect the wires at the pole."
 6 And I says, "Well, they may have,"
 7 and I says, "I'll have to look." And
 8 I went back and I looked. Before I
 9 changed the meter, I went out there
 10 and I looked real good and made sure
 11 that the wires were disconnected.
 12 Then I also took my electrical meter
 13 and checked the poles, made sure that
 14 they were dead. And I replaced the
 15 electrical meter, and I probably did
 16 that a day or two after the initial
 17 call. I don't recall whether it was
 18 the next day -- I think it was the
 19 next day, and then after I got that
 20 done, I went back and I called her
 21 again and told her that the
 22 electrical meter was replaced, when
 23 can I get that --

24 Q. I'm sorry. The meter base?

25 A. The meter base. The meter base was

19 (Pages 70 to 73)

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1 replaced, how do I go about getting
 2 the power restored, and that's when
 3 she told me I was going to have to
 4 pay a fraud investigation fee and I
 5 was going to have to pay a fine and I
 6 was going to have to pay a deposit
 7 and a connection fee, I think she
 8 said, reconnection fee, and I told
 9 her, I says that I would pay what any
 10 other person seeking power would pay,
 11 but I wasn't paying no fraud fees and
 12 I wasn't paying no penalties for
 13 stealing their power, which I didn't
 14 do, and she as much as told me that,
 15 she said, "Well, you're not going to
 16 get it turned on until you do." And
 17 all of my correspondence after that
 18 was just that, "You pay the fraud
 19 fee, you pay the penalty, we'll turn
 20 the power back on." And I refused to
 21 do that because I was innocent. I
 22 wasn't going to do that.
 23 Q. Sitting here today, do you -- sitting here
 24 today, as far as you know, is Ohio
 25 Edison still insisting on payment of

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1 fraud investigation fees, tampering
 2 charges and that sort of thing?
 3 A. My lawyer has had some conversations. I
 4 believe he has. Anyhow --
 5 Q. Yeah, I'm not interested in what your
 6 lawyer told you --
 7 A. From what I know right now, yes, they're
 8 still expecting me to pay that.
 9 Q. If Ohio Edison were not requiring you to
 10 pay those fees, would you attempt to
 11 initiate service at the property?
 12 A. Right now?
 13 Q. Yes.
 14 A. I need the power. Yes. That's been the
 15 objective of mine all along, is
 16 getting the power restored to that
 17 house, yes. I'm not going to pay no
 18 fines or no penalties.
 19 Q. So, the only reason that you haven't
 20 initiated service at the property
 21 since January 2009 is because Ohio
 22 Edison was requiring you to pay the
 23 fraud investigation fees and the
 24 tampering charges?
 25 A. Yes.

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1 Q. Have you ever submitted an application for
 2 service at the property to Ohio
 3 Edison?
 4 A. No.
 5 Q. Have you ever signed a contract for
 6 service by Ohio Edison for the
 7 property?
 8 A. No.
 9 Q. Did Ohio Edison -- so, backing up to the
 10 calls that you made subsequent to
 11 when you replaced the meter base, in
 12 those calls, in how many different
 13 calls to Ohio Edison did you tell
 14 them that you had replaced the meter
 15 base?
 16 A. One.
 17 Q. Did Ohio Edison ever advise you that you
 18 needed to get an inspection because
 19 of the broken meter base?
 20 A. No.
 21 Q. Had Ohio Edison advised you of the need to
 22 get an initial inspection because of
 23 the broken meter base, would you have
 24 gotten one?
 25 A. Yes.

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1 MR. GARBER: Let's go off the
 2 record.
 3 (OFF THE RECORD)
 4 Q. In this litigation, are you complaining
 5 about Ohio Edison's vegetation
 6 management practices?
 7 A. Explain, please.
 8 Q. Are you, in this case, complaining to the
 9 Commission about the way Ohio Edison
 10 maintains, trims, or takes --
 11 otherwise takes care of the
 12 vegetation near its lines?
 13 A. No.
 14 Q. Are you alleging any damages arising from
 15 a vegetation-induced power outage?
 16 A. Yes.
 17 Q. Okay. What are those damages?
 18 A. Limbs in the tree in the front of my
 19 house, which the feed lines pass
 20 through, rubbed on Ohio Edison's wire
 21 and rubbed them bare and they went to
 22 ground on that tree. We have
 23 pictures to back that up.
 24 Q. When you say "went to ground," do you mean
 25 that they're -- that a power outage

20 (Pages 74 to 77)

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1 actually resulted from that?
 2 A. I don't know that. I would assume it did.
 3 Q. When did the tree -- or when did the wire
 4 ground in the tree? When did that
 5 happen?
 6 A. I believe it happened on January 27, 2009.
 7 Q. What makes you say that?
 8 A. That's the day that they disconnected the
 9 power to my house.
 10 Q. Any other reason why you say that?
 11 A. There was 14 to 16 inches of snow on the
 12 ground that day, the temperatures
 13 were in the single digits, and there
 14 was snow and ice hanging all over
 15 that tree. And hearsay, my wife, in
 16 November of 2009, was out working in
 17 the front yard of that house down
 18 there, raking up leaves. A man
 19 walked down the street and come over
 20 and said, "Hello, how are you?" And
 21 they were visiting, and the man asked
 22 her, he says, "Did they get that
 23 power line fixed to that house?" And
 24 my wife says, "Well, we don't have
 25 any power to the house." And he

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1 says, "Well," he says, "last winter,"
 2 he says, "sparks were coming out of
 3 that line."
 4 Q. This is the line in your -- in the tree of
 5 your yard?
 6 A. In the tree. And I tried to find this
 7 man. I can't find him. All I know
 8 is he talked to my wife about that --
 9 Q. Do you --
 10 A. And that's when --
 11 Q. Sir, let me stop you there. Do you know
 12 his name?
 13 A. No.
 14 Q. And that conversation occurred in November
 15 of 2009?
 16 A. Correct.
 17 Q. So, what were the damages? What damage
 18 was caused to your property as a
 19 result of this incident?
 20 A. The power line?
 21 Q. Yes.
 22 A. I don't understand what you're trying
 23 to -- what you want me to tell you.
 24 Q. You indicated that you believe a line
 25 running from the pole to your house

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1 grounded into a tree in your yard,
 2 right?
 3 A. Right.
 4 Q. Did any damage to your property occur as a
 5 result of that?
 6 A. Not to my property, no.
 7 Q. Well, what damage -- what, if any, damage
 8 did occur as a result of that?
 9 A. Damage occurred when the Ohio Edison --
 10 this is my belief. I believe they
 11 were called out there on a call, and
 12 they came out there and they
 13 discovered that that line was -- had
 14 been rubbed raw and it was going to
 15 ground in that tree, and they looked
 16 at the house and there's no paint on
 17 the house, nobody has lived in this
 18 house for three years, and the
 19 easiest solution for that day was to
 20 just cut the lines at the pole and
 21 come back on a nicer day and replace
 22 the feed line to my house, and I
 23 believe that's exactly the reason why
 24 they disconnected the power to my
 25 home and the resulting damages to my

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1 house.
 2 Q. How many customers lost power as a result
 3 of the outage that you --
 4 A. I have no idea.
 5 Q. Let me finish the question. How many
 6 customers lost power as a result of
 7 the outage that you believe occurred
 8 on that day?
 9 A. The only one I know of is myself.
 10 Q. Do you believe you lost power as a result
 11 of a -- of the line grounding into
 12 the tree?
 13 A. No.
 14 Q. Okay. You believe you lost power because
 15 Ohio Edison cut the power at the
 16 taps, cut the taps --
 17 A. Correct.
 18 Q. Do you know how long this tree line outage
 19 lasted?
 20 A. No.
 21 Q. Do you know how quickly Ohio Edison would
 22 have responded to it?
 23 A. No.
 24 Q. So, the only reason you think an outage
 25 occurred is because Ohio Edison

21 (Pages 78 to 81)

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1 personnel showed up at your house
 2 that day?
 3 A. Yes.
 4 Q. You mentioned earlier, during the second
 5 inspection that Tim Gallagher
 6 conducted on your property -- and I
 7 think you said that was on
 8 September 23, 2008?
 9 A. I believe that's correct, yes.
 10 Q. And you mentioned that he put a sticker on
 11 the meter base?
 12 A. Yes.
 13 Q. Can you tell me about that?
 14 A. It just said that the -- it had been
 15 inspected and approved, standard
 16 reconnect sticker that they put on a
 17 meter base.
 18 Q. You mentioned that in the November -- or
 19 I'm sorry, in the October,
 20 November 2008 call between you and
 21 Ohio Edison, that the Ohio Edison
 22 employee mentioned a contractor's
 23 privilege. Do you remember that?
 24 A. Uh huh.
 25 Q. What was -- and by the way, what was the

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1 phrase that she used? Do you
 2 remember if it was contractor's
 3 privilege, contractor's courtesy or
 4 something else?
 5 A. Contractor's courtesy, I believe she said.
 6 Q. Did any Ohio Edison personnel mention
 7 contractor's courtesy or contractor's
 8 privilege to you in any calls after
 9 that call?
 10 A. No.
 11 Q. And did you mention it in any calls after
 12 that call?
 13 A. I don't recall.
 14 Q. Is it possible that you didn't bring it up
 15 again?
 16 A. Possible I did.
 17 Q. I'm sorry. Possible you did or possible
 18 you didn't?
 19 A. Possibly I did, yeah.
 20 Q. Is it possible that you didn't bring it up
 21 again?
 22 A. Possibly I didn't, too.
 23 Q. And what did you understand a contractor's
 24 courtesy to be? What did that mean
 25 to you?

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1 A. I never heard of it before that day, and I
 2 asked the lady on the phone, I says,
 3 "And what does that entail?" And she
 4 told me.
 5 Q. Okay. So, you never heard the phrase
 6 contractor's courtesy or contractor's
 7 privilege before that day?
 8 A. No.
 9 Q. Did you believe that if you had a
 10 contractor's courtesy that you
 11 wouldn't have to apply for service
 12 later on?
 13 A. Never -- didn't occur to me, no.
 14 Q. So, is it fair to say -- do you believe
 15 that Ohio Edison extended you a
 16 contractor's courtesy?
 17 A. Yes.
 18 Q. And do you believe that the extension of
 19 that contractor's courtesy to you
 20 meant that you didn't have to follow
 21 through and apply for service?
 22 A. Yes.
 23 Q. When was the seal on the meter at the
 24 property cut?
 25 A. I have no idea.

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1 Q. Was it cut before you purchased the house?
 2 A. Yes.
 3 Q. How do you know?
 4 A. That's the way I found it when I initially
 5 inspected it.
 6 Q. Who cut it?
 7 A. I have no idea.
 8 Q. Do you believe that a broken or cut seal
 9 on an electrical meter means that the
 10 meter has been tampered with?
 11 A. Yes.
 12 Q. Did Ohio Edison personnel attempt to
 13 transfer -- attempt to transfer you
 14 to another department or another
 15 service at Ohio Edison at any point
 16 during any of the calls that you made
 17 or had with Ohio Edison?
 18 A. In the first stage or the last stage of
 19 the -- my experience with Ohio
 20 Edison?
 21 Q. Okay. So, let --
 22 A. Are you saying first or last?
 23 Q. That's a fair point. So, the first stage
 24 would I assume you mean those first
 25 two calls that you made. So, let's

22 (Pages 82 to 85)

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1 start with the first stage. During
 2 those first two calls -- let me start
 3 over. In the September and October,
 4 November call in 2008, no Ohio Edison
 5 personnel tried to transfer you to
 6 another department, right?
 7 A. That's correct.
 8 Q. You just talked with one person --
 9 A. Yes.
 10 Q. -- both times?
 11 A. I believe, yes.
 12 Q. So, talk about the second stage, then.
 13 Were there any transfers there?
 14 A. No.
 15 Q. So, at no point did Ohio Edison personnel
 16 try to transfer you to someone else
 17 at Ohio Edison while you were talking
 18 on the phone with them?
 19 A. Yes, they did.
 20 Q. Yes, they did? Tell me about that.
 21 A. I don't know which call it was, but the
 22 lady said to me, she says, "I'm going
 23 to try -- I'll try to transfer you to
 24 a supervisor, but it's a quarter to
 25 four and I'm not sure whether she's

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1 still here." That's what she said,
 2 "she" -- whether she put a gender on
 3 it, I don't know. "It's a quarter to
 4 four and I'm not sure if she's still
 5 in the building, but if she's not,
 6 I'll have her call you the first
 7 thing in the morning." That never
 8 happened. Never got transferred, and
 9 never got a call the next morning.
 10 Q. Was that the only time that, during a
 11 phone call with Ohio Edison, the Ohio
 12 Edison person tried to transfer you
 13 to someone else?
 14 A. Yes.
 15 Q. After you replaced the meter base in
 16 January 2009, do you believe that you
 17 then could have applied for service
 18 from Ohio Edison at any time?
 19 A. Yes.
 20 Q. Now, during the first call, you said that
 21 the Ohio Edison person indicated that
 22 she would have to disconnect your
 23 power immediately, right?
 24 A. Yes.
 25 Q. And then you had the second call where you

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1 say Ohio Edison extended you a
 2 contractor's courtesy, right?
 3 A. Yes.
 4 Q. Did you believe after that second call
 5 that Ohio Edison still might cut your
 6 power off, as they had indicated in
 7 the first call?
 8 A. No.
 9 Q. Why not?
 10 A. Because I had met the inspection, and the
 11 electrical inspector had sent the fax
 12 in to have the service reconnected,
 13 and since it was never disconnected,
 14 it was on, and it was a legal
 15 service. You know, there's no
 16 hazard. The electrical inspector had
 17 said that it was safe to use.
 18 Q. During any of your phone calls with Ohio
 19 Edison about service on the property,
 20 did you ever speak with more than one
 21 person per call?
 22 A. No.
 23 Q. Aside from this litigation, when was the
 24 last time you contacted Ohio Edison
 25 regarding service at the property?

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1 A. I sent a fax regarding all the facts that
 2 I had up to that point to Ohio
 3 Edison. I was given a fax number and
 4 I wrote it up, and not having the
 5 provisions for a fax myself, I took
 6 it down to my son's business, and it
 7 was faxed on his commercial fax
 8 machine to their telephone number --
 9 or fax number. Waited two or three
 10 weeks; nothing happened. Didn't hear
 11 anything from them. Called them back
 12 and asked them, "Did you receive my
 13 fax?" Identified myself, address and
 14 everything. "Did you receive my
 15 fax?" The lady on the other end of
 16 the phone said, "No, we never
 17 received a fax." And I says to her,
 18 "Well, I can prove that I sent you
 19 the fax." I says, "Is your fax
 20 number" -- and I read it off, and she
 21 said, "Yes, Sir." And I says, "Well,
 22 I have a bill right here where I can
 23 show where that number was dialed
 24 from my son's business and that you
 25 received it." And she said she

23 (Pages 86 to 89)

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1 didn't -- they never received it,
 2 and --
 3 Q. And was that a phone call that you --
 4 A. Phone call. And I asked her on the phone,
 5 I says, "Is there an address that I
 6 can send this information I have
 7 certified mail?" And she said,
 8 "Yes." And I says, "What is that
 9 address?" She give it to me. I
 10 wrote that address down, and I took
 11 and copied the same information on
 12 that fax and sent it to them once
 13 again, certified mail. Again, I
 14 never heard nothing from Ohio Edison
 15 three, four weeks in a row. Never
 16 heard nothing. And that's when I
 17 took it to George Gessner, my family
 18 lawyer, and he sent you -- sent Ohio
 19 Edison two letters asking for
 20 correspondence of this problem from
 21 Ohio Edison. Both times, George
 22 Gessner was ignored. Both times.
 23 Q. Do you recall the dates of those letters?
 24 A. Well, we got the date on the one.
 25 Q. I'll tell you, there's a June 9 -- let me

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1 put it in front of you so you have
 2 it.
 3 A. Yeah. One of them. We got one of them.
 4 I don't know. I think George only
 5 give us a copy of the one. He told
 6 me he sent two.
 7 MR. GARBER: Let's mark
 8 Deposition Exhibit B.
 9 (DEFENDANT'S EXHIBIT B MARKED)
 10 Q. So, Sir, I just handed you a copy of
 11 what's been marked as Deposition
 12 Exhibit B. Is this one of the two
 13 letters you referred to?
 14 A. Uh huh.
 15 Q. I'm sorry, was that a "yes"?
 16 A. Huh?
 17 Q. Is that one of the two letters you
 18 referred to?
 19 A. Yeah. That's the one that George showed
 20 me, uh huh.
 21 Q. Was this the first or second letter?
 22 A. Don't know. I really don't know.
 23 Q. Okay. Do you know --
 24 A. I would say it was the first.
 25 Q. Okay. Do you know about how long after

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1 this June 1, 2009 letter was sent
 2 that the second one was sent?
 3 A. Well, I called him and asked him if he had
 4 heard anything; he said he didn't,
 5 and that was probably six weeks
 6 later, and he said he'd send them
 7 another letter, and didn't hear
 8 nothing. George is like a lot of
 9 lawyers, they don't correspond too
 10 good with their clients sometimes,
 11 and -- anyhow, I called him again and
 12 he says we -- he didn't hear anything
 13 from the second one. So, I said,
 14 "When can we sit down and talk?" So,
 15 I made an appointment with him, and
 16 we sit down and we talked, and that's
 17 when we decided that we were going to
 18 file a lawsuit to Common Pleas Court
 19 against Ohio Edison, and then we
 20 heard from your lawyer.
 21 Q. When was the last phone call that you
 22 personally made to Ohio Edison
 23 regarding service at the property?
 24 A. When I asked for the certified -- or asked
 25 for the address to send the certified

Page 93

1 communication.
 2 Q. Do you remember what month that was in in
 3 2009?
 4 A. No, I don't remember.
 5 Q. Was it before this June 1, 2009 letter?
 6 A. Oh, yes.
 7 Q. Is it safe for Ohio Edison to provide
 8 electrical service where the meter
 9 has a broken meter base?
 10 A. No.
 11 Q. Is it possible for Ohio Edison to provide
 12 service through a meter with a broken
 13 meter base?
 14 A. Yes. They've done it.
 15 Q. What do you mean by that?
 16 A. Well, not to me, they didn't, but I know
 17 of cases where they've done that,
 18 where a tree had fallen on a guy's
 19 house, ripped the service clear off
 20 the house, and they've come in, put a
 21 temporary connection to the house.
 22 Q. Have you ever received a bill from Ohio
 23 Edison for service at the 1930
 24 Mahoning Avenue property?
 25 A. No.

24 (Pages 90 to 93)

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1 Q. Have you ever received a welcome letter
2 from Ohio Edison for the 1930
3 Mahoning Avenue property?
4 A. No.
5 Q. Have you ever paid for electrical service
6 at the 1930 Mahoning --
7 A. No.
8 Q. -- Avenue property. Let me -- so, the
9 record is clear, have you ever paid
10 for electrical service at the 1930
11 Mahoning Avenue property?
12 A. Not from Ohio Edison, no.
13 Q. Where a meter has been tampered with, do
14 you believe that it's proper for Ohio
15 Edison to disconnect service?
16 A. I don't think I'm qualified to answer
17 that. I think the Public Utilities
18 rules are better -- tell that better
19 than me. I believe yes, they can do
20 that, but I think that they have to
21 follow the rules set out by the
22 Public Utilities Commission.
23 Q. So, you believe that Ohio Edison has to
24 follow the Commission's rules
25 regarding termination of residential

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1 service even where a meter has been
2 tampered with?
3 A. Yes.
4 MR. GARBNER: Let's mark
5 Deposition Exhibit C.
6 (DEFENDANT'S EXHIBIT C MARKED)
7 Q. And before we get into that, have you ever
8 attempted to sell the Mahoning Avenue
9 property?
10 A. No.
11 Q. Have you ever listed the property for
12 sale?
13 A. No.
14 Q. Have you ever attempted to rent the
15 Mahoning Avenue property?
16 A. No.
17 Q. Who prepared -- and I have handed you what
18 has been marked as Deposition
19 Exhibit C. Do you recognize this?
20 A. Uh huh.
21 Q. And can you tell me what it is?
22 A. This expense report?
23 Q. Uh huh. Who prepared this?
24 A. My grandson.
25 Q. What is his name?

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1 A. Andrew Smith.
2 Q. All right. How old is he?
3 A. He's 23, going on 24 in May.
4 Q. When did he prepare this?
5 A. The dates that's listed here. Does he got
6 a date on here? I don't know.
7 January 27, 2009 -- oh, that's
8 disconnected. No.
9 Q. Well, I see "Today's date," December 3,
10 2010.
11 A. That'd be it, 12-3-2010.
12 Q. So, that's the date he created it?
13 A. Uh huh. That's the day he finished it.
14 It's been an ongoing thing.
15 Q. Did he consult with you in preparing this?
16 A. Yes.
17 Q. How so?
18 A. I presented him with all the bills, and
19 what-have-you, which he has on file.
20 Q. So, is there an invoice or a bill or a
21 statement of some sort that reflect
22 each of the charges on Exhibit C?
23 A. Most all of them, yes.
24 Q. Okay. What do you mean by most all of
25 them?

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1 A. Well, I'm sure there's a few in here that
2 don't reflect that. Like I think
3 that I charged a hundred dollars to
4 replace that meter base on the
5 outside of the house. I figured I
6 was worth that, and I didn't write
7 myself a receipt. I did a lot of the
8 work -- some of this work on here, I
9 did myself. Most of the electrical
10 work, I did myself.
11 Q. In terms of the dollar amount of damages
12 that you are seeking, is that the --
13 and it's kind of dark on this copy,
14 but I think it says, "Total damages,
15 \$15,393.30." Is that -- I'm sorry,
16 that's total damages, but then you
17 have total expenses, right?
18 A. Uh huh. There's two different, separate
19 things.
20 Q. So, grand total, I think, says \$19,909?
21 A. That sounds close.
22 Q. Okay. Is that the total amount of damages
23 you're seeking?
24 A. I'd have to add them together, but -- oh,
25 yeah, I see. "Grand total, 19,909?"

25 (Pages 94 to 97)

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1 53, right?

2 Q. Right. Are there any damages that you

3 are -- any monetary damages that you

4 are seeking that aren't included on

5 Exhibit C?

6 A. Monetary damages, explain.

7 Q. Well --

8 A. Material damages?

9 Q. Let me -- I'll put it this way.

10 A. Not punitive damages.

11 Q. Correct. To the extent you are seeking to

12 recover money to compensate you,

13 right. So, not for punitives, but

14 money just to compensate you, is

15 there anything that is not included

16 on this Exhibit C?

17 A. Not -- not yet. It could grow because I

18 have been unable to fire up the

19 furnace, and after the water came

20 down through that house, there was

21 water running right out of the bottom

22 of the furnace, and it was froze to

23 the floor, because it ran right down

24 the ductwork, and I have not been

25 able to turn the furnace on since

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1 that time. So, I don't know if the

2 motors are good or the firebox is

3 cracked or -- I don't know anything

4 about the furnace.

5 Q. Are there any other ways in which the

6 amount reflected on Exhibit C could

7 increase because of additions like

8 the one you just mentioned?

9 A. That's the only thing I can think of. No.

10 Q. What does the date column on Exhibit C

11 mean?

12 A. Date column?

13 Q. On the far right-hand side.

14 A. I guess it means the date that I bought

15 the material there, it says. There

16 was material in the house, copper

17 pipe that was in the house prior to

18 this happening, because the -- there

19 was a break-in into that house and

20 the thieves stole the copper manifold

21 pipes off the ceiling in the

22 basement. Okay. I had a licensed

23 plumber -- the City of Warren

24 required it -- come in there, and I

25 believe the bills were over \$500, and

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1 he came in there and he patched it

2 back up and got it working so that I

3 could get city water put in the

4 house. It was my intent to replace

5 that patched-up work in the basement

6 with new copper plumbing. So, some

7 of these dates of when I bought the

8 material is before when the accident

9 happened, because it was going to be

10 replaced anyhow.

11 Q. Can you tell me why there are expenses

12 dating to just a couple months ago,

13 October, November, December of 2010,

14 that you claim are related to --

15 A. Because we were finishing --

16 Q. -- the removal of the meter? Go ahead.

17 A. Removal of what?

18 Q. Of the meter.

19 A. Of what we did? Is it --

20 Q. Yeah. So, for example, let's take --

21 there's a line for labor, \$295. I'm

22 on the second page of Exhibit C.

23 A. Okay.

24 Q. Labor, \$295 --

25 A. Kitchen repair.

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1 Q. -- for damages, kitchen repair,

2 A. Restoration of damaged kitchen.

3 Q. On October 21, 2010.

4 A. Okay. That's when -- that's probably when

5 he was -- they were putting down the

6 new kitchen floor and putting the

7 tile on the walls.

8 Q. If you look on the first page of

9 Exhibit C, you'll see a charge about

10 halfway down the page for \$1,000 for

11 labor.

12 A. First page.

13 Q. Yeah, first page. Labor, \$1,000, damages,

14 water line repair.

15 A. September 2009.

16 Q. September 2009. What's that for?

17 A. It's for labor. As we said, the water

18 lines burst. The kitchen ceiling

19 came down. It exposed the bursted

20 pipes on the ceiling of the kitchen.

21 I had contractors come in there and

22 take down the damaged lines and

23 replace them with new copper lines,

24 and that was one of the labor

25 charges. The upstairs bathroom is

26 (Pages 98 to 101)

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1 right above the kitchen.
 2 Q. Do you know how cold it was in the house
 3 when the water lines burst -- or when
 4 the water lines started leaking?
 5 A. Not exactly. It was below -- well below
 6 freezing. There was ice on the floor
 7 in the basement from the water.
 8 Q. And you had not winterized the house prior
 9 to the water lines --
 10 A. No.
 11 Q. -- bursting?
 12 A. There was heat in the house.
 13 Q. What was the thermostat set to when the --
 14 what was the thermostat set to as of
 15 January 25, 2009?
 16 A. I believe it was set at 55 degrees.
 17 Q. I noticed on Exhibit C, there are a number
 18 of charges related to use of a
 19 generator.
 20 A. Uh huh.
 21 Q. What's that for? What is that related to?
 22 A. Well, I didn't have any power to do
 23 anything with. So, I had no choice
 24 but to go buy a generator. So, I
 25 bought a generator, and there's no

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1 place to set the generator to work on
 2 the house except on the front porch
 3 and then it would be unsecured, and
 4 this neighborhood is not the greatest
 5 neighborhood. You don't leave
 6 generators sitting around. So, I had
 7 to go out and repair the garage and
 8 make it so I could secure the garage,
 9 and then I ran the power from the
 10 garage to the house and -- so I could
 11 run the generator in the garage and
 12 power the house from the generator,
 13 and that's -- and then the gasoline
 14 for fueling the generator.
 15 Q. When Ohio Edison was going to charge you
 16 the fraud investigation fees and the
 17 tampering charges in order to
 18 reconnect service, what was the total
 19 amount that they were going to charge
 20 you to initiate service?
 21 A. She told me over the phone one day, but I
 22 didn't -- I didn't catch it all. I
 23 was not really too comprehensive of
 24 what she was telling me, and I
 25 believe it amounted to over a couple

Page 104

1 hundred dollars.
 2 Q. Was it less than \$500?
 3 A. I'm sure -- it probably was.
 4 Q. And how much have you spent on the
 5 generator between buying it and
 6 operating it since 2009?
 7 A. I fail to see your connection.
 8 Q. I'm just asking a question.
 9 A. Oh, thousands of dollars. I don't know
 10 exactly. The generator itself was
 11 over 500, I'm sure. I don't know if
 12 we've got the price of the generator
 13 on there. We do --
 14 Q. Yeah, let's look at the first page. It's
 15 the sixth -- fifth line down.
 16 A. Yeah, 532.49.
 17 Q. Then if you look on the second page,
 18 towards the very bottom, expense,
 19 generator, 1,330, and that would
 20 be --
 21 A. That's a combination of gasoline.
 22 Q. So, all told, we're over \$1,800 to date on
 23 the generator; is that right?
 24 A. Right. What's the point you're trying to
 25 get at here?

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1 Q. Just asking the question.
 2 A. Okay.
 3 Q. Do you have -- I know the answer to this,
 4 but do you have other active utility
 5 accounts with Ohio Edison?
 6 A. Yes.
 7 Q. And what are the service addresses for
 8 those accounts?
 9 A. 7047 Kinsman Nickerson Road, 7051 Kinsman
 10 Nickerson Road.
 11 Q. So, the rental property is in your name,
 12 too?
 13 A. Correct -- well, the public light is.
 14 Q. Okay.
 15 A. Public light. There's three meters on the
 16 house.
 17 MR. GARBER: Let's mark this
 18 Deposition Exhibit D.
 19 (OFF THE RECORD)
 20 (DEFENDANT'S EXHIBIT D MARKED)
 21 Q. I've just handed you what has been marked
 22 as Deposition Exhibit D. Do you
 23 recognize this?
 24 A. Uh huh.
 25 Q. What is it?

27 (Pages 102 to 105)

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1 A. It's the inspection release form sent by
 2 Tim Gallagher to Ohio Edison.
 3 Q. Okay. Did you -- where did Mr. Gallagher
 4 send this form from?
 5 A. I would presume he sent it from his office
 6 at the water inspection department,
 7 and I believe that's on Laird Avenue.
 8 Q. Were you with him when he sent this form?
 9 A. No.
 10 Q. On the -- in the top block relating to the
 11 property at issue here, under
 12 electrician, it says "NA." Do you
 13 know why he wrote that?
 14 A. Not applicable, I presume.
 15 Q. Do you know what he meant by that?
 16 A. Because I was the owner. Owners are
 17 permitted to do their own repair work
 18 in almost every case.
 19 MR. GARBER: Let's mark this
 20 Deposition Exhibit E.
 21 (DEFENDANT'S EXHIBIT E MARKED)
 22 Q. I've just handed you Deposition Exhibit E.
 23 Do you recognize this?
 24 A. Uh huh.
 25 Q. It's a two page document. What are these

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1 that either of the pages of
 2 Deposition Exhibit E support your
 3 claims or allegations in this case?
 4 A. The only thing it does, that this does is
 5 it shows that he was on the property
 6 and he performed the repair work that
 7 was needed to get the water turned on
 8 to that property, and by him being
 9 there, he'll use his Sawzalls and his
 10 electrical tools off the power supply
 11 in that basement. That's why we are
 12 presenting that. It shows that he
 13 was there, and he will come forward
 14 if necessary and testify that he used
 15 his power tools from the power supply
 16 inside the house.
 17 Q. Oh, I see. So, you believe that the
 18 relevance of these documents is to
 19 show that this guy was using power
 20 inside the house?
 21 A. Correct. Ohio Edison is contending that
 22 power wasn't turned on there till
 23 December something.
 24 MR. GARBER: Let's mark
 25 Exhibit F.

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1 documents?
 2 A. They are the bills from the plumbing
 3 company who did the repair work,
 4 initial repair work after I opened
 5 the house.
 6 Q. Now, the first page of Exhibit E, do you
 7 see a date, sort of in the upper
 8 right-hand corner there?
 9 A. I can't read it.
 10 Q. The second one I don't think has a date on
 11 it that I can tell. Actually,
 12 towards the bottom --
 13 A. The second one, date completed, 9-23.
 14 Q. That's 2008?
 15 A. Uh huh. And I think the other one says
 16 9 -- he come back two different days,
 17 and he gets -- he wanted paid every
 18 day. So --
 19 MR. BROYLES: If you want to go
 20 off the record and see the originals, would
 21 that help? I apologize for the --
 22 MR. GARBER: We can go off the
 23 record.
 24 (OFF THE RECORD)
 25 Q. Okay. Let me ask this: Do you believe

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1 (DEFENDANT'S EXHIBIT F MARKED)
 2 Q. I've just handed you Deposition Exhibit F.
 3 What is this document?
 4 A. What is it, you're asking me?
 5 Q. Yes.
 6 A. This is a welcome letter from the gas
 7 company, Dominion Gas, welcoming me
 8 as a customer. And the relevance of
 9 that -- do you want that?
 10 Q. Please.
 11 A. The relevance of that is I had to get a
 12 gas company inspector to come in
 13 there and check the gas lines inside
 14 the house to check to make sure that
 15 they were tight and things were
 16 working, and he lit the furnace,
 17 which requires electrical power, and
 18 he lit the gas water heater, which
 19 also requires electrical power.
 20 Q. How did you initiate service from Dominion
 21 East Ohio?
 22 A. Called them on the phone.
 23 Q. Okay. And when did you call them?
 24 A. I believe I called them about the same
 25 time that I called Ohio Edison.

28 (Pages 106 to 109)

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1 Maybe the 12th.
 2 Q. And how many times did you call them
 3 before you received this letter,
 4 Exhibit F?
 5 A. I think one time.
 6 Q. And --
 7 A. The technician who came out and inspected
 8 the wires -- and he was from the gas
 9 company, and he handled the whole
 10 thing. They sent me -- gave me a
 11 number or something. I had to take
 12 it down to the hardware store, and
 13 they entered it into the computer and
 14 I had to pay a couple months in
 15 advance for gas deposit and --
 16 Q. During the phone call that you had with
 17 Dominion East Ohio, what sort of
 18 information did you give them in
 19 terms of name, address, that sort of
 20 thing?
 21 A. Same thing I gave Ohio Edison. Gave them
 22 my name and address and that I had
 23 taken possession of it and I needed
 24 to have the gas restored, and they
 25 asked me when I would be available to

Page 111

1 let the technician into the house,
 2 and I told him, and I met him there.
 3 Q. And you mentioned Dominion East Ohio gave
 4 you a number that you had to take to
 5 a hardware store? Tell me about
 6 that.
 7 A. They gave me a number and -- account
 8 number, or something, and I had to
 9 take it to the hardware store in
 10 Champion there, and they entered it
 11 into their computer and they said,
 12 "You have to pay two months," or
 13 something like that, deposit and a
 14 reconnection fee, and what-have-you,
 15 and I wrote a check and paid for it.
 16 Q. Did Dominion East Ohio tell you that you
 17 had to take that number down to the
 18 hardware store to start service?
 19 A. Yes.
 20 MR. GARBER: Okay. Let's mark
 21 Deposition Exhibit G.
 22 (DEFENDANT'S EXHIBIT G MARKED)
 23 Q. Okay. So, this is deposition Exhibit G,
 24 which is a packet of pictures that
 25 you produced in this case. Does that

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1 look right to you?
 2 A. Uh huh. Yes.
 3 Q. And I guess before we dive into these, you
 4 know, it might make it easier if we
 5 sort of keep them more or less in
 6 order as we go through because I
 7 don't have them stapled. So -- have
 8 you had a chance to flip through the
 9 pictures in Exhibit G?
 10 A. Not yet --
 11 Q. Please.
 12 A. I've seen them before.
 13 Q. Okay. Who took the pictures that are
 14 included in Deposition Exhibit G?
 15 A. My oldest son, Barry Smith, B-A-R-R-Y.
 16 Q. When were these pictures taken, generally?
 17 A. November of 2009.
 18 Q. Now, you've had a chance to look at all
 19 the pictures in Exhibit G, right?
 20 A. Uh huh.
 21 Q. So, you can say that all of those pictures
 22 were taken in November of 2009?
 23 A. I'm pretty sure they all were, yes. We
 24 didn't take any other pictures other
 25 than that day; so, they are, yes.

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1 Q. Were you present when those pictures were
 2 taken?
 3 A. Yes.
 4 Q. Let's walk through each one of these
 5 pictures, and so, starting with page
 6 one of Exhibit G --
 7 A. Okay.
 8 Q. -- can you tell me what we're looking at
 9 here?
 10 A. You're looking at the service wires, the
 11 house, from the pole to the house
 12 where it passed through that tree in
 13 the front yard.
 14 Q. Do you see anything in this picture that
 15 indicates that First Energy's
 16 vegetation management practices are
 17 bad or unreasonable?
 18 A. Not on that particular picture, no.
 19 Q. Okay. Let's go to page two.
 20 A. Okay.
 21 Q. Okay. What are we looking at here?
 22 A. We're looking at that same wire where it
 23 passed over a limb in that tree and
 24 the tree actually started to grow
 25 around the wire, and my son lifted

29 (Pages 110 to 113)

Page 114

1 the wire out of the -- that notch to
 2 take the picture.
 3 Q. Okay. So, it looks like there's a glove
 4 there and -- at least the way I'm
 5 looking at it --
 6 A. Correct.
 7 Q. -- in the bottom left-hand corner; is that
 8 right?
 9 A. Uh huh.
 10 Q. Is that your son's hands?
 11 A. I presume it was, yeah.
 12 Q. Is he moving the wire there?
 13 A. I believe he was, yeah. He lifted it out.
 14 Q. Do you see anything in this picture that
 15 bothers you about Ohio Edison's
 16 vegetation --
 17 A. Yes, that's --
 18 Q. Let me finish the question. Anything in
 19 this picture that bothers you about
 20 Ohio Edison's vegetation management
 21 practices?
 22 A. Yes. That limb should have been trimmed.
 23 Q. Let's go to page three.
 24 A. Another picture of the same. Just a
 25 better view of it.

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1 Q. Have you ever worked in the field of
 2 utility vegetation management?
 3 A. No.
 4 Q. Are you an arborist?
 5 A. I've done some tree trimming, but I'm
 6 not -- I'm a novice, yes.
 7 Q. Tell me about that tree trimming.
 8 A. Well, I got laid off from Packard Electric
 9 in the year 1970, and I didn't have
 10 any benefits, no Unemployment
 11 Compensation because it was due to a
 12 strike against the General Motors
 13 Corporation by the United
 14 Autoworkers, and General Motors
 15 refused to pay Packard Electric
 16 employees their Unemployment
 17 Compensation. So, to feed my family,
 18 I took a job in the woods dropping
 19 trees. I did that for nine weeks.
 20 And I live in the country and I have
 21 trees all around my house and I got
 22 chainsaws, and I trim trees.
 23 Q. Do you know what kind of tree this is in
 24 the picture on page --
 25 A. It is a --

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1 Q. Sorry, let me just finish the question.
 2 Let me just finish the question
 3 first. On page three of Exhibit G,
 4 do you know what that tree is there?
 5 A. Yeah, it's a soft maple of some sort.
 6 There's about 27 different varieties
 7 of maples that live in this area, and
 8 it's of a soft maple variety.
 9 Q. Do you know how tall soft maples can grow
 10 at maturity?
 11 A. 60, 70 feet.
 12 Q. Do you know the voltage of the line that
 13 we see on page three of Exhibit G?
 14 A. Uh huh.
 15 Q. What is it?
 16 A. There's two wires there, and each one of
 17 them have 120 volts in it.
 18 Q. Is this a distribution wire?
 19 A. Huh?
 20 Q. Is this a distribution line --
 21 A. From the transformer --
 22 Q. In page three, is that a distribution
 23 line?
 24 A. No. One, two, three. Okay, there's two
 25 insulated wires and a ground there.

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1 The -- the aluminum in the center is
 2 for strength, and also it's a ground,
 3 and each one of these wires has 120
 4 volts at -- 120 amps at -- let's see.
 5 Get my -- right, 120 volts at 100
 6 amps, each one of them.
 7 Q. Have you --
 8 A. It's 100 amp service.
 9 Q. Have you ever reviewed Ohio Edison's
 10 vegetation management policy?
 11 A. No.
 12 Q. Were you aware -- are you aware whether
 13 Ohio Edison has a vegetation
 14 management policy?
 15 A. I'm sure they do, yes.
 16 Q. Let's go to page four of Exhibit G.
 17 A. Okay.
 18 Q. It's this one. You have it in front of
 19 you there?
 20 A. Uh huh.
 21 Q. So, is it the same line that we have seen
 22 in the other pictures so far?
 23 A. Yes.
 24 Q. Is there anything in this picture that
 25 bothers you?

30 (Pages 114 to 117)

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1 A. The nicks on the lines.
 2 Q. Okay.
 3 A. Where they've been rubbing.
 4 Q. What has the line been rubbing against
 5 there?
 6 A. Well, in that particular picture, I don't
 7 know. It could have been rubbing
 8 against a limb or something. I can't
 9 see from there where my son -- when
 10 he dropped that out of there and he
 11 took that picture, or what. I'm sure
 12 he was trying to catch these nicks in
 13 the line. No, I don't see anything
 14 that bothers me other than the nicks
 15 in the wire.
 16 Q. Do you know whether it's unusual for
 17 distribution lines of this voltage to
 18 have some rubbing marks on them like
 19 this?
 20 A. They should not. They should not have any
 21 marks on them at all.
 22 Q. And what is the basis of that opinion?
 23 A. Well, you're cutting into the integrity of
 24 the insulation when you cut them or
 25 nick them. I don't know how deep

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1 that nick is or anything, you know.
 2 It could possibly get into the power
 3 wire, the wire. That's what we're
 4 trying to show, is nicks in the wire.
 5 Q. Do you know if the nicks in the wire
 6 represent an unsafe condition?
 7 A. From this picture only? No, I don't. Not
 8 from this picture only.
 9 Q. Let's look at the next page.
 10 A. Okay.
 11 Q. So, this is page five of Exhibit G.
 12 A. Okay. That's this one, right?
 13 Q. This one.
 14 A. This one here, okay.
 15 Q. Okay. Same wire we see in the other
 16 pictures, right?
 17 A. Uh huh.
 18 Q. Do you see anything in this picture that
 19 you believe is -- poses a vegetation
 20 management problem?
 21 A. Well, it's passing underneath this one
 22 here, and there's nicks up here.
 23 Q. In this case, are you asking the
 24 Commission to find that Ohio Edison
 25 has violated any statute with respect

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1 to its vegetation management
 2 practices at this property?
 3 A. I don't know how to answer that, because
 4 it -- the house had sat empty for
 5 three years and nobody, obviously,
 6 had done that. Now, whether they
 7 didn't do that because the house was
 8 sitting empty and they just bypassed
 9 it, but yes, they're negligent for
 10 not trimming that tree. Yes, I'd say
 11 yes, they're negligent. Even if the
 12 house was sitting empty, it's their
 13 feed line, they should have fixed it.
 14 Q. Would you object if Ohio Edison removed
 15 that tree?
 16 A. I was going to suggest that they do just
 17 exactly that, because I'm tired of
 18 the leaves in my eave troughs. It's
 19 overgrown for the size of the tree.
 20 That's the way I inherited it when I
 21 bought it.
 22 Q. Is this just one tree that's shown in
 23 these pictures? Is it the same tree,
 24 the soft maple?
 25 A. There's several of them around the house.

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1 Q. I mean, is -- how many trees would you --
 2 A. I could --
 3 Q. Let me ask the question. How many trees
 4 would you want Ohio Edison to remove?
 5 A. Just that one. Well, on my property
 6 there's just one. There's one on the
 7 other property -- there's two other
 8 trees, and I don't know if the one on
 9 the other person's property
 10 interferes with the power lines or
 11 not, but it's really overgrown and
 12 it's really a problem. City engineer
 13 is going to have to handle that, if I
 14 have anything to say about it, but on
 15 my property, just that one tree.
 16 Q. Let's look at page six, which is this one.
 17 A. Okay.
 18 Q. What is this?
 19 A. Huh?
 20 Q. What are we looking at here?
 21 A. You're looking at that wire where it was
 22 cradled in that notch in that limb.
 23 This is the way we found it. My son
 24 lifted them out there so you could
 25 see it better, but it was cradled

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1 when we found it. It was cradled in
 2 there, just like such. It was
 3 cradled down there even tighter than
 4 that. That's where the limb rubbed
 5 back and forth against that limb from
 6 the wind for years.
 7 Q. And is the -- does the line still look
 8 like it does on page six of Exhibit G
 9 today as --
 10 A. Yes. Nobody has touched it. Since we
 11 took these pictures, nobody has done
 12 anything with it.
 13 Q. Okay. I want to skip ahead. Can you
 14 find -- it's several pages forward,
 15 but can you find the picture that
 16 looks like this? In my packet,
 17 it's -- I'll tell you what page it is
 18 in a second. So, it's page 14 of
 19 Exhibit G. Yeah, you got it.
 20 A. Okay.
 21 Q. Now, on the right side, is that the -- of
 22 that picture, is that the driveway?
 23 A. Correct.
 24 Q. And on the left side, that's 1930 Mahoning
 25 Avenue, right?

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1 A. Left side, that's 1930 as it is today,
 2 yes.
 3 Q. And you see kind of towards the left-hand
 4 side, a box with a wire coming into
 5 it from the bottom and a wire coming
 6 out of it from the top. What is
 7 that?
 8 A. This right here?
 9 Q. Yes.
 10 A. That's the meter base. That's the one I
 11 replaced. The house was painted
 12 after that. That's why it's painted.
 13 Q. And what are you trying to show in that
 14 picture?
 15 A. The wires underneath those branches
 16 rubbing back and forth in the wind.
 17 Q. Are these branches part of the soft maple
 18 tree you mentioned earlier?
 19 A. Yes.
 20 Q. And I see the electric utility wire, do
 21 you know what that other wire is,
 22 kind of to the left of that?
 23 A. It's an old telephone wire.
 24 Q. I want you to turn ahead to a picture that
 25 shows 1930 and what looks like the

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1 front porch of your house.
 2 A. Uh huh. Did you see this one?
 3 Q. Yes.
 4 A. Okay. This one?
 5 Q. Yeah. What are you trying to show in this
 6 picture?
 7 A. Just that it's 1930 Mahoning Avenue.
 8 Q. Okay. Now, there are two pictures
 9 right -- or actually, multiple
 10 pictures behind that of the pole.
 11 A. Uh huh. My son took those to identify the
 12 house to the pole.
 13 Q. Okay. So, is the line that we saw in
 14 those earlier pictures, is it running
 15 from this pole?
 16 A. Correct. The transformer, I believe, is
 17 on the other side of the street.
 18 Q. Okay. If you turn ahead to the picture
 19 that shows a close-up of -- I can't
 20 tell if it's a -- a close-up of a
 21 wire running out of the meter base.
 22 A. Uh huh. From mask down.
 23 Q. What are you trying to show in that
 24 picture?
 25 A. Just showing that it run down there. This

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1 here is the telephone wire that's
 2 disconnected. When they sandblasted
 3 the house, they removed those clamps
 4 and that and pulled the wire away
 5 from the house so they could get to
 6 the wood, and they left it hanging
 7 there, and I had to put new clamps on
 8 it, clamp it back to the house.
 9 Q. The picture after that is kind of a nice
 10 picture of a meter base.
 11 A. Correct.
 12 Q. Is the meter that was removed in that same
 13 location?
 14 A. Yes.
 15 Q. How high off the ground is that meter
 16 base?
 17 A. About five feet, just high -- about here
 18 on me.
 19 Q. Okay. If you turn to the next picture
 20 that shows the meter base with a
 21 little bit of a sidewalk there.
 22 A. Uh huh.
 23 Q. What are you trying to show in this
 24 picture?
 25 A. Just that the meter base is there and the

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1 house -- where it feeds into the
 2 house.
 3 Q. Now, aside from the color of the house, is
 4 this about what it looked like in the
 5 fall of 2008?
 6 A. No.
 7 Q. Okay. How is it different?
 8 A. The house was white and trimmed in red.
 9 Q. Okay. Except for the color of the house
 10 and the fact that the meter was there
 11 at the time, are there any other
 12 differences in how it looked in terms
 13 of bushes or --
 14 A. A lot of the bushes have been removed.
 15 There was no bushes here. This one
 16 here is now gone. It wasn't gone in
 17 this picture, but this was all grown
 18 up, the weeds and stuff. There was
 19 vines growing up against the house,
 20 and there was no spigot there. We
 21 had to put a new spigot out.
 22 Somebody had stole it.
 23 Q. Was there any issues with vines
 24 obstructing the view of the meter
 25 when it was in place?

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1 A. No.
 2 Q. Okay. Turn a couple of pages forward
 3 here. We have what looks like a vent
 4 to maybe a basement dryer?
 5 A. Uh huh.
 6 Q. What are you trying to show here?
 7 A. Show you the new ground wire that I
 8 drilled through the hole, through
 9 here out to the ground stake I put
 10 in.
 11 Q. Underneath the vent there is --
 12 A. Huh?
 13 Q. You were pointing underneath the vent
 14 there; that's where you were
 15 pointing?
 16 A. Correct. And there's the service.
 17 Q. And now we have a couple of pictures of
 18 the breaker box.
 19 A. Uh huh.
 20 Q. How do these -- and I believe there are
 21 four pictures of the breaker box?
 22 A. Uh huh.
 23 Q. How do these pictures support your claims
 24 or allegations in this case?
 25 A. They don't, other than to show that the --

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1 where the breaker box is located and
 2 that the clamps were put on the side,
 3 as I was told to.
 4 Q. There's no power to the breaker box when
 5 this picture was taken, right?
 6 A. Huh?
 7 Q. There was no power when this picture was
 8 taken, correct?
 9 A. Correct, there was no power. Well, other
 10 than generator power. It was
 11 probably taken with a flash from his
 12 camera.
 13 Q. So, when you're using the generator, is it
 14 on your porch? Is that what you
 15 said?
 16 A. It's in the garage. If you see this here,
 17 what I did, this leads underground
 18 out to the garage.
 19 Q. Right. And you're pointing to, looks like
 20 sort of a black --
 21 A. There's two -- there's a pipe there for a
 22 gas dryer. I wanted to give whoever
 23 bought the -- a choice between gas
 24 and electric. So, I put in an
 25 electric ten gauge port for a gas

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1 dryer or electric dryer, and then I
 2 run this down and through the wall,
 3 underground, out to the garage and
 4 brought it up into another breaker
 5 box in the garage. I hooked the
 6 generator up and fed it out of the
 7 garage back to the house into the
 8 box, and then I can control it
 9 through the -- what breakers are on
 10 or off.
 11 Q. Okay.
 12 A. That's how I managed my remodeling work.
 13 MR. GARBER: Okay. Let's go off
 14 the record.
 15 (OFF THE RECORD)
 16 Q. Who are the individuals who were working
 17 in or around your house in the fall
 18 of 2008 after you first purchased the
 19 property?
 20 A. Front porch was caving in. Bill Everidge
 21 contracted that. He replaced the
 22 floor -- or the framework and the
 23 floor of the front porch. He used
 24 his power tools to -- on the electric
 25 to do those repairs. The plumber I

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<p>1 hired to repair the plumbing; 2 Jonathan Allen, who I hired to strip 3 the old musty carpet and drywall and 4 stuff out of the basement and strip 5 all that mildew out of there. Let's 6 see. What else did we do that fall? 7 The sandblasting company that 8 sandblasted the paint off the outside 9 of the house. They were the last 10 ones there, I believe. 11 Q. Did any of the folks you just mentioned 12 have keys to the house? 13 A. Jonathan Allen did and -- yeah, Jonathan 14 Allen did. 15 Q. Anybody else? 16 A. At that time, no. 17 Q. What do you mean, at that time? 18 A. Well, later, you know, after the next 19 spring, I gave out keys, but before 20 this power outage, no. He was the 21 only one that had keys. 22 Q. Were you present at the property whenever 23 any of the other subcontractors were 24 present there? 25 A. Most of the time, I was. Not all the</p>	<p>1 Q. Between when you purchased the house and 2 the time the meter was removed, can 3 you list off for me the electrical 4 equipment that would have been in use 5 in the house for whatever 6 construction or renovating purposes? 7 A. Shop-Vac, power saw, portable table saw, 8 drills. That's about it. 9 Q. And at any given time, how many -- what's 10 the most number of people that would 11 have been working in the house, again 12 during the time of the fall of 2008? 13 A. Two at any one time. 14 Q. And between September 2008 and 15 January 2009, can you say anything 16 about the pace of work? I mean, was 17 it a lot more intense during one 18 month or did it slow down in another 19 month? What can you -- or was it 20 fairly steady the whole time? What 21 can you say about that? 22 A. I went to the insurance company and put 23 insurance on the place, and they came 24 out and they inspected it, and I had 25 to repair the front porch. They gave</p>
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<p>1 time, though. 2 Q. Did you have any electricians working in 3 or on the house in the fall of 2008? 4 A. No. Only myself. 5 Q. Earlier you mentioned that you brushed 6 away some of the paint chips on the 7 meter when you first purchased the 8 property? 9 A. When I discovered that the power was on in 10 the house and went out to look at the 11 meter and there was paint chalk all 12 over the meter base -- or meter and 13 you couldn't see through the glass to 14 see if it was turning. As I said, I 15 got some cleaner and some 16 double-ought steel wool and buffed it 17 off so I could see the works in the 18 meter. 19 Q. Did you ever actually touch the meter 20 after that? 21 A. Uh uh. No. No, that was it. As far as I 22 know, that was it. Not to say that 23 the guy that was sandblasting the 24 paint off would have did, or 25 whatever.</p>	<p>1 me 30 days, or something like that, 2 to get that front porch repaired; 3 somebody would step up there and fall 4 through it and they'd be liable for 5 it. So, that's the reason why we 6 went ahead with the front porch that 7 fall. I had to secure the doors. 8 The front door was a mess, and I 9 actually took it off the hinges and 10 took it home, and I got a wood shop 11 at home and I completely redid it and 12 put it back up. Big, old door; it 13 was a lot taller than a normal door. 14 It was an old-fashioned door. It 15 wasn't 6'8" like most doors; it was 16 higher, and took that down, and I did 17 all that myself. Put that back 18 together, and the storm door on the 19 front. 20 To secure the house, we replaced 21 the lock plates in the house. Then 22 there was some old storm doors that 23 were ready to fall off the doors; we 24 took them down. Basically, it was -- 25 we were not -- I was really not</p>

<p style="text-align: right;">Page 134</p> <p>1 trying as much to refurbish the house 2 at that time as I was to keep 3 somebody from breaking in there 4 and -- you know, copper thieves and 5 steal it, you know, and I went to 6 Howland Alarm and the alarm company 7 came out there and installed the 8 alarm in there and hooked it up, 9 and -- to secure my investment. 10 That's what my intent was that 11 fall. Like I say, the basement was a 12 real sty, and that's what -- Jonathan 13 Allen was out of work and he needed 14 something to do and he was willing to 15 work for eight bucks an hour, and I 16 put him to work. 17 Q. Is it possible that the meter base was 18 broken prior to January 2009 and it 19 just wasn't possible to see that it 20 was broken until the meter was 21 removed? 22 A. Impossible. That's no -- it was not. 23 Q. Did you authorize the electrical service 24 to be on at the property at the time 25 that you purchased the property?</p>	<p style="text-align: right;">Page 136</p> <p>1 hooked on the power, turned on the 2 power? 3 A. Correct. That's exactly what I contend 4 that they did. 5 MR. GARBER: I don't think I 6 have any further questions. 7 THE WITNESS: Okay. 8 MR. GARBER: Thank you. Go off 9 the record. 10 (OFF THE RECORD) 11 (WHEREUPON THE DEPOSITION OF C. RICHARD SMITH 12 WAS CONCLUDED AT 4:24 PM AND SIGNATURE WAIVED) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 135</p> <p>1 A. Did I authorize it? I had no idea. I 2 bought it as is. No. 3 Q. You don't know who authorized it? 4 A. No. I don't know if anybody authorized 5 it. I assumed, just like you did -- 6 like you do, that somebody tampered 7 with the meter and turned the power 8 on. I contend that the people that 9 were using it for a temporary home 10 had the knowledge to know how to do 11 that, and they went out there and 12 yanked that meter off and pulled 13 those little sleeves off the back of 14 the meter and put it back on for the 15 purpose of living in that basement, 16 and like I was telling you about the 17 turkey roaster, that turkey roaster 18 was standing up, and it was a nice 19 heat source. They had the basement 20 all closed up so that nobody could 21 see in there, and they were living in 22 there. 23 Q. So, you think that the vagrants who were 24 in the house before you bought it had 25 tampered with the meter and somehow</p>	<p style="text-align: right;">Page 137</p> <p>1 REPORTER'S CERTIFICATE 2 I, Wendy A. Klein, a Notary Public 3 within and for the State of Ohio, duly 4 commissioned and qualified, do hereby certify 5 that the above-named C. RICHARD SMITH was by me 6 first duly sworn to testify the truth, and that 7 this deposition was written in the presence of 8 the witness and by me transcribed, and that the 9 deposition was taken at the time and place in 10 the notice specified. 11 I certify that I am not of counsel or 12 relative to either party or otherwise 13 interested in this action. 14 I further certify that the above and 15 foregoing is a true and complete transcript of 16 all the testimony and proceedings had in this 17 deposition, as shown by stenotype notes written 18 in the presence of the witness at the time of 19 this deposition. 20 IN WITNESS WHEREOF, I have set my hand and 21 Seal of Office at Warren, Ohio, this 14th day 22 of February, 2011. 23 24 25 Wendy A. Klein, Notary Public My Commission Expires 8-26-12</p>