

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Application of Ohio Edison:
Company, The Cleveland :
Electric Illuminating :
Company, and The Toledo : Case No. 10-176-EL-ATA
Edison Company for :
Approval of a New Rider :
and Revision of an :
Existing Rider. :

- - -

PROCEEDINGS

before Mr. Gregory Price and Ms. Mandy Willey,
Attorney Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-A,
Columbus, Ohio, called at 10 a.m. on Friday,
February 18, 2011.

- - -

VOLUME III

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

- - -

1 APPEARANCES:

2 FirstEnergy Service Company
 3 By Mr. James W. Burk
 4 and Ms. Carrie Dunn
 5 76 South Main Street
 6 Akron, Ohio 44308

7 and

8 Jones Day
 9 By Mr. David A. Kutik
 10 and Mr. Jeffrey W. Saks
 11 North Point
 12 901 Lakeside Avenue
 13 Cleveland, Ohio 44114

14 and

15 Jones Day
 16 By Mr. Grant Garber
 17 325 John H. McConnell
 18 Columbus, Ohio 43215

19 On behalf of the Applicants Ohio Edison
 20 Company, The Cleveland Electric
 21 Illuminating Company, and The Toledo
 22 Edison Company.

23 Janine L. Migden-Ostrander,
 24 Ohio Consumers' Counsel
 25 By Mr. Jeffrey L. Small,
 Ms. Maureen R. Grady,
 and Mr. Christopher Allwein
 Assistant Consumers' Counsel
 10 West Broad Street, Suite 1800
 Columbus, Ohio 43215-3485

On behalf of the Residential Ratepayers
 of Ohio Edison Company, The Cleveland
 Electric Illuminating Company, and The
 Toledo Edison Company.

Corcoran & Associates Co., LPA
 By Mr. Kevin Corcoran
 8501 Woodbridge Court
 North Ridgeville, Ohio 44039

On behalf of Bob Schmitt Homes, Inc.; Sue

1 APPEARANCES: (Continued)

2 Mike DeWine,
Ohio Attorney General
3 By Mr. John H. Jones,
Mr. Thomas Lindgren,
4 and Mr. Werner L. Margard, III,
Assistant Attorneys General
5 180 East Broad Street, 6th Floor
Columbus, Ohio 43215

6 On behalf of the Staff of the PUCO.

7
McNees, Wallace & Nurick, LLC
8 By Mr. Samuel C. Randazzo,
and Mr. Scott E. Elisar
9 Fifth Third Center, Suite 1700
21 East State Street
10 Columbus, Ohio 43215-4228

11 On behalf of the Industrial Energy
Users-Ohio.

12
Vorys, Sater, Seymour & Pease, LLP
13 By Mr. M. Howard Petricoff
and Ms. Lija Kaleps-Clark
14 52 East Gay Street
Columbus, Ohio 43216-1008

15 On behalf of the Constellation NewEnergy,
16 Inc.

17 Ohio Partners for Affordable Energy
By Mr. David C. Rinebolt
18 and Ms. Colleen L. Mooney
231 West Lima Street
19 P.O. Box 1793
Findlay, Ohio 45840-1793

20 On behalf of the Ohio Partners for
21 Affordable Energy.

22 Bricker & Eckler, LLP
By Mr. Thomas J. O'Brien
23 100 South Third Street
Columbus, Ohio 43215

24 On behalf of the Ohio Manufacturers
25 Association.

APPEARANCES: (Continued)

Mr. Richard L. Sites
150 East Broad Street
Columbus, Ohio 43215

and

Bricker & Eckler, LLP
By Mr. Thomas J. O'Brien
100 South Third Street
Columbus, Ohio 43215

On behalf of the Ohio Hospital
Association.

- - -

INDEX

- - -

WITNESSES

PAGE

Stacia Harper

Direct Examination by Ms. Mooney 525

Cross-Examination by Mr. Small 529

Cross-Examination by Mr. Garber 534

Examination by Examiner Willey 543

Redirect Examination by Ms. Mooney 545

Michael Challender

Direct Examination by Mr. Corcoran 549

Cross-Examination by Mr. Kutik 591

Examination by Examiner Price 602

- - -

COMPANY EXHIBITS

IDFD

ADMTD

2 - Proofs of Publications -- 612

63 - Residential Service Optional Heating Rate (Experimental) 597 605

- - -

OPAE EXHIBIT

IDFD

ADMTD

1 - Direct Testimony of S. Harper 526 610

- - -

MAUMEE EXHIBITS

IDFD

ADMTD

1 - Toledo Blade Article -- 610

2 - Toledo Edison "Important Information" Brochure -- 610

- - -

INDEX (Continued)

- - -

KIRTLAND EXHIBITS

IDFD ADMTD

1 - Centerior Energy "Dear Valued Employee" Letter	--	610
2 - 5/15/1998 Crombie Construction Letter	--	610
3 - Geothermal "Dear Valued Customer" Letter	--	610
4 - The Illuminating Company Fast Facts	--	610
5 - 8/11/2009 PUCO Letter	--	610
6 - 2/19/2010 T. Bishop E-mail	--	610
7 - Important Information to Electric Space Heating Customers	--	610
8 - 6/8/1988 Logan Letter	--	610
9 - Residential Water Heating & Space Heating Rate	--	610
10 - 2/22/2010 P. Fisher E-mail	--	610
11 - 3/9/2010 The Schipper Group Letter	--	610
12 - 2/3/2010 Concord Township Letter	--	610
13 - 2/4/2010 Arcuri Letter	--	610
14 - 2/11/2010 R. Gift E-mail	--	610
15 - 2/13/2010 J. Neuger Letter	--	610
17 - Mike Payne Builder Composite Exhibit	--	610
18 - 50 Years of Mass Marketing Advertising by FirstEnergy Companies	--	610

INDEX (Continued)

- - -

KIRTLAND EXHIBITS

IDFD ADMTD

21 - Dale A. Hayes Testimony

-- 610

24 - Brian Kurz Testimony

-- 610

25 - CEI "Thank you for your
interest" letter

-- 610

- - -

SANDUSKY EXHIBITS

IDFD ADMTD

A - Good Cents Construction
Specifications

-- 610

- - -

STRONGSVILLE EXHIBITS

IDFD ADMTD

1 - Composite Exhibit

-- 610

2 - 6/18/1998 Andreatta Letter

-- 610

- - -

NORTH RIDGEVILLE EXHIBITS

IDFD ADMTD

1 - Detailed Statement of Account

-- 610

2 - 12/22/2008 Wakeman Letter

-- 610

3 - 1/2010 Illuminating Company Bill

-- 610

4 - "Electric Service in Your
New Home" Brochure

-- 610

5 - Geothermal Article

-- 610

6 - Geothermal Fast Facts

-- 610

7 - Bob Schmitt Homes Brochure

-- 610

INDEX (Continued)

- - -

NORTH RIDGEVILLE EXHIBITS

IDFD ADMTD

8 - Bob Schmitt Homes
"Make Plans" Brochure

-- 610

9 - The Quality Standards of
Bob Schmitt Homes

-- 610

10 - Move-In Checklist - North
Ridgeville

-- 610

11 - Gas Mcf to Electric Kwh

-- 610

12 - The Illuminating Company
Fast Facts on Our Discount
Electric Rates

-- 610

13 - Bob Schmitt Homes Extra Items
List

-- 610

14 - 11/2010 Illuminating Company Bill

-- 610

15 - 11/2009 Illuminating Company Bill

-- 610

16 - 12/2008 Illuminating Company Bill

-- 610

17 - Electricity Cost Sheet

-- 610

- - -

CKAP PARTIES EXHIBIT

32 - Application for Electric Service

579 604

- - -

1 Friday Morning Session,

2 February 18, 2011.

3 - - -

4 EXAMINER WILLEY: Let's go on the record.

5 The Public Utilities Commission of Ohio has called
6 for hearing at this time and place Case No.
7 10-176-EL-ATA, being in the Matter of the Application
8 of Ohio Edison Company, The Cleveland Electric
9 Illuminating Company, and Toledo Edison Company for
10 Approval of a New Rider and Revision of an Existing
11 Rider.

12 I am Mandy Willey, with me is Gregory
13 Price, we are the attorney examiners assigned by the
14 Commission to hear this case. Let the record reflect
15 this is the third day of hearing.

16 EXAMINER PRICE: Before we take our first
17 witness we have a number of pending motions, one of
18 which we would like to address at this point.

19 If I recall correctly, on our first day
20 of hearing FirstEnergy moved to strike the testimony
21 of CKAP founder, leaders, and members. I think there
22 are 1 founder, 11 leaders, and 33 members that
23 FirstEnergy moved to strike the testimony. We are
24 going to deny the motion to strike at this time.

25 I understand FirstEnergy's point about

1 intervenors traditionally not testifying at public
2 hearings, but we are trying to present -- give a
3 little bit of leeway to CKAP because it's a fairly
4 informal association, and we didn't want to exclude
5 any relevant testimony that their membership or
6 leaders may have done at the public hearings.

7 We also had testimony at the public
8 hearing regarding -- have I ruled on this one? The
9 home value and financials? I have, okay. Sorry. I
10 am getting behind myself, I guess. That's the only
11 motion we are ruling on at this time then.

12 Thank you.

13 EXAMINER WILLEY: Ms. Mooney, are you
14 ready to proceed?

15 MS. MOONEY: Yes, your Honor. Thank you.
16 OPAE would call witness Stacia Harper and she is
17 already on the stand and I have already given the
18 court reporter a copy of her prefiled testimony.

19 And, Ms. Harper, do you have before you a
20 copy of your prefiled testimony?

21 MS. HARPER: Yes, I do.

22 EXAMINER WILLEY: I need to swear in the
23 witness.

24 MS. MOONEY: Oh, I'm sorry. Well, you go
25 ahead.

1 (Witness sworn.)

2 EXAMINER WILLEY: You may proceed.

3 - - -

4 STACIA HARPER

5 being first duly sworn, as prescribed by law, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 By Ms. Mooney:

9 Q. Do you have a copy of your prefiled
10 testimony before you?

11 A. Yes.

12 Q. Do you have any additions or corrections
13 to your prefiled testimony at this time?

14 A. Yes.

15 Q. Oh, you do?

16 A. Do we want to do that? No. Not do that.

17 Q. Okay. And if I asked you the same
18 questions that are in your prefiled testimony, would
19 your answers be the same?

20 A. Yes.

21 Q. Okay.

22 EXAMINER PRICE: Can we go off the
23 record?

24 (Discussion off the record.)

25 EXAMINER PRICE: Let's go back on the

1 record.

2 MS. MOONEY: I would like to have marked
3 as OPAE Exhibit 1 the prefiled testimony of Stacia
4 Harper.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 Q. And, Ms. Harper, I apologize to the
7 record. I understand that you do have some
8 corrections to make to your prefiled testimony; is
9 that correct?

10 A. Yes.

11 Q. Okay. Could you go ahead and tell us
12 what those are?

13 A. The first one is on the deposition that
14 was made -- oh, it's not on the deposition. I am so
15 sorry. I haven't done this before.

16 Q. No. Oh, no. I am just referring to your
17 prefiled testimony.

18 A. There are no corrections.

19 Q. Okay.

20 MS. MOONEY: Your Honor, Ms. Harper is
21 available for cross-examination.

22 MR. GARBER: Your Honor, before we begin
23 cross will the Bench entertain motions to strike at
24 this time?

25 EXAMINER WILLEY: We will.

1 MR. GARBER: In that case the companies
2 would move to strike the following testimony from
3 Ms. Harper's prefiled direct testimony marked as OPAE
4 Exhibit 1. On page 5, line 19, the sentence that
5 begins "There are a number of generation resources,"
6 and just that sentence.

7 And then on page 7, line 2, the sentence
8 that begins "When the value of the renewable energy
9 certificates," through the end of that sentence, and
10 then the following sentence as well which begins on
11 line 6, "My calculations indicate," and then ends on
12 line 10.

13 The basis for this motion is that there
14 is no foundation for those statements. These
15 statements generally relate to the proposition that
16 so-called brown power can be procured at rates that
17 are less than -- or a price that's less than the
18 auction market price.

19 The testimony, however, does not contain
20 any description of what those calculations are, of
21 how they were performed, and, in fact, Ms. Harper did
22 not perform those calculations herself. She does not
23 know what those calculations were. She does not have
24 those calculations, and she has not seen those
25 calculations. And so for that basis we object, there

1 is a lack of foundation at this time.

2 EXAMINER WILLEY: Are there any other
3 objections?

4 Ms. Mooney, do you have a response?

5 MS. MOONEY: Your Honor, just her opinion
6 that brown power resources can be lower than market.
7 Really that's all these -- both of those objections
8 relate to. And we're not talking about a fact; we
9 are talking about an expert's opinion on price of
10 brown power related to market prices.

11 It's not something that's -- that's, you
12 know, a scientific proven fact. It's just her
13 opinion on something, market prices moving forward,
14 and so I don't think there is any reason to strike it
15 in that context.

16 EXAMINER WILLEY: Do you have a response?

17 MR. GARBER: Yes, your Honor. First,
18 there most certainly is a fact that's contained in
19 Ms. Harper's deposition. She purports to testify
20 about what the price of power would be, the so-called
21 brown power would be on page I believe that's 7 of
22 her testimony, so we are not just talking about the
23 opinion.

24 Secondly, to the second extent
25 Ms. Harper's opinion is not grounded in facts, I

1 think that's notable as well, an additional reason
2 that it should be stricken.

3 EXAMINER WILLEY: We are going to deny
4 the motion at this time. The witness is available
5 for cross-examination.

6 Let's begin with Mr. Small.

7 MR. SMALL: Thank you, your Honor.

8 - - -

9 CROSS-EXAMINATION

10 By Mr. Small:

11 Q. Ms. Harper, I have a few questions for
12 you today. As part of your career in the energy
13 industry that you discuss in your testimony, did you
14 ever conduct a cost-of-service study related to the
15 provision of any aspect of utility service?

16 A. I'm sorry, can you please restate the
17 question?

18 MR. SMALL: Could we have it reread.

19 (Record read.)

20 A. Cost-of-service study is affiliated with
21 a utility, is that -- is that what you're asking, on
22 behalf of a utility?

23 Q. I didn't -- I didn't say -- I didn't ask
24 any question about who it was on behalf of.

25 A. I have looked at cost-of-service studies

1 in the past as part of my career.

2 Q. Okay. Again, the question was not
3 whether you've looked at a cost-of-service study but
4 whether you have actually conducted one. Did you
5 author, author or supervise, the construction of a
6 cost-of-service study?

7 A. Can you please explain what you mean by
8 "cost-of-service study"?

9 Q. The cost-of-service study is
10 traditionally -- might not entirely, but
11 traditionally held in a rate case to determine
12 the al -- at least to help determine the allocation
13 of revenue between different customers. In other
14 words, cost causation having to do with utility
15 service and dividing it up between different
16 customers. That's the overview, traditional view, of
17 cost-of-service study. Have you authored such a
18 cost-of-service study?

19 A. I had authored a cost-of-service study
20 associated with the competitive bid procurement
21 mechanism in FirstEnergy's auction process and have
22 looked -- and had conducted an analysis between what
23 the SSO was and what the market rates would be.

24 Q. Well, I don't believe that fits the
25 description of the cost-of-service study that I just

1 gave.

2 A. The answer would be no.

3 Q. Okay. In connection with this particular
4 proceeding have you done any work in connection with
5 the cost of service related to residential elect --
6 electric service?

7 A. I've worked on this study to look at what
8 we -- what we could look at in terms of the prices
9 that would come out to the residential consumer.

10 Q. In your response you are just
11 discussing -- you are just responding to the cost
12 provided in this additional generation source; is
13 that correct?

14 A. Yes, and the generated price of power
15 that would come out of that.

16 Q. But you haven't conducted a generalized
17 study of how much it costs to provide residential
18 customers with generation -- overall generation
19 service; is that correct?

20 A. I have in the FirstEnergy auction when we
21 were looking at what that cost of market rate power
22 would be.

23 Q. Again, I asked whether it was in
24 connection with this particular case.

25 A. That is in connection with this case

1 because the market rate that we were comparing to is
2 the market rate that was procured in the auction.

3 Q. Did you -- have you taken a look in
4 connection with this case or at any other time at the
5 1999 cost-of-service study in Case 99-1212. That is
6 the FirstEnergy oftentimes described as the
7 FirstEnergy electric transition ETP case?

8 A. No, I have not.

9 Q. Have you looked at a -- or reviewed any
10 cost-of-service study conducted and submitted in any
11 other FirstEnergy electric distribution case?

12 A. If I have, I probably wasn't aware it was
13 a traditional cost-of-service study.

14 Q. Okay. Would you please turn to page 5 of
15 your testimony, and in particular lines 4 through 6.
16 And on line 5 you'll see your use of the word
17 "subsidy."

18 A. Yes.

19 Q. Have you determined as part of your work
20 in this case that the all-electric residential rates
21 are below the cost of serving residential customers?

22 A. I did not need to determine that on my
23 own. That was provided in staff testimony.

24 Q. Well, I am not referring to the cost of
25 purchased power from selected suppliers in the

1 auction. I am referring to the cost of serving
2 residential customers as a separate group.

3 A. Correct. And that was provided -- that
4 is information that was provided in a prior filing
5 where the actual rate discounts were provided for how
6 much -- pretty much discount was going to be given to
7 all-electric customers based on their consumption.

8 Q. Are you referring to the Staff Report in
9 this particular proceeding?

10 A. Yes.

11 Q. And so for this portion of the testimony,
12 again, I'm at the top of page 5 of your testimony,
13 you are relying on the -- that Staff Report; is that
14 correct?

15 A. Well, line 5 is -- you are asking about
16 the sentence of -- that asks that "customers that do
17 not heat with electricity subsidize the lower rates
18 charged customers that do heat with electricity."

19 So what that sentence is saying is that
20 non-all-electric customers are paying higher rates
21 than those that are all electric. That is a true
22 statement. There is an additional discount that is
23 given to customers that are on an all-electric rate
24 that is not given to those that are on a
25 non-all-electric rate.

1 Q. And that's what -- that's what you are
2 saying at the top of page 5 of your testimony?

3 A. Yes.

4 MR. SMALL: Okay. Thank you, Ms. Harper.
5 That concludes my questions.

6 EXAMINER WILLEY: Mr. Corcoran, do you
7 have any questions?

8 MR. CORCORAN: No questions, your Honor.

9 EXAMINER WILLEY: Mr. Sites.

10 MR. SITES: No questions, your Honor.

11 EXAMINER WILLEY: Mr. O'Brien.

12 MR. O'BRIEN: No questions, your Honor.

13 EXAMINER WILLEY: Mr. Elisar.

14 MR. ELISAR: No questions, your Honor.

15 EXAMINER WILLEY: Mr. Garber.

16 MR. GARBER: Thank you, your Honor.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Garber:

20 Q. Good morning, Ms. Harper.

21 A. Good morning.

22 Q. In this case you are asking that the
23 companies to examine options for providing discounted
24 rates to all-electric customers through the leverage
25 of renewable energy projects; is that right?

1 A. The case -- the example that is in my
2 testimony and what my testimony is about is providing
3 an example that does provide a cost of power that is
4 below marketed rates. It achieves that cost of
5 power, the lower cost of power, through bringing in
6 or combining the value of the sol -- of the solar
7 RECs that FirstEnergy would already be buying and
8 already be passing through in rates, so that's not
9 necessarily a subsidy.

10 Q. I'm sorry, I didn't ask you about
11 subsidies or anything like that. I just asked you if
12 the general purpose of what you are proposing in your
13 testimony is to use renewable energy projects to
14 provide lower generation rates for all-electric
15 customers. That's my question.

16 A. Correct, with one correction.
17 Specifically solar, you have to have the solar
18 renewable projects in order to get to the value.

19 Q. In this case you are not asking the
20 Commission to order the companies to actually enter
21 into any purchased power agreements; isn't that
22 right?

23 A. That is correct.

24 Q. And in this case you are not actually
25 asking the Commission to order the companies to build

1 a power plant, right?

2 A. No.

3 Q. Now, you mentioned the particular concept
4 you mentioned in your testimony. You agree that
5 there are an infinitive numbers of alternatives to
6 accomplish this objective, right?

7 A. Correct.

8 Q. With respect to the proposal in your
9 testimony though, you are not proposing a specific
10 site for the project, correct?

11 A. The -- what is in my testimony is related
12 to a specific site. However, we are not proposing a
13 site. The numbers are all centered around what was
14 feasible at identified sites that a project developer
15 put together for us.

16 Q. I'll ask again. The proposal in your
17 testimony is not with respect to any particular site,
18 is it?

19 A. The proposal in my testimony is
20 specifically about particular sites. What we're
21 asking for is not about a specific site.

22 Q. You don't mention any specific sites in
23 your testimony, right?

24 A. That's correct.

25 Q. And you are not proposing a power plant

1 that has any particular size in terms of megawatts;
2 isn't that right?

3 A. In my testimony we talked about a
4 36-megawatt, 38-megawatt power plant size.

5 Q. Do you have a copy of your prefiled -- of
6 your testimony, don't you?

7 A. Yes.

8 Q. Would you point out where in your
9 testimony you mentioned the size, that you are
10 proposing a size of a power plant that's 36 to
11 38 megawatts?

12 A. You're right, I did that in deposition.
13 It is not in my testimony.

14 Q. You are not proposing any particular
15 builder of the power plant; isn't that right?

16 A. That's correct.

17 Q. You are not proposing the idea of the
18 party who would pay for the power plant, right?

19 A. Correct.

20 Q. You are not proposing who would own the
21 power plant.

22 A. Correct.

23 Q. You are not proposing who would operate a
24 power plant after it's built.

25 A. Correct.

1 Q. In fact, you are not aware of any company
2 doing anything like what you propose in your
3 testimony anywhere in Ohio; isn't that right?

4 A. I am aware of companies doing this and
5 have the capability to do this. I am not
6 recommending that any specific company be required to
7 do this.

8 Q. I am asking isn't it true that you are
9 not aware of any -- any project like the one you
10 propose in your testimony that's actually in
11 existence in the state of Ohio; isn't that right?

12 A. That's not correct.

13 Q. Do you have a copy of your deposition in
14 front of you?

15 A. Yes.

16 Q. Okay.

17 MR. GARBER: May I approach the Bench?

18 EXAMINER WILLEY: You may.

19 Q. Ms. Harper, do you recall giving a
20 deposition in this case?

21 A. Yes, I do.

22 Q. And in that deposition you swore to tell
23 the truth; isn't that right?

24 A. That's correct.

25 Q. If you could turn to page 24 of your

1 deposition, line 12, and then just read silently as I
2 read aloud.

3 "So you are not -- so with respect to
4 proposals in your prefiled testimony, you are not
5 aware of any other project manager, utility, any
6 other company doing anything like that in the state
7 of Ohio before?

8 "Answer: No, not in Ohio, not in the
9 nation."

10 Did I read that correctly?

11 A. Yes, you did.

12 Q. Ms. Harper, you haven't managed any
13 alternative energy projects during your time at OP&A;
14 isn't that right?

15 A. That's correct, in terms of projects that
16 have been approved and started.

17 Q. And you never managed a project where a
18 utility was purchasing brown power along with
19 renewable energy credits or solar energy renewable
20 energy credits?

21 A. No.

22 Q. That's correct?

23 A. Yes.

24 Q. In your prefiled testimony you state that
25 your calculations indicate that the companies could

1 procure generation that will result in the cost of
2 power of 40 to 50 dollars per megawatt hour.

3 A. Correct.

4 Q. You did not calculate that figure; isn't
5 that correct?

6 A. I worked with the developer that came up
7 with that final result.

8 Q. I'll ask again. You did not calculate
9 that figure yourself; isn't that right?

10 A. I provided inputs in order to reach that
11 actual amount. I did not do the final calculation.

12 Q. In fact, the price was actually
13 calculated by an outside consulting group called
14 Renewable Energy Services; isn't that right?

15 A. That is correct.

16 Q. And you don't know what energy --
17 Renewable Energy Services did to arrive at that
18 figure; isn't that right?

19 A. I don't know their assumptions they put
20 into their -- to their side of the equations.

21 Q. In fact, you have never seen -- you've
22 never seen the actual calculations that they did;
23 isn't that true?

24 A. That would be correct. It would have
25 proprietary information in there.

1 Q. You have never seen it, right?

2 A. No.

3 Q. Ms. Harper, you believe that the price of
4 procuring generation from a plant that uses renewable
5 energy technologies would be less than an auction
6 price because, for example, of the availability of
7 renewable energy credits for economic development
8 centers; isn't that right?

9 A. What I believe is that the combined value
10 of the solar RECs that would be purchased offset the
11 cost of the purchased power to bring in all prices
12 that are less than current market rates.

13 Q. You have never calculated the amount of
14 revenue that would be produced by the sale of
15 renewable energy credits; isn't that right?

16 A. For this specific case?

17 Q. Yes.

18 A. I have not.

19 Q. And you don't know how much money this
20 particular project that you propose could obtain from
21 federal or state economic development incentives?

22 A. No, because we have not looked into that
23 yet. That's something that we didn't move into and
24 spend time looking at until we had some sort of go
25 ahead to start looking into additional funding

1 mechanisms.

2 Q. So you haven't calculated that, right?

3 A. You can't calculate it, you have to apply
4 for it and look for it. There is over \$100 million
5 money available that can be brought into this
6 project.

7 Q. And with respect to those applications,
8 you yourself have never actually participated in an
9 application process for money from Ohio's advanced
10 energy funds, have you?

11 A. That is correct.

12 Q. And you've never participated in an
13 application project for funding from the Third
14 Frontier Program, correct?

15 A. Correct.

16 Q. Finally you mentioned in your testimony
17 that your proposal is excess revenue be used to pay
18 for the weatherization of all-electric PIP customers'
19 homes. You have no idea how much excess revenue that
20 would be, right?

21 A. We have a starting point of \$30 million
22 that is from accelerated depreciation.

23 Q. You have no idea how much excess revenue
24 will be produced by the project you are proposing;
25 isn't that right?

1 A. I obviously have an idea. I have a
2 minimum idea of 30.

3 Q. Could you look back at that deposition
4 that you have in front of you.

5 A. Yes.

6 Q. Turn to page 57, line 4, and if you could
7 read silently as I read aloud.

8 "Question: How much excess revenue would
9 be generated?

10 "Answer: We have no idea."

11 Did I read that correctly?

12 A. Yes.

13 MR. GARBER: No further questions, your
14 Honor.

15 EXAMINER WILLEY: Mr. Jones, do you have
16 any questions?

17 MR. JONES: No questions, your Honor.

18 EXAMINER WILLEY: I do have several
19 questions.

20 - - -

21 EXAMINATION

22 By Examiner Willey:

23 Q. When you referred to the weatherization
24 of homes in your testimony, were you referring to the
25 weatherization of PIP plus customers' homes or of all

1 electric?

2 A. PIP plus customers and all electric.

3 Q. And all electric?

4 A. The all-electric rate within the PIP
5 class.

6 Q. So you were not referring to all --
7 all-electric customers?

8 A. No.

9 Q. Okay. Have you conducted any kind of
10 survey or study to determine how many of those
11 all-electric PIP plus customers' homes are capable of
12 being weatherized or if they are already weatherized?

13 A. No. I was relying on OPAE for
14 information on that. We assumed 10 percent would --
15 of the total number of those in the all-electric case
16 would need weatherization in the low income program.

17 EXAMINER WILLEY: Okay. Thank you.

18 Do you have any questions?

19 EXAMINER PRICE: No.

20 EXAMINER WILLEY: Do you have any
21 redirect?

22 MS. MOONEY: Can I have just a second?
23 Really not that long.

24 EXAMINER WILLEY: Okay. We can go off
25 the record.

1 (Discussion off the record.)

2 EXAMINER WILLEY: Let's go back on the
3 record.

4 Ms. Mooney.

5 MS. MOONEY: Yes.

6 - - -

7 REDIRECT EXAMINATION

8 By Ms. Mooney:

9 Q. On cross-examination Mr. Garber used your
10 deposition, and he read from the deposition about
11 whether or not there had been any similar projects in
12 Ohio. And as I understand it, you believe the
13 question at the deposition is different from the
14 question that he asked this morning. Could you
15 please explain the difference in the questions to me?

16 A. The question that I heard this morning
17 was if I was aware of any solar -- renewable projects
18 that had been done in the state of Ohio is how I
19 heard the question being posed to me. The answer to
20 that question is, yes, there are other questions --
21 other projects in the state of Ohio that are
22 currently going on. Turning Point Solar is one of
23 them.

24 The question in my deposition asked if
25 I'm familiar with any company doing anything like

1 that in the state of Ohio before where that is
2 referring to the actual project we have put forth
3 which is a combination of the solar and wind
4 leveraging the solar REC value into a power purchase
5 agreement and returning that generated power to
6 customers. There is no such project in the state of
7 Ohio that is dedicating a stream of power from
8 renewable generation to a segment of customers.

9 MS. MOONEY: That's all. Thank you.

10 EXAMINER WILLEY: Mr. Small, do you have
11 any recross?

12 MR. SMALL: No, your Honor, thank you.

13 EXAMINER WILLEY: Mr. Corcoran.

14 MR. CORCORAN: No, your Honor, thank you.

15 EXAMINER WILLEY: Mr. Sites.

16 MR. SITES: Thank you, no.

17 EXAMINER WILLEY: Mr. O'Brien.

18 Mr. Elisar.

19 MR. ELISAR: No, your Honor.

20 EXAMINER WILLEY: Mr. Garber.

21 MR. GARBER: No, your Honor.

22 EXAMINER WILLEY: Mr. Jones.

23 MR. JONES: No, your Honor.

24 EXAMINER WILLEY: Examiner Price.

25 EXAMINER PRICE: No.

1 EXAMINER WILLEY: There are no other
2 questions. You are excused.

3 MS. MOONEY: Your Honor, I would move for
4 to the admission of Exhibit 1.

5 EXAMINER WILLEY: Are there any
6 objections?

7 MR. GARBER: Yes, your Honor. At this
8 time the companies would renew their objection -- I
9 am sorry, renew their motion to strike the portions
10 of the testimony that I outlined previously. We have
11 now demonstrated through the testimony of Ms. Harper
12 on the stand that she did not perform the
13 calculations of the market price.

14 She hasn't seen those calculations. She
15 doesn't have them and this isn't a tangential issue
16 in the testimony. It's the entire premise of the
17 whole proposal itself, and although the Ohio rules
18 allow an expert witness to rely on evidence made
19 known to them they do not allow expert witnesses to
20 essentially use as her expert opinion in whole the
21 expert -- opinion provided to them by some third
22 party who is not present in court today to be
23 cross-examined.

24 EXAMINER WILLEY: Ms. Mooney, do you have
25 a response?

1 MS. MOONEY: Your Honor, it's the same
2 thing in her testimony is an example of a project
3 that could be developed using the concept of the
4 solar RECs and it's not a cut and dried planned
5 project. It's just an example of what FirstEnergy
6 could do and, therefore, there is no reason to strike
7 it if it's not based on some kind of factual basis.

8 EXAMINER WILLEY: Thank you.

9 Mr. Garber, your motion is denied. The
10 Commission will give Ms. Harper's testimony the
11 weight that it is due.

12 EXAMINER PRICE: Mr. Corcoran, would you
13 like to call your next witness?

14 MR. CORCORAN: Thank you, your Honor. At
15 this time CKAP Parties -- wait. I'm sorry, I didn't
16 realize he walked out.

17 EXAMINER PRICE: Let's go off the record.

18 (Discussion off the record.)

19 EXAMINER PRICE: Let's go back on the
20 record.

21 Mr. Corcoran, would you like to call your
22 next witness?

23 MR. CORCORAN: Thank you, your Honor. At
24 this time the CKAP parties would like to call Mike
25 Challenger to the stand, please. And, your Honor,

1 Mr. Saks stepped out, and I said we would wait to
2 start the questioning until he returns but if you
3 could swear in the witness.

4 MR. KUTIK: We can go ahead.

5 (Witness sworn.)

6 EXAMINER PRICE: Please state your name
7 and address for the record.

8 THE WITNESS: Michael W. Challender, 4410
9 Colby Road, Lorain, Ohio.

10 EXAMINER PRICE: Mr. Corcoran, please
11 proceed.

12 MR. CORCORAN: Thank you, your Honor.

13 - - -

14 MICHAEL W. CHALLENGER

15 being first duly sworn, as prescribed by law, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Corcoran:

19 Q. Mr. Challender, are you currently
20 employed?

21 A. Yes, I am.

22 Q. Where is that?

23 A. I'm the sustainability coordinator for
24 the -- for the Great Lakes Innovation -- the Great
25 Lakes Innovation Development Enterprise and the

1 Lorain County Growth Partnership.

2 Q. And what do you do there?

3 A. I am sort of like the green advisor for
4 businesses and municipalities regarding renewable
5 energy, green buildings, recycling, solar wind,
6 waste-to-energy projects.

7 Q. Okay. I want to take you through your
8 employment history, so could you tell me the job you
9 had before your current position?

10 A. My previous position I was the executive
11 director for Lorain Growth Corporation, which is a
12 downtown Lorain economic development group.

13 Q. And before that?

14 A. Before that I was the sustainability
15 director for the Lorain County Chamber of Commerce.

16 Q. Do you remember your job before that?

17 A. I was the First -- FirstEnergy national
18 account representative.

19 Q. Do you remember the time frame?

20 A. I believe I was a national account
21 executive from 1999 to 2001.

22 Q. And, Mr. Challender, before 1999, what
23 was your employment?

24 A. I was with FirstEnergy, Ohio Edison and
25 FirstEnergy companies, from 1980 -- 1986 to 2001, and

1 I held a various number of positions.

2 Q. Do you remember --

3 MR. KUTIK: May I have the answer read,
4 please?

5 EXAMINER PRICE: You may.

6 (Record read.)

7 Q. And could you tell me what those
8 positions were that you held at Ohio Edison,
9 FirstEnergy?

10 A. My first position there I met and worked
11 with existing customers in encouraging them to switch
12 from fossil fuel-based water heating to electric,
13 encouraged fossil fuel-heated homes. If they wanted
14 to put air conditioning in, I encouraged them to put
15 on add-on heat pumps.

16 Q. And that was your initial position?

17 A. That was my initial position.

18 Q. And you were essentially then a
19 salesperson?

20 A. I believe it was termed marketing rep at
21 the time. And continuing there was a natural
22 progression based on merit and abilities where I went
23 in to an area working with individuals that were
24 building individual homes, working with them and
25 talking about the electric rate programs that we had

1 and the benefits of installing electric heating and
2 water heating systems.

3 And from working with individual
4 customers, I started working with -- with builders in
5 the Lorain County BIA, which is the Building Industry
6 Association, and from there I started working with
7 developers.

8 I spent a short time working with
9 architects and engineers talking about the benefits
10 of using electric heating and water heating devices
11 in commercial and residential applications to finally
12 becoming a -- a major accounts representative where I
13 was calling on municipalities, school districts, and
14 larger customers in Ohio.

15 And then from there into the national
16 accounts representative right during the phase-in --
17 the initial phase-in of deregulation.

18 Q. Okay. That's a lot. And before -- I am
19 just trying to get some of your background in.
20 Before you worked in those positions for Ohio Edison,
21 so now we are going back to prior to 1986, what was
22 your employment?

23 A. I worked for an electric coop for several
24 years, and I was the energy conservationist. My
25 duties there was, again, to discuss the benefits of

1 using electric heating and water heating systems in
2 residential and commercial applications.

3 And I was also in charge of installing
4 load-shedding devices on electric water heatings so
5 when the utility was experiencing the periods of peak
6 electricity usage, the company would broadcast a
7 radio signal that would eliminate power to the water
8 heater, thus, shutting the water heater off for
9 several hours during peak demands.

10 And the purpose of that was the utility
11 was billed based on their peak demands, their
12 coincidental peak demands, with the electric
13 generating company and that if they could keep that
14 demand low, their rates would be lower throughout the
15 year.

16 Q. And, Mr. Challender, the position you
17 held before that employment?

18 A. Before that I worked for Everett's Energy
19 Center from 1982 to 1984 while I was attending
20 college at Ashland University where my major was
21 energy management and technology.

22 Q. Did you get a degree?

23 A. Yes, I did.

24 Q. Okay.

25 A. In 1985. When I went with Evertt's

1 Energy Center, as a student in the energy field at
2 that period of time, the gas moratorium was on and
3 there was a large increase in the number of
4 electrically-heated homes, and at that period Ohio
5 Edison billed on peak demands, so like the utility,
6 your billing rate is based on the peak. For a
7 residential customer it was based on the peak for a
8 month period.

9 So there was companies that sold devices
10 that would turn customers' appliances off based on a
11 preset rate that the customer wanted to keep, so
12 let's say the rate was 10 kW, if the household was
13 using more than 10 kW of electricity, it would shut
14 off like the water heater and sections of the
15 electric heating system so the demand would stay low,
16 and if the demand stays low, the customer's electric
17 bill was better.

18 MR. KUTIK: Your Honor, I'll move to
19 strike everything after the word "yes." The question
20 was "Do you have a degree?"

21 EXAMINER PRICE: Mr. Corcoran, response?

22 MR. CORCORAN: I don't have a response to
23 that. I can ask him another question that would
24 elicit the same response.

25 EXAMINER PRICE: The motion to strike is

1 sustained.

2 Q. Mr. Challender, let's go back to your
3 time at Ohio Edison in your various marketing
4 positions. Well, besides the one position you
5 mentioned, a marking rep, were those other positions
6 where you were selling -- were you selling -- were
7 you selling electrical -- electric to individual
8 customers, builders, and developers, was that a
9 marking position that you held or was that a sales
10 position that you held?

11 A. Well, marketing and sales was used
12 synonymously.

13 Q. Okay. And what was it that you were
14 trying to sell?

15 A. Well, as an electricity energy provider,
16 we didn't sell appliances, so we sold the concepts of
17 electric heating and water heating and worked with
18 HVAC companies in the region to encourage them to
19 sell the all-electric appliances, whether it would be
20 an add-on heat pump, geothermal heat pump, electric
21 heating, water heating.

22 Q. And those sales that you were conducting,
23 what would be the reason why somebody would want
24 all-electric heating?

25 A. The heating system in the house, because

1 you wouldn't experience the extreme hot when the
2 furnace was shut off like a natural gas furnace would
3 shut off. They're a cycle where it starts to feel
4 cool in the home before the furnace comes on and then
5 when the furnace shuts off, the temperature continues
6 to rise because there's heat in the plenum and you
7 start to feel a little warm, where the all-electric
8 living the temperature coming out of the register,
9 the air temperature coming out of the register was
10 less and would run more frequently, therefore,
11 creating a more even temperature in the house.

12 And another advantage was compared -- the
13 primary market was to sell electricity against
14 propane and fuel oil which had very large swing in
15 price ranges and then into natural gas, and the
16 benefit was the special heating rates and water
17 heating rates that we had that would keep the
18 customer's costs low.

19 Q. And did you have any difficulties in
20 trying to sell that all-electric living?

21 A. The difficulties started with electric
22 heating in the moratorium. When the moratorium
23 happened and customers had to use propane, fuel oil,
24 or electricity to heat their homes because natural
25 gas was not installed in any homes.

1 So, therefore, the rates were quite a
2 large sticker shock when energy prices were rising in
3 the late '70s and early '80s, and as a result,
4 special programs had to be put in place and those
5 demand controllers that shut off appliances in the
6 customer home -- customer's home to keep the demand
7 down which resulted in much lower electric heating
8 rates.

9 And the idea that with the special rates
10 that were approved by the PUCO, the customer would
11 feel secure in that their investment would be for
12 long range, and the cost would be lower than other
13 fuels.

14 Q. And why would the customers feel secure?

15 A. Because the rates were published with the
16 PUCO and if you looked at -- or understood Ohio
17 Edison's generating curve, they are a large summer
18 peaking company and, therefore, they had -- they had
19 equipment that was not being used in the winter
20 because the summer peaks were so high and generation
21 rates were much higher.

22 So they had valleys in the winter, and
23 the idea was that they would sell the electric heat
24 to residential customers or -- and commercial
25 customers during the winter periods when the demand

1 and equipment was not used as much or needed as much.

2 So it's like filling the valleys.

3 Q. And that was a benefit for Ohio Edison?

4 A. That was a benefit for Ohio Edison.

5 Q. And did the discounted rate, was it
6 something -- you mentioned that there was competition
7 between other fuel sources and was the discounted
8 rate something that allowed Ohio Edison to get -- to
9 gain market share?

10 A. Without the discounted rate selling
11 electric heat would have been very difficult, if not
12 impossible.

13 Q. And why is that?

14 A. Again, going back to customer perceptions
15 when the late '70s and early '80s many residential
16 homeowners had bills of \$600 for their electric,
17 electric bills of \$600, if you think back to that
18 time, that's an awful lot of money, but with the
19 installation of controls, the load controllers, the
20 customers' bills would come down to 250, 300.

21 Q. And that was with a -- gave the customers
22 peace of mind to move forward with all-electric
23 homes?

24 A. I believe so, yes.

25 Q. And did you ever have any conversations

1 with any of the customers about the discount and how
2 long it would last?

3 A. Yes. And I informed them that, you know,
4 rates, as fuel costs go up, the rates would,
5 therefore, have to go up. Fuel costs and other costs
6 associated with delivering the electricity, and if
7 those went up, they would go up.

8 But the fact is that Ohio Edison was a
9 summer-peaking company. The valleys would always be
10 in place in the winter, and it was assumed that
11 the -- if the top tier rate went up 4 percent, the
12 bottom tier rate would go up 4 percent.

13 Q. And so in your conversations with people
14 there was always an assumption that that discounted
15 differential would be in existence?

16 MR. KUTIK: Objection, leading.

17 EXAMINER PRICE: Sustained. Please
18 rephrase.

19 Q. You understand that there was a
20 differential between the standard electric rate and
21 the all-electric rate?

22 MR. KUTIK: Same objection.

23 EXAMINER PRICE: I think that one was a
24 little more properly phrased. You can answer.

25 THE WITNESS: Can you repeat the

1 question?

2 EXAMINER PRICE: Please read the question
3 again.

4 (Record read.)

5 MR. KUTIK: I'll object that it assumes
6 facts that are inconsistent with the record. The
7 record is that there were a number of rates that were
8 available to all so-called all-electric customers,
9 not one.

10 EXAMINER PRICE: I think that your
11 objection on this particular objection should be
12 sustained.

13 Please try to rephrase, Mr. Corcoran.

14 Q. (By Mr. Corcoran) You understood there
15 was an all-electric rate, right?

16 A. Yes.

17 Q. And that that rate was different from the
18 standard residential rate?

19 A. There were -- there were a number of
20 electric rates that were available but towards the
21 end of my career in 2001, there was primarily one
22 standard electric rate and then another rate for
23 electric water heating, electric space heating,
24 add-on heat pumps, so there were a number of
25 discounted rates for customers that used electric

1 appliances.

2 And that's in addition to there still
3 were demand rates and there were time-of-day rates
4 available to customers so the discounts would occur
5 for the customers when there wasn't high demands of
6 electricity, for instance, I believe between the
7 hours of 7 p.m. to -- to 7 a.m. And if the customers
8 used electricity during those off-peak hours, the
9 price would be cheaper than on peak.

10 Q. Those various discounted rates were what
11 you were trying to sell in your various positions at
12 Ohio Edison and FirstEnergy?

13 A. Correct.

14 Q. You mentioned that you were -- that you
15 went to different positions at -- during your
16 employment with Ohio Edison and FirstEnergy. Could
17 you give me some of the reasons why you moved from
18 one to the other? Was it due to promotions?

19 A. There were merit-based increases in
20 position where there was more responsibility, higher
21 goals.

22 Q. Higher goals and merit you -- are you
23 talking about sales goals and meeting those goals?

24 A. Sales goals, depending on what your
25 position was if you were working with existing homes,

1 new homes, or developers, there was a certain level
2 of expectation that you would sell so many electric
3 homes per year or electric heating systems, electric
4 water heating systems per year. Those were sales
5 goals that were expected that you would meet or
6 exceed.

7 Q. And who set those goals?

8 A. Supervisors in the company.

9 Q. You mentioned that you moved on
10 ultimately to working with developers; is that right?

11 A. That's correct.

12 Q. And did you ever have a relationship with
13 any particular developers?

14 A. I worked with the Lorain County BIA and
15 the building members -- and developers that were
16 associated with that organization. I also worked
17 with the large electrical home builder in North
18 Ridgeville, Bob Schmitt Homes.

19 Q. Tell me a little bit about your
20 employment -- your relationship with Bob Schmitt
21 Homes while you were employed with Ohio Edison. What
22 did you do?

23 A. I worked with Mr. Schmitt in explaining
24 possible rebates or rebates that were available for
25 installing electric heating systems in new homes. I

1 worked with Mr. Schmitt on -- at the time Mr. Schmitt
2 was using -- Mr. Schmitt has a long history of
3 building all-electric homes in North Ridgeville and
4 he built a number of all-electric homes in the '70s
5 and early '80s, and when the land -- when that
6 development -- those developments were completed, he
7 went to Strongsville for a number of years.

8 And in the late '90s, Mr. Schmitt, the
9 homes in Strongsville were sold out so he came back
10 to North Ridgeville. And as an Ohio Edison employee,
11 we were -- we were real excited that Bob was coming
12 back to Ohio Edison lines and leaving Centerior
13 Electric's service territory. So we --

14 EXAMINER PRICE: Because at that point --
15 why is that? At that point Centerior was an entirely
16 different company; is that right?

17 THE WITNESS: That's true. But the
18 goals -- the individual goals were based on Centerior
19 and Ohio Edison at the time.

20 EXAMINER PRICE: Based on a comparison?
21 I am not sure what you mean.

22 THE WITNESS: The service territories, I
23 believe.

24 EXAMINER PRICE: I am not sure what you
25 mean, "the individuals goals."

1 THE WITNESS: The individual goals were
2 based on what service company you were working for.

3 EXAMINER PRICE: Okay.

4 THE WITNESS: Would be at the time we
5 were still separating Centerior employees from Ohio
6 Edison.

7 EXAMINER PRICE: Okay.

8 THE WITNESS: I believe.

9 EXAMINER PRICE: So by the time you are
10 talking about now, FirstEnergy has now been formed
11 the merger of Ohio Edison and Centerior has gone
12 forward?

13 THE WITNESS: Right now -- right now,
14 there are --

15 EXAMINER PRICE: The period you are
16 talking about.

17 THE WITNESS: Okay.

18 EXAMINER PRICE: When they returned to
19 North Ridgeville, was that before or after the merger
20 of FirstEnergy -- of Ohio Edison with Centerior to
21 form FirstEnergy?

22 THE WITNESS: I believe it was in the
23 early -- the early stages of the merger.

24 EXAMINER PRICE: Okay.

25 THE WITNESS: I don't know exactly.

1 Q. And the goals that your are referring --

2 EXAMINER PRICE: Speak so she take down
3 what you are saying.

4 THE WITNESS: But as the sales goal -- if
5 I was working for the Ohio Edison Company, I had
6 sales goals just for Ohio Edison. If the reps were
7 working with Centerior, their sales goals were with
8 Centerior.

9 The relationship with Bob, I explained to
10 him how a geothermal heat pump would lower the cost,
11 the energy cost in the homes, and we did a number of
12 calculations based on the homes that Mr. Schmitt was
13 building to determine what the net energy usage would
14 be per year air-to-air heat pump versus geothermal.
15 And based on those analyses that I did with
16 Mr. Schmitt, he chose to go with geothermal heating
17 systems.

18 At that same time, I'm not sure when, but
19 Ohio -- the state of Ohio came out with a building
20 code and in the building code it was prescriptive and
21 it stated that any home built in the state of Ohio
22 had to meet this code and it had to use certain
23 levels of insulation in the walls, in the basement
24 walls, in the ceilings. It also had constraints that
25 the -- you could have a limited amount of window

1 areas based on the square foot of the home. So
2 that -- that code was very restrictive to a builder
3 that wanted to be creative.

4 I spent many evenings with Mr. Schmitt
5 over a month period and we looked at what the goals
6 of the code was and we -- we changed -- if the home
7 was built to the code, if we had a box or the home
8 and it was built to the code using the requirements,
9 what would that heat loss be?

10 And based on that heat loss, if it was
11 heated with a natural gas furnace, a standard
12 efficiency, the lowest level natural gas furnace that
13 was allowed to be sold, there -- the home would use X
14 number of BTUs per year.

15 When we did the equation and built the
16 home based on using more windows and less insulation
17 but using higher efficient -- higher efficiency
18 heating and cooling equipment, if the net number of
19 BTUs annually used by that home was less than what
20 the prescribed value was, then that home did exceed
21 the energy code.

22 Q. And all the work that you were doing that
23 you just described, why was that important? You said
24 you were doing that with Bob Schmitt?

25 A. Yes. What it did, it allowed Bob Schmitt

1 who didn't build a conventional type of colonial
2 home, it allowed him to have more windows and less
3 insulation that was -- that would have been required
4 of the fact he used higher efficiency heating and
5 cooling equipment.

6 And the benefit to Bob and every builder
7 in the state of Ohio then it was -- it was a
8 performance-based code and not just a
9 prescriptive-based code.

10 And Bob, when we finished that study, Bob
11 had never used a computer in his life and we did the
12 study using Excel spreadsheets and the work that we
13 did, Bob was just flabbergasted, an engineer himself
14 who was very knowledgeable, but after using Excel for
15 that month period and coming up with the report that
16 he submitted to the Ohio Builders Association, he
17 went out and bought a laptop and had it with him by
18 his side ever since. That was --

19 Q. The work that you did was ultimately
20 submitted to some state agency?

21 A. It was submitted to the Ohio -- I'm not
22 sure what state agency but whatever agency it was
23 that made that code or requirement in the state
24 accepted his -- his proposal and it was adopted by
25 the state.

1 MR. KUTIK: Your Honor, at this time I
2 move to strike the last two questions and answers on
3 the grounds of relevance.

4 EXAMINER PRICE: Mr. Corcoran, relevance?

5 MR. CORCORAN: I couldn't even tell you
6 what the last two questions were, your Honor. Could
7 we have those read back?

8 MR. KUTIK: They were about the building
9 code.

10 EXAMINER PRICE: We are going to allow
11 the question, but we do need to get more focused on
12 the relevant issues of this case.

13 MR. CORCORAN: I understand. Right.

14 Q. (By Mr. Corcoran) Mr. Challender, what
15 you were just describing is essentially talking about
16 energy efficiency; is that right?

17 A. Correct. And it was building a rapport
18 with a large customer of Ohio Edison that built a
19 large number of all-electric homes, building a
20 rapport with him and the building industry.

21 Q. And that was important why?

22 A. It was our goal to sell all-electric
23 homes, electric heating systems, and electric water
24 heaters and that rapport helped builders and
25 developers feel more comfortable with -- with using

1 our product, I believe in my opinion.

2 Q. Did you ever talk about -- strike that.

3 The conversations that you had with
4 builders in all-electric living also included -- did
5 it also include discussions about the rates that
6 all-electric homes would have?

7 A. Very often that conversation would come
8 up with I as a homeowner/builder, how good is this
9 rate for?

10 And the standard line would be that as
11 energy costs and delivery charges go up, rates would
12 go up, but Ohio Edison is a summer-peaking company
13 and they have valleys they need to fill in the winter
14 so, therefore, you would assume that that rate --
15 there would always be a differential between the
16 standard rate and the heating -- heating rate.

17 Q. And was that standard line your line, or
18 was that a company line?

19 A. It was a line that was repeated among
20 every -- I can't say "every." Many of the sales
21 reps, marketing reps.

22 Q. And did that --

23 EXAMINER PRICE: Can you explain, if you
24 remember, what you mean by a "summer-peaking company"
25 for the Bench?

1 THE WITNESS: Ohio Edison, the load or
2 demand for electricity is much higher in the summer
3 than it is the winter.

4 EXAMINER PRICE: That's not relevant to
5 the distribution system, is it? You are talking
6 about the generation system; is that right?

7 THE WITNESS: Yes.

8 EXAMINER PRICE: They had generation
9 assets.

10 THE WITNESS: They had generation assets.

11 EXAMINER PRICE: That were summer
12 peaking.

13 THE WITNESS: That were summer peaking.

14 EXAMINER PRICE: Thank you.

15 Thank you, Mr. Corcoran.

16 MR. CORCORAN: Thank you.

17 THE WITNESS: Did I answer the question?

18 EXAMINER PRICE: You answered my
19 question, thank you. If you hadn't, I would have
20 pursued it further.

21 MR. CORCORAN: Your Honor, at this point
22 I would like to hand the witness an exhibit that's
23 already been marked in this case CKAP Parties Exhibit
24 No. 17.

25 EXAMINER PRICE: You may approach.

1 Q. (By Mr. Corcoran) Mr. Challenger, you've
2 been handed what's been marked CKAP Exhibit No. 17.
3 Have you ever seen that document before?

4 A. I can't recall specifically, but it
5 appears to be a FirstEnergy promotional brochure.

6 Q. And the title of the document is "Project
7 Assistance Program" on the cover page. Do you see
8 that?

9 A. Yes.

10 Q. Is that a program that you are aware of
11 or were aware of?

12 A. This might be the program that I used
13 when Bob Schmitt was coming into the North Ridgeville
14 area.

15 Q. What was the purpose -- what was the
16 purpose of the program?

17 MR. KUTIK: Objection. It assumes --
18 this witness has now speculated that this might be
19 something, so to talk about this program is engaging
20 in speculation. If he wants to talk about a specific
21 program that he can recall, that would be proper but
22 at this point it is not proper. It's speculation and
23 I object.

24 EXAMINER PRICE: Sustained.

25 MR. CORCORAN: Your Honor, may I

1 approach?

2 EXAMINER PRICE: You may.

3 MR. CORCORAN: I am going to hand the
4 witness what had previously been marked as Exhibit
5 18. I am not asking for its admission at this point.
6 I am just handing it to Mr. Challenger.

7 Q. Mr. Challenger, have you ever seen this
8 letter before?

9 A. Yes.

10 Q. And is it a letter that was authored by
11 you?

12 A. Yes, it was.

13 Q. And the content of the letter, is it
14 discussing -- what is the letter discussing?

15 A. It discusses the amount of money that a
16 Bob Schmitt Homes would receive based on the
17 installation of electric heating and water heating
18 equipment.

19 Q. And is it a reference to the Project
20 Assistance Program?

21 A. Yes, it is.

22 Q. And so, therefore, based on this letter
23 you're aware of the Project Assistance Program and
24 what it could and could not do; is that right?

25 A. When -- when I wrote these -- this

1 letter, it's not a letter that I wrote on my own and
2 just sent it to Mr. Schmitt. It would have to be
3 approved by senior management or my supervisor.

4 MR. KUTIK: Objection. Nonresponsive.
5 He asked if this is a document that relates to the
6 Project Assistance Program, not how the letter was
7 written. Move to strike.

8 EXAMINER PRICE: Well, Mr. Corcoran was
9 satisfied with the answer and it was his question so
10 the motion to strike is denied.

11 Q. Mr. Challender, you mentioned that your
12 supervisor would have had to review this letter and,
13 therefore, the company would have been aware of the
14 Project Assistance Program; is that right?

15 A. The company would have been aware.
16 Management would have been aware that this offer had
17 been provided to Bob Schmitt Homes.

18 Q. And in this particular letter, it
19 mentions rebates that were offered on different
20 equipment; is that right?

21 A. Correct.

22 Q. Do you know why the different -- well,
23 first, let me ask you what rebates were offered on
24 different equipment?

25 EXAMINER PRICE: Mr. Corcoran.

1 MR. CORCORAN: Yes.

2 EXAMINER PRICE: I am going to remind you
3 this document has not been admitted into evidence.
4 The reason for its nonadmission was because it was
5 incomplete, and so if you go down the path of simply
6 having him read into the record portions of this
7 record -- of this letter, Mr. Kutik is going to stand
8 up and make a motion to strike and I am going to be
9 forced to grant it because the document is still
10 incomplete.

11 Unless you have another -- the rest of
12 this document, you're -- you can't just have him read
13 into the record what the contents of the document
14 are.

15 MR. CORCORAN: I understand that, your
16 Honor.

17 Q. Mr. Challenger, it mentions --

18 MR. CORCORAN: I'm sorry, can I -- could
19 we just have the question asked or reread.

20 EXAMINER PRICE: Please.

21 (Record read.)

22 MR. KUTIK: I'm sorry, could you say it
23 one more time.

24 EXAMINER PRICE: Please.

25 (Record read.)

1 MR. CORCORAN: I will ask a different
2 question.

3 EXAMINER PRICE: Thank you.

4 Q. Mr. Challender, are you aware there were
5 rebates offered for different electric equipment?

6 A. Yes.

7 Q. And those rebates were for -- were they
8 for geothermal systems and heat pumps?

9 A. The rebates were the geothermal -- the
10 geothermal systems were based on the size of the --
11 of the equipment with the maximum of \$600.

12 Q. I am not asking about this particular --
13 the rebate that's in this particular letter. I am
14 just asking in general --

15 A. Yes, they had a number of rebates for
16 air -- air-to-air heat pumps and geothermal heating
17 systems.

18 Q. And were the rebates offered on the heat
19 pumps and geothermal systems the same?

20 A. I believe because of the cost of the
21 geothermal systems was higher that those rebates
22 would be higher, if I recollect correctly.

23 Q. And getting back then to Exhibit No. 17,
24 the Project Assistance Program exhibit, do you
25 remember how that program worked?

1 MR. KUTIK: Objection, your Honor. The
2 witness has not testified that he was familiar with
3 the program that is described in this document. So I
4 object to the reference of this document and asking
5 him a question about a corporate program.

6 EXAMINER PRICE: Sustained. The witness
7 already explained he didn't recall seeing this
8 document before.

9 MR. CORCORAN: Okay. I didn't ask him
10 about the document.

11 EXAMINER PRICE: You said turning to CKAP
12 17.

13 MR. CORCORAN: Right. And I didn't ask
14 him anything particular about this document.

15 MR. KUTIK: You referred to the document.

16 EXAMINER PRICE: You referred to the
17 document. Rephrase it without referring to the
18 document.

19 Q. (By Mr. Corcoran) Mr. Challender, are you
20 aware of how the Project Assistance Program worked or
21 what it was for?

22 A. The project assistance was used to
23 provide money to the developer which could be used
24 to -- which would be used for marketing their homes
25 in their subdivision and/or it could be used for

1 helping to defray the cost of the electric equipment.

2 Q. And was that a component of your sales
3 efforts?

4 A. Those were tools we used to secure all
5 electric developments.

6 Q. And under the programs were -- under that
7 particular program or any other program that might
8 have been around, were those subdivisions restricted
9 to all electric in order to participate in the
10 program?

11 A. I know that -- I know that we did sign
12 contracts with builders that would require them to
13 keep the development all electric if they received
14 money.

15 Q. And so those lots then the developers
16 built would be locked into all-electric energy,
17 right?

18 A. Based on the time frame or the number of
19 lots that were prescribed in the contract.

20 Q. Do you remember signing contracts with
21 builders and developers?

22 A. Yes.

23 Q. And similar to what you just described?

24 A. Yes. I believe I signed one with Bob
25 Schmitt Homes. I signed contracts with multiple --

1 with the Lorain County BIA regarding Parade of Homes
2 where they would have a development where a number of
3 builders would come in and install the electric
4 heating and cooling systems.

5 EXAMINER PRICE: You said you believed
6 you signed a copy of the contract with Bob Schmitt
7 Homes?

8 THE WITNESS: Yes.

9 EXAMINER PRICE: And you would expect any
10 reasonable businessman to keep a copy of that
11 contract, wouldn't you?

12 THE WITNESS: The statement was?

13 EXAMINER PRICE: Please reread the
14 question, please.

15 (Record read.)

16 THE WITNESS: It's not up to me to make
17 that type of decision or answer.

18 EXAMINER PRICE: Wouldn't you have kept a
19 copy of the contract if you were -- had signed it if
20 you were a builder?

21 THE WITNESS: Yes.

22 EXAMINER PRICE: Okay. Thank you.

23 Q. (By Mr. Corcoran) Mr. Challender, would
24 you expect the company to continue to have that
25 contract in their possession as well?

1 A. Yes.

2 MR. CORCORAN: Your Honor, I have a
3 one-page exhibit that I would like to introduce at
4 this time.

5 EXAMINER PRICE: What document are we up
6 to? CKAP?

7 EXAMINER WILLEY: 32.

8 EXAMINER PRICE: CKAP 32. It will be so
9 marked as CKAP 32.

10 MR. CORCORAN: Thank you, your Honor.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 EXAMINER PRICE: Let's go off the record
13 for one second.

14 (Discussion off the record.)

15 EXAMINER PRICE: Let's go back on the
16 record.

17 Q. (By Mr. Corcoran) Mr. Challender, you
18 have before you what's been marked as CKAP Exhibit
19 No. 32. Is this a document that you are familiar
20 with?

21 A. Yes.

22 Q. And it states at the top there, it says,
23 "Ohio Edison Application for Electric Service"? Do
24 you see that?

25 A. Yes, it does.

1 Q. And is this a company document, do you
2 know?

3 MR. KUTIK: Objection.

4 EXAMINER PRICE: Grounds?

5 MR. KUTIK: What company?

6 EXAMINER PRICE: Please be more precise.

7 Q. Okay. Since it says "Ohio Edison" on the
8 top of the document, do you know if this is an
9 Ohio --

10 MR. KUTIK: It also says "Bob Schmitt
11 Homes."

12 EXAMINER PRICE: Please answer the
13 question.

14 THE WITNESS: What was the exact
15 question?

16 EXAMINER PRICE: Please reread the
17 question.

18 (Record read.)

19 A. I read this document.

20 Q. (By Mr. Corcoran) And it has your name on
21 it?

22 A. Yes, it does.

23 Q. This is something that would have been
24 brought to your attention at some point in time?

25 A. Yes, when -- when Bob Schmitt Homes was

1 ready for electric service, for electric service
2 connection, they would submit this form and send it
3 over via fax, and we would start the electric rate,
4 install the meter.

5 This would be like it is time to install
6 the electric meter, so I would process through the
7 meter installation group. And it also specifies what
8 equipment was there for potential rebates, and I
9 would take this document and go visit the home to
10 ensure that those devices were installed.

11 Q. And it also includes a section that talks
12 about the rate; is that right?

13 A. Yes.

14 Q. And this document then established
15 electric service at a particular location?

16 A. Yes, it does, both subplot number and
17 street address.

18 Q. And this contact -- this document is a
19 contact with Bob Schmitt Homes, right?

20 A. This document was just used for Bob
21 Schmitt Homes.

22 Q. And you wouldn't have had -- did you have
23 any contact with the homeowner that was purchasing
24 the home?

25 A. No, I would not.

1 Q. And do you know how electric service
2 changes work where the bill would have been changed
3 into the customer's name? Do you know how that
4 works, that process?

5 A. Yes; Bob Schmitt Homes would have to call
6 the service line and request a service disconnect and
7 the homeowner would have to call Ohio Edison and
8 request a service connection.

9 Q. So the way that was achieved, the
10 homeowner achieved that by just calling --

11 A. Customer service.

12 MR. KUTIK: Objection.

13 EXAMINER PRICE: Grounds?

14 MR. KUTIK: On this entire line. The
15 basis is relevance.

16 EXAMINER PRICE: Pardon me?

17 MR. KUTIK: Relevance, your Honor.

18 EXAMINER PRICE: We are going to give him
19 a little bit of leeway, but, again, we do need to
20 start focusing our testimony on the relevant issues
21 of this case. There's no question that Bob Schmitt
22 Homes had a relationship with one or more of the
23 FirstEnergy companies.

24 The evidence is clear that moneys were
25 transferred back and forth, but we're not getting to

1 the idea of whether or not there was a long-term or
2 personal commitment. We are just talking about
3 FirstEnergy's marketing programs. I am sure we can
4 talk for weeks on end about FirstEnergy's marketing
5 programs. FirstEnergy doesn't deny they have
6 marketing programs.

7 So we are going to overrule the
8 objection, but we are going to ask Mr. Corcoran to
9 try to more narrowly focus the testimony, although I
10 do have one question about this document that I'll
11 take advantage of this point.

12 You said you created this document?

13 THE WITNESS: I believe I did.

14 EXAMINER PRICE: Okay. Thank you.

15 Mr. Corcoran.

16 MR. CORCORAN: Okay. Sorry for not being
17 clear with my intentions for this.

18 Q. (By Mr. Corcoran) Mr. Challender, we were
19 talking about the relationship of establishing
20 service between the builder and Ohio Edison and they
21 were -- we were talking about the customer
22 establishing service with Ohio Edison. And you said
23 that -- you testified that the customer would just
24 call the customer service line; is that correct?

25 A. Correct.

1 Q. And so there wouldn't have been a
2 contract between the -- written contract between the
3 customer and Ohio Edison since they are just calling
4 the customer service line; is that right?

5 MR. KUTIK: Objection, leading.

6 EXAMINER PRICE: Sustained. Please
7 rephrase.

8 Q. When a customer calls the customer
9 service line, are you aware of a contract being
10 generated at that time?

11 A. There were no contract forms that were
12 sent to the customer based on the equipment or the
13 electricity rate.

14 Q. And when somebody has electric service
15 and they move out of the location and the next person
16 moves into the location, are you aware of how the
17 transfer of service from one customer to another
18 works?

19 MR. KUTIK: Objection.

20 EXAMINER PRICE: Relevance?

21 MR. KUTIK: Relevance.

22 EXAMINER PRICE: Mr. Corcoran, what's the
23 relevance of this question? It will all become clear
24 soon?

25 MR. CORCORAN: Of course. I am talking

1 about contracts.

2 EXAMINER PRICE: Overruled.

3 Q. Are you aware of how that works?

4 A. Again --

5 MR. KUTIK: Your Honor, why don't you
6 just ask him whether there was a contract when a
7 second customer moved in?

8 EXAMINER PRICE: He is afraid that you'll
9 criticize him for leading the witness.

10 MR. KUTIK: Well, the question I just
11 asked is not leading.

12 EXAMINER PRICE: Go ahead, answer the
13 question as posed.

14 A. The existing customer would call to
15 disconnect service, the new customer would call to
16 connect service, and the rates that were already
17 there for that residence would continue.

18 Q. (By Mr. Corcoran) And that -- was there
19 contracts generated from that conversation? Do you
20 know?

21 A. No, there were not to my knowledge.

22 EXAMINER PRICE: Do you know why there is
23 no --

24 THE WITNESS: Well, FirstEnergy knew what
25 equipment was in -- was in the home --

1 EXAMINER PRICE: There is something in
2 lieu of a contract when a utility provides service to
3 a customer, isn't there?

4 THE WITNESS: I don't understand the
5 statement, sir.

6 EXAMINER PRICE: There is something in
7 lieu of a contract when a utility provides service to
8 a customer; there is something in lieu of a contract,
9 isn't there? There is a tariff; isn't that correct?
10 Customer takes service under the terms in the tariff.

11 THE WITNESS: Correct.

12 EXAMINER PRICE: That's why there is no
13 contract; isn't that correct?

14 THE WITNESS: I would agree with that
15 statement.

16 EXAMINER PRICE: Those tariffs are
17 approved by this Commission.

18 THE WITNESS: Yes, they were.

19 EXAMINER PRICE: Customers are bound by
20 all the terms of that tariff; is that correct?

21 THE WITNESS: Correct.

22 EXAMINER PRICE: That's why there is no
23 contract; is that right?

24 THE WITNESS: I would agree with that, is
25 that the contract was approved by the PUCO.

1 EXAMINER PRICE: The tariff.

2 THE WITNESS: The tariff, yes.

3 EXAMINER PRICE: Was approved by the PUCO
4 and as a government agency, its terms are binding
5 upon all the customers that take service under that
6 tariff.

7 THE WITNESS: And to change the tariff
8 the PUCO would have to make a ruling.

9 EXAMINER PRICE: Exactly. Thank you.

10 Please proceed, Mr. Corcoran.

11 MR. CORCORAN: Thank you.

12 Q. (By Mr. Corcoran) Mr. Challender, you are
13 aware that there was a -- a rate that all-electric
14 home owners were on during your employment or several
15 all-electric --

16 A. There are various electric rates based on
17 the equipment that was installed in the customer's
18 home.

19 Q. And did you ever discuss with any
20 customers about that rate being discontinued?

21 MR. KUTIK: Objection. Asked and
22 answered.

23 EXAMINER PRICE: We'll allow it.

24 A. Could you repeat the statement, please.

25 EXAMINER PRICE: Repeat the question --

1 read the question for the witness again, please.

2 (Record read.)

3 A. No.

4 Q. Mr. Challender, why did your employment
5 with FirstEnergy or Ohio Edison -- I believe you said
6 FirstEnergy was the last company you worked for,
7 right?

8 A. FirstEnergy, correct.

9 Q. Why did your employment end?

10 A. Actually FirstEnergy Solutions, I believe
11 was the term at the time.

12 Q. Why did your employment end with them?

13 A. Because the sales representatives did
14 such a good job selling five-year contracts when
15 deregulation first occurred, that FirstEnergy ran out
16 of generation to sell in the open market, I believe,
17 and, therefore, it didn't need the -- didn't need the
18 staff that they had to sell more electricity.

19 Q. And did you leave on good terms?

20 A. Oh, great terms. Other than I lost my
21 job, but the severance package was very -- was very
22 beneficial, and everything that was included in the
23 severance package was very appreciated from everyone
24 that left, in my opinion.

25 Q. Did you enjoy your employment with

1 FirstEnergy?

2 A. I thank FirstEnergy for a lot of my
3 growth as a person and as a salesperson.

4 Q. Do you own your own home?

5 A. Yes, I do.

6 Q. And were you the original owner?

7 A. I constructed the home in 1999.

8 Q. What energy source do you use in your
9 home?

10 A. It's all electric, of course.

11 Q. Why is that?

12 A. At the time FirstEnergy had rebates
13 available for employees that installed electric
14 equipment in a new home, and I took advantage of
15 those programs.

16 Q. And did the rates have anything to do
17 with your decision to build an all-electric home?

18 A. And I knew that the special rates were
19 there so I felt comfortable in that decision.

20 Q. Do you still feel comfortable with your
21 decision?

22 MR. KUTIK: Objection.

23 EXAMINER PRICE: I'll allow it.

24 Overruled.

25 A. I feel more comfortable than the

1 thousands of other all-electric customers in the fact
2 that I insulated my home very well, sealed it up,
3 it's very energy efficient, and I installed a
4 geothermal heating and cooling system. So the impact
5 from the elimination of the all-electric rate doesn't
6 affect my bill as much as it would other electric
7 heating systems.

8 Q. Because of the measures you took to
9 insulate your home?

10 A. Correct.

11 Q. And do you think that would work on --
12 that would also help others reduce their costs if
13 they insulated their home to the extent that you did?

14 MR. KUTIK: Objection.

15 EXAMINER PRICE: Sustained. He has no
16 basis for saying what -- how other people's
17 individual situations.

18 Q. Insulating homes to the extent you did
19 you believe would help reduce energy costs?

20 MR. KUTIK: Objection. This is opinion
21 testimony at this point, your Honor.

22 MR. CORCORAN: This is personal opinion.

23 EXAMINER PRICE: He is not being brought
24 on as an expert.

25 MR. CORCORAN: He's not. He's offering

1 his personal opinion.

2 EXAMINER PRICE: I'm not going to allow
3 it. You should have prefiled this if you were going
4 to have him testify to energy efficiency generally.

5 MR. CORCORAN: No further questions, your
6 Honor.

7 EXAMINER PRICE: Mr. Small.

8 MR. SMALL: No questions, your Honor.

9 EXAMINER PRICE: Mr. Sites.

10 MR. SITES: No questions, your Honor.

11 EXAMINER PRICE: Mr. Elisar.

12 MR. ELISAR: No questions, your Honor.

13 EXAMINER PRICE: Mr. Kutik.

14 MR. KUTIK: May I have a minute, your
15 Honor?

16 EXAMINER PRICE: You may.

17 MR. KUTIK: Thank you.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Kutik:

21 Q. Mr. Challenger, you are aware that as an
22 all-electric customer, you have always received a
23 discounted rate vis-a-vis standard residential
24 customers, correct?

25 A. Could you repeat it again, please?

1 Q. Sure. As an all-electric customer, you
2 are aware that you always received a discounted rate
3 vis-a-vis the rate paid by standard residential
4 customers, correct?

5 A. It's a lower rate than the standard rate,
6 yes.

7 Q. Okay. It's a discounted rate, right,
8 discounted relative to the standard rate, right?

9 A. Correct.

10 Q. Now, during your employment with Ohio
11 Edison or one of the FirstEnergy companies that you
12 worked for, did you ever say anything that you felt
13 was misleading? You didn't do that, did you?

14 A. No, I did not.

15 Q. You felt what you were saying was true at
16 the time you were saying it, correct?

17 A. Yes, I did.

18 Q. And at the time you were saying those
19 things, the Ohio Edison owned generation facilities,
20 correct?

21 A. Correct.

22 Q. And had a certain cost structure,
23 correct?

24 A. Yes, they did.

25 Q. And as you know, today Ohio Edison

1 doesn't own those generation facilities, correct?

2 A. Correct.

3 Q. And I would assume you would believe they
4 would be a different cost structure, correct?

5 A. I believe there could be a different cost
6 structure.

7 Q. You are not an expert on cost structure,
8 but based on what you know, you could imagine there
9 would be one, correct?

10 A. If the PUCO allowed it.

11 Q. Okay. Now --

12 MR. KUTIK: May I approach, your Honor?

13 EXAMINER PRICE: You may.

14 Q. I would like to show you, sir, what has
15 been marked and admitted in this case as Company
16 Exhibit 53.

17 MR. KUTIK: Company Exhibit 53, your
18 Honor.

19 EXAMINER PRICE: Thank you.

20 Q. Now, when you were -- when you had your
21 relationship with Bob Schmitt Homes, you recall, do
22 you not, from time to time that you or someone at
23 Ohio Edison would provide analyses for prospective
24 homebuyers or prospective sites or designs for a Bob
25 Schmitt home, correct?

1 A. For a Bob Schmitt and any other person
2 that was building and requested such information.

3 Q. And you recognize this as one of those,
4 correct?

5 A. Yes, that was a form we used.

6 Q. And by "this" I mean Exhibit 53, correct?
7 Company Exhibit 53?

8 A. I don't see the number. Oh, yes, yes.

9 Q. And at the bottom does it not advise the
10 reader that rates would be subject to change and the
11 rate schedules would be subject to change?

12 A. I'm just reading through this.

13 Q. Sure.

14 A. It's been a while since I've seen this
15 document.

16 Yes, "Rates are subject to change at any
17 time as new rates are fixed by the various regulatory
18 authorities under which the company operates."

19 Q. And so if you -- if someone asked you if
20 rates were going to change, you would tell them,
21 yeah, rates could change if the PUCO changed the
22 rates, correct?

23 A. Correct.

24 Q. And that's something that you knew,
25 right?

1 A. Yes, sir.

2 Q. And you knew that because to be -- to do
3 your job properly you would have to be familiar with
4 the tariffs and the rules and regulations of the
5 company, correct?

6 A. Of the company and the PUCO relationship.

7 Q. Now, Mr. Corcoran showed you what was
8 marked as Exhibit 32, the application for service
9 relating to 33009 Woodhaven Circle.

10 A. Yes.

11 Q. And that refers to a specific electric
12 rate, correct? Circled in the bottom of the box?

13 A. For that subplot, yes.

14 Q. And 11B is a particular rate schedule,
15 correct?

16 A. Correct.

17 Q. And if a customer or if a developer
18 wanted to look at what rate 11B was, you would show
19 them the rate, right?

20 A. Correct.

21 Q. The rate wasn't a secret.

22 A. No. It was a document somewhere on a
23 form that would have been distributed to the
24 customer.

25 Q. So if someone wanted to know how --

1 whether there was any issue with how long the rate
2 would last, they could look up this rate 11B to see
3 if there was anything in rate 11B as to how long the
4 rate would last, right?

5 A. I believe that in the -- in the PUCO
6 documents there's a list of rates based on each
7 utility company that would list the specifics for
8 each -- each one of those.

9 Q. I am not sure you answered my question,
10 sir, so let me try it again.

11 A. Okay.

12 Q. If -- if someone wanted to know how long
13 rate 11B might last, they could look to see whether
14 rate 11B had any final date, said it was permanent,
15 anything like that, right? They would go look at it?

16 A. Where would they go look at it at?

17 Q. They could ask you for it, right?

18 A. Then I refer back to the PUCO document
19 that had all the specifics and details of the rate.

20 Q. Exactly.

21 A. Of which those were -- I don't recall
22 ever providing a customer the official rate sheet for
23 rate 11B on Ohio Edison.

24 Q. Sir, if a customer wanted to look at it,
25 they could look at it, right?

1 A. Yes. It would be available; it would be
2 on there.

3 Q. Either provide it for them or they could
4 call or write the PUCO in the days before the
5 internet, right?

6 A. I believe it was online.

7 Q. Yes, well, okay.

8 MR. KUTIK: May I approach, your Honor?

9 EXAMINER PRICE: You may.

10 MR. KUTIK: I would like to have marked
11 as Company Exhibit 63 a document which says at the
12 top Revised Sheet No. 11, Residential Service
13 Optional Heating Rate (Experimental) effective March
14 16, 1988.

15 EXAMINER PRICE: It will be so marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MR. KUTIK: Your Honor, I have -- it's a
18 two-page document. I only have a copy of the first
19 page and I am going to refer to the second page, if
20 we can go off the record.

21 EXAMINER PRICE: Let's go off the record.

22 (Discussion off the record.)

23 EXAMINER PRICE: Let's go back on the
24 record.

25 Q. Mr. Challenger, I have handed you what

1 has been marked as Company Exhibit 63. Do you
2 recognize this as a tariff sheet from Ohio Edison?

3 A. Yes.

4 Q. And this is the type of document you
5 would have seen, worked with, and had to be familiar
6 with, correct?

7 A. Correct.

8 Q. And this document refers to on the second
9 page of the rules and regulations of the companies,
10 correct, standard rules and regulations?

11 A. Yes.

12 Q. And you are familiar with those as well,
13 correct?

14 A. Well, I am not sure what this -- it
15 refers to the company standard rules and regulations.
16 I am not sure I have that document in front of me.

17 Q. At some point in time in your career you
18 were familiar with the companies' standard rules and
19 regulations, fair to say?

20 A. At this time I can't tell you what the
21 standard rules and regulations would be.

22 Q. All right, if a document -- if a document
23 was referred to in the tariff, would -- and since it
24 was part of your job to be familiar with the tariffs,
25 would it be fair to assume you would -- you would be

1 familiar with the document that was referred to?

2 A. At the time I was working, I may have
3 been aware of it, but don't recollect at this time.

4 Q. And I am not asking you to recall it at
5 this time. All I am saying is it would be something
6 as part of your job that if there was a tariff and a
7 document referred to in a tariff, that you be
8 familiar with both the tariff and the document
9 referred to when you worked for Ohio Edison?

10 A. Correct. The rules that we would follow
11 to ensure enforcement of the proper equipment per se.

12 Q. Okay.

13 MR. KUTIK: May I approach, your Honor?

14 EXAMINER PRICE: You may.

15 Q. Mr. Challenger, I would like to show you
16 what's been marked and admitted as Company Exhibit 46
17 which is a document entitled "Standard Electric
18 Service Rules and Regulation." Do you see that?

19 A. Yes.

20 Q. And is that a document that you recognize
21 as being the standard rules and regulations, at least
22 the first page of this document is -- first page of
23 the standard rules and regulations effective
24 December 17, 1985, correct?

25 A. Yes.

1 Q. And the second page of this exhibit are
2 the -- is the first page from the rules and
3 regulations effective February 24, 1989, correct?

4 A. So this was an update is what I assume?

5 Q. That would be your assumption, correct?

6 A. Yes.

7 Q. And these, again, would be the type of
8 documents that you would have been working with and
9 had to be familiar with in the performance of your
10 responsibilities, correct?

11 A. Correct.

12 Q. Now, the rules and regulations refer to
13 the term of the contract, correct? Under No. 2,
14 paragraph D?

15 A. Applications and contracts.

16 Q. And under the General Provision, No. 1,
17 it also refers to the revisions, correct?

18 A. 1B?

19 Q. Yes.

20 A. Okay.

21 Q. Do you see that?

22 A. Yes.

23 Q. And 1B says "The Companies' schedule of
24 rates and the standard rules and regulations herein
25 contained may be terminated, amended, supplemented or

1 otherwise changed from time to time only in
2 accordance with the law and rules promulgated therein
3 by the Public Utilities Commission of Ohio. No
4 agent, representative, or employee of the Company has
5 the right to modify or alter any provision of the
6 Companies' scheduled rates or the standard rules and
7 regulations," correct?

8 A. Correct. Absolutely.

9 Q. Absolutely, and you knew that absolutely,
10 didn't you?

11 A. Uh-huh, yes.

12 Q. And you wouldn't say anything to a
13 customer that would be contrary to what was in the
14 rules and regulations, right?

15 A. Not knowingly.

16 Q. Okay. Now, it's true, is it not,
17 Mr. Challender, that you never promised any customer
18 that a specific rate was guaranteed, correct?

19 A. Correct.

20 Q. And you never told any customer or any
21 builder of residential homes that there was a
22 discount that was guaranteed, correct?

23 A. Correct.

24 MR. KUTIK: No further questions.

25 EXAMINER PRICE: Mr. Jones, questions?

1 MR. JONES: No questions, your Honor.

2 EXAMINER PRICE: Mr. Corcoran, redirect?

3 MR. CORCORAN: No questions, your Honor.

4 EXAMINER PRICE: I just -- Ms. Willey, do
5 you have any questions?

6 EXAMINER WILLEY: No.

7 EXAMINER PRICE: I just have a couple.

8 - - -

9 EXAMINATION

10 By Examiner Price:

11 Q. Turning to Exhibit CKAP 32, it indicates
12 electric rate 11B. Do you see that?

13 A. Which one? Yes.

14 Q. 32. Do you see that says electric rate
15 11B?

16 A. Correct.

17 Q. Is that for transmission or distribution
18 or generation? Or is that --

19 A. At the time the rate was established it
20 was all inclusive.

21 Q. It was all inclusive. It's no longer all
22 inclusive, is it?

23 A. No, it's not.

24 Q. Do you know why it's no longer all
25 inclusive?

1 A. Under deregulation there's separate
2 generation from transmission and distribution.

3 Q. The General Assembly ordered the
4 utilities to unbundle generation transmission and
5 distribution, didn't they?

6 A. I am not sure what -- what group ordered
7 but it happened.

8 Q. But it happened.

9 You are not a lawyer.

10 A. Right.

11 Q. That's fair enough. Deregulation was --
12 it was an important piece of legislation, wasn't it?
13 In fact, resulted ultimately in your finding a
14 different career opportunity, correct?

15 A. Deregulation was -- was a -- that's a
16 whole -- you know, it was good and potentially bad,
17 you know, for many, many other states.

18 Q. It went well for some people, poorly for
19 other people, right?

20 A. Many states.

21 Q. I am talking just Ohio, just Ohio.

22 A. Okay.

23 Q. Well, some people benefited, some people
24 didn't benefit; is that right? You didn't benefit?

25 A. No. And, frankly, I'm not sure what

1 company benefited from deregulation.

2 Q. Okay. I just have one more question
3 about deregulation.

4 A. Okay.

5 Q. You indicated that you know that Ohio
6 Edison and the other operating companies no longer
7 own generation; is that right?

8 A. Correct. FirstEnergy Solutions owns the
9 generation.

10 Q. Are you aware whether FirstEnergy, the
11 operating companies, were ordered under deregulation
12 to divest themselves of their generation?

13 A. That's what I was informed.

14 EXAMINER PRICE: Okay. Thank you, you
15 are excused.

16 Mr. Corcoran.

17 MR. CORCORAN: Yes, your Honor. I would
18 like to move to admit CKAP Parties Exhibit No. 32.

19 EXAMINER PRICE: Any objection to the
20 admission of CKAP 32?

21 MR. KUTIK: No objection.

22 EXAMINER PRICE: It will be admitted.

23 (EXHIBIT ADMITTED INTO EVIDENCE.)

24 MR. KUTIK: Your Honor, the companies
25 moved for the admission of Company Exhibit 63.

1 EXAMINER PRICE: Any objection to the
2 admission of Company Exhibit 63?

3 Seeing none, it will be admitted.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 EXAMINER PRICE: At this time consistent
6 with our discussion off the record, we will
7 adjourn -- we will take -- I guess we will adjourn
8 this hearing until Wednesday at 10:00 o'clock at
9 which time we will take up -- let's go off the
10 record.

11 (Discussion off the record.)

12 EXAMINER PRICE: Let's go back on the
13 record. I inadvertently attempted to recess the
14 hearing prematurely. Mr. Kutik has pointed out that
15 at this time we are going to take up the question of
16 exhibits that were introduced and moved for admission
17 by OCC at the public hearings.

18 MR. SMALL: They also include, as I
19 mentioned earlier in the proceeding, at least one
20 CKAP.

21 EXAMINER PRICE: Yes, also one CKAP,
22 thank you, Mr. Small.

23 Mr. Small, at this time can you list, for
24 the purposes of making sure the record is clear, the
25 individual exhibits which you have previously moved

1 admission in which you were going to renew your
2 motion for admission as well as CKAP's?

3 MR. SMALL: Yes, your Honor. I will
4 separate them by local public hearing for
5 organizational purposes.

6 EXAMINER PRICE: Thank you.

7 MR. SMALL: The first, and I will list
8 these and renew my motion to -- for the admission of
9 each one of these documents.

10 The first document is Sandusky Exhibit A,
11 I believe they used the letter A rather than numbers
12 in Sandusky.

13 Moving on to Strongsville, Strongsville
14 Exhibit 1 and Strongsville Exhibit 2, Strongsville
15 Exhibit 2 is the letter that was the subject of
16 cross-examination -- of examination with Mr. Logan
17 and I believe the Bench has already ruled on that
18 one.

19 EXAMINER PRICE: That's correct.

20 MR. SMALL: So the OCC renews its motion
21 to admit Strongsville Exhibit 1 in this instance. 2
22 has been admitted.

23 Moving on to North Ridgeville, the
24 exhibits are North Ridgeville Exhibits 1 through 16.
25 North Ridgeville's Exhibit 17 is a CKAP item which

1 the OCC joins the motion of CKAP for the admission of
2 that document.

3 Mr. Corcoran, would you like to address
4 North Ridgeville Exhibit 17?

5 MR. CORCORAN: There's nothing in
6 particular to say about it other than we move to
7 admit that exhibit.

8 EXAMINER PRICE: Thank you.

9 MR. SMALL: Moving on to Maumee there are
10 Maumee's Exhibits 1 and 2. Moving on to Kirtland
11 there are Exhibits Kirtland 1 through 25.

12 I believe that completes the list of
13 exhibits from the local public hearings moved by the
14 OCC and/or CKAP.

15 EXAMINER PRICE: Mr. Kutik, at this time
16 I believe you would like to raise some objections to
17 the Maumee exhibits to supplement the objections you
18 previously made?

19 MR. KUTIK: Yes, your Honor. I'm not
20 sure if this was on the record or not. Mr. Small
21 wanted some additional time to review the exhibits
22 from Maumee and at this time we are prepared to
23 address our objection.

24 It's basically only to Maumee Exhibit 1
25 which is an article from the Toledo Blade, newspaper

1 article from the Toledo Blade. It's hearsay and
2 that's the grounds for our objection.

3 EXAMINER PRICE: At this time we have --
4 I guess the most appropriate thing to do would be to
5 give OCC and CKAP a chance to respond to each
6 objection previously made by FirstEnergy, if you care
7 to.

8 MR. SMALL: I believe it was addressed --
9 I believe we addressed both the general --

10 EXAMINER PRICE: How about Maumee?

11 MR. SMALL: Oh, with respect to Maumee,
12 I'll rest on my previous arguments concerning the
13 other documents, your Honor.

14 EXAMINER PRICE: Okay. I would just like
15 to note that unless I am mistaken, the North
16 Ridgeville 7 exhibit is identical to an exhibit we
17 admitted yesterday. I believe that was -- that was
18 marked and admitted as CKAP 31. So we don't need to
19 rule on North Ridgeville 7 and it will not be
20 admitted.

21 MR. SMALL: I'm sorry, that was CKAP 31?

22 EXAMINER PRICE: Yes. Mr. Kutik made
23 a --

24 MR. SAKS: Your Honor, I'm sorry, North
25 Ridgeville Exhibit 7 you said? I don't believe

1 that's correct.

2 EXAMINER PRICE: I'm wrong?

3 MR. KUTIK: Are we talking about the
4 Willits letter, your Honor?

5 EXAMINER PRICE: Yes.

6 MR. SMALL: You are, I am looking at
7 something that says "Bob Schmitt Homes Affordable
8 Custom Design Homes."

9 EXAMINER PRICE: Okay. Then I am on the
10 wrong one.

11 MR. KUTIK: We believe, your Honor,
12 that's Kirtland 7.

13 EXAMINER PRICE: Kirtland 7, I'm sorry,
14 misspoke. Thank you very much. I believe that
15 Kirtland 7 is identical with CKAP 31. And therefore,
16 we do not need -- we have already admitted CKAP 31
17 and we do not need to address that.

18 MR. SMALL: Your Honor, if you would let
19 me catch up a little bit, I'm shuffling here.

20 EXAMINER PRICE: I understand we have got
21 a lot of paper.

22 MR. SMALL: Yes, we recognize that.

23 EXAMINER PRICE: Okay. And Kirtland 18,
24 Mr. Kutik objected to all of the newspaper articles
25 but not the advertising included in Kirtland 18.

1 Mr. Kutik is correct, that there is no hearsay
2 exception for newspaper articles so the newspaper
3 articles and only the newspaper articles will be
4 excluded from admission in Kirtland 18. Kirtland 26
5 has no apparent -- no apparent probative value and
6 will not be admitted.

7 MR. SMALL: I'm sorry?

8 EXAMINER PRICE: Kirtland 26.

9 MR. KUTIK: I would point out, your
10 Honor, that was not moved either.

11 EXAMINER PRICE: Oh, I'm sorry. Okay. I
12 was going to give you a wink.

13 MR. SMALL: That's where I was confused,
14 your Honor.

15 EXAMINER PRICE: Okay. My mistake.
16 Everybody was not -- I was the one that was confused,
17 everybody else knew exactly. Okay.

18 Beyond that, all of the other exhibits
19 will be admitted. FirstEnergy has raised legitimate
20 issues regarding some of the authenticity and hearsay
21 but all of those issues will be considered with
22 respect to the weight to be given to this evidence.
23 We will admit the evidence.

24 (EXHIBITS ADMITTED INTO EVIDENCE.)

25 EXAMINER PRICE: Okay, let's go off the

1 record.

2 (Discussion off the record.)

3 EXAMINER PRICE: Let's go back on the
4 record.

5 Before we adjourn I would just like to
6 make the record on the transcript -- on the schedule
7 for the rest of the proceeding.

8 FirstEnergy will put on two rebuttal
9 witnesses on Wednesday and we will commence Wednesday
10 at 10:00 o'clock. However, before we take the
11 rebuttal witnesses we will take arguments regarding
12 specific objections to Ms. Steigerwald's deposition
13 and the exhibits from the deposition.

14 FirstEnergy, although they cannot file
15 their rebuttal testimony for one of the witnesses,
16 rebuttal testimony will be live. The other one they
17 cannot file the testimony until the Commission
18 offices open again on Tuesday but they will serve all
19 the parties over the weekend with a copy of that real
20 testimony.

21 We'll take those two witnesses on
22 Wednesday and then we will reconvene for our final
23 rebuttal witness from FirstEnergy on Thursday.

24 MR. KUTIK: And our intent, your Honor,
25 is to file that witness sometime on Wednesday.

1 EXAMINER PRICE: FirstEnergy will do this
2 on Wednesday.

3 MR. KUTIK: There's one other procedural,
4 we move for the admission of Exhibit 2, Company
5 Exhibit 2, which was the notice of publication.

6 EXAMINER PRICE: Any objection to the
7 admission of Company Exhibit 2, the proofs?

8 MR. SMALL: Those are the proofs?

9 MR. KUTIK: Yes.

10 MR. SMALL: No objection, your Honor.

11 EXAMINER PRICE: Seeing none, it will be
12 admitted.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 MR. CORCORAN: And, your Honor, you
15 mentioned we are getting back together on Thursday,
16 noon on Thursday?

17 EXAMINER PRICE: Noon on Thursday.
18 10:00 o'clock on Wednesday, noon on Thursday.

19 Thank you all, we are adjourned. We are
20 off the record.

21 (Discussion off the record.)

22 (Hearing was adjourned at 12:32 p.m.)

23 - - -
24
25

1 CERTIFICATE

2 I do hereby certify that the foregoing is
3 a true and correct transcript of the proceedings
4 taken by me in this matter on Friday, February 18,
5 2011, and carefully compared with my original
6 stenographic notes.

7
8 Karen Sue Gibson, Registered
9 Merit Reporter.

10 (KSG-5323)

11 - - -
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/4/2011 12:49:39 PM

in

Case No(s). 10-0176-EL-ATA

Summary: Transcript Transcript of Ohio Edison Company hearing held on 02/18/11. Vol III electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.